



CITY COUNCIL STAFF REPORT

DATE: January 18, 2017 Consent Calendar

SUBJECT: AMENDMENT NO. 4 TO AGREEMENT NO. A1281, SUNLINE JOINT POWERS TRANSPORTATION AGENCY AGREEMENT

FROM: David H. Ready, Esq., Ph.D., City Manager

BY: Office of the City Clerk

SUMMARY

The City Council will consider the approval of the revised fourth amendment to the SunLine Joint Powers Transportation Agreement that would allow Board members to be paid a stipend for meeting attendance.

RECOMMENDATION:

1. Approve Amendment No. 4 to Agreement No. A1281, the SunLine Joint-Powers Transportation Agreement.
2. Authorize the City Manager to execute all necessary documents.

STAFF ANALYSIS:

In May 1977, the County of Riverside and the incorporated cities in the Coachella Valley entered into the SunLine Joint Powers Transportation Agency Agreement in order to collectively provide a public transportation system in the Coachella Valley. Since that time, the agreement was amended twice in the early 1990s relating to taxicab regulation, and a third amendment was promulgated in 2013 to eliminate weighted voting.

On May 25, 2016, the SunLine Transit Agency (SunLine) Board of Directors directed its staff to prepare a proposed fourth amendment to the agreement to specify that the Board of Directors may receive compensation for their attendance at Board meetings and Board subcommittee meetings. As a joint powers agencies that includes the County, charter cities and general law cities, SunLine may pay compensation to its Board members consistent with the law applicable to its member agencies. The law places no limits on the compensation to members of the Board of Supervisors and City

ITEM NO. 1.F.

Council members in charter cities, but general law cities are subject to the limitations in Government Code section 36516. A Fourth Amendment was prepared and circulated to the member agencies, but some concerns with the language caused one member city to reject the amendment.

The Board reconsidered the issue and directed staff to prepare a revised version of the Fourth Amendment for consideration by the member agencies. This revised fourth amendment is similar to the previous version in that it specifically authorizes the Board members to receive stipends for their attendance at meetings consistent with the limitations applicable to general law cities. The amount of such stipends will be set by resolution of the SunLine Board and will be paid out of SunLine funds. However, this version of the Fourth Amendment also includes a provision pursuant to Government Code section 6509, which states that the power of a joint powers agency "is subject to the restrictions upon the manner of exercising the power of one of the contracting parties, which party shall be designated by the agreement." Since most of SunLine's members are charter cities, this Fourth Amendment specifically states that SunLine's powers are limited in the same manner as the charter city members. With respect to Board compensation; however, there is an additional provision that ensures compensation will be in line with the powers of a general law city, and not a charter city.

The amount of such stipends will be set by resolution of the SunLine Board and will be paid from SunLine funds. Currently, a \$50 stipend is paid to Boardmembers attending the Board meetings, and a \$25 stipend is paid to Boardmembers attending the committee meetings. There will be no change in the amount paid to the Boardmembers for meetings.

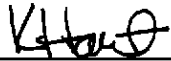
This contract is with a public entity and exempt from the certification requirements of non-discrimination in contracting pursuant to recently enacted Ordinance No. 1896.

Mayor Pro Tem Foat is the City's representative to the SunLine Board of Directors, and Councilmember Kors is the City's alternate representative.

The FPPC amended §18705.5 of the Regulations to authorize public officials to vote on their own appointments to compensated positions on various regional boards and commissions; however, before a public official may participate in a decision or vote to appoint themselves to a compensation position, §18705.5 requires a new Form 806, as developed by the FPPC, be adopted by the City Council, filed and posted on the website.

FISCAL IMPACT:

There is no direct fiscal impact to the City of Palm Springs by approving this Fourth Amendment. Any stipend approved by the Sunline Board will be paid from SunLine Transit Agency funds.



Kathleen D. Hart, MMC
Interim City Clerk



David H. Ready, Esq., Ph.D.
City Manager

Attachments:

1. Letter from SunLine Transit Agency
2. Proposed Amendment No. 4
3. September 7, 2016, Excerpts of Minutes
4. September 7, 2016, Staff Report

December 20, 2016

City of Palm Springs
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92262

Attn: David Ready, City Manager

City of Palm Springs
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92262

Attn: Robert Moon, Mayor

Re: Fourth Amendment to SunLine Joint Powers Transportation Agency Agreement

Dear Gentleman:

At its December 7, 2016 meeting, the Board of Directors of SunLine Transit Agency authorized the preparation of an amendment to the SunLine Joint Powers Transportation Agency Agreement (“Agreement”) and directed SunLine staff to circulate the proposed amendment to each of its member agencies for consideration and approval. The purpose and background of the amendment is as follows:

On May 25, 2016, the SunLine Transit Agency Board of Directors directed its staff to prepare a proposed fourth amendment to the agreement to specify that the Board of Directors may receive compensation for their attendance at Board meetings and Board subcommittee meetings. As a joint powers agency that includes the County, charter cities and general law cities, SunLine may pay compensation to its Board members consistent with the law applicable to its member agencies. The law places no limits on the compensation to members of the Board of Supervisors and City Council members in charter cities, but general law cities are subject to the limitations in Government Code section 36516. A Fourth Amendment was prepared and circulated to the member agencies, but some concerns with the language caused one-member city to reject the amendment.

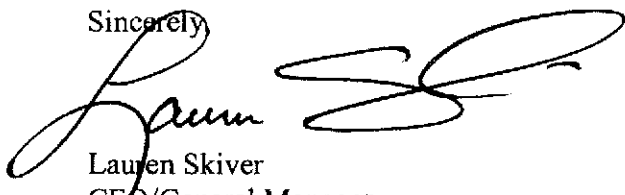
The Board reconsidered the issue and directed staff to prepare a revised version of the Fourth Amendment for consideration by the member agencies. This revised fourth amendment is similar to the previous version in that it specifically authorizes the Board members to receive stipends for their attendance at meetings consistent with the limitations applicable to general law cities. The amount of such stipends will be set by resolution of the SunLine Board and will be paid out of

SunLine funds. However, this version of the Fourth Amendment also includes a provision pursuant to Government Code section 6509, which states that the power of a joint powers agency “is subject to the restrictions upon the manner of exercising the power of one of the contracting parties, which party shall be designated by the agreement.” Since most of SunLine’s members are charter cities, this Fourth Amendment specifically states that SunLine’s powers are limited in the same manner as the charter city members. With respect to Board compensation, however, there is an additional provision that ensures compensation will be in line with the powers of a general law city, and not a charter city.

Enclosed you will find the proposed Fourth Amendment to the Agreement and a sample staff report for your use in the agenda packet. SunLine respectfully requests that you place the proposed Fourth Amendment on the next Council agenda, or as soon as reasonably possible, for approval. If approved, please return two executed copies of the Fourth Amendment to Diane Beebe, Special Assistant to the General Manager/Clerk of the Board, at 32-505 Harry Oliver Trail, Thousand Palms, California, 92276.

Thank you for your assistance in this matter.

Sincerely



Lauren Skiver
CEO/General Manager
SunLine Transit Agency

Cc: SunLine Agency Board Member Ginny Foat
Douglas Holland, City Attorney

FOURTH AMENDMENT TO SUNLINE JOINT POWERS TRANSPORTATION AGENCY AGREEMENT

This Fourth Amendment to SunLine Joint Powers Transportation Agency Agreement ("Fourth Amendment") is entered into by and between the COUNTY OF RIVERSIDE, the CITY OF COACHELLA, the CITY OF INDIO, the CITY OF LA QUINTA, the CITY OF INDIAN WELLS, the CITY OF PALM DESERT, the CITY OF RANCHO MIRAGE, the CITY OF PALM SPRINGS, the CITY OF CATHEDRAL CITY, and the CITY OF DESERT HOT SPRINGS (collectively, the "Parties"), and any other public agencies which subsequently becomes parties to the Agreement. This Fourth Amendment is made and entered into on the date last executed by the Parties hereto.

RECITALS

A. SunLine Transit Agency is a joint powers agency established by the SunLine Joint Powers Transportation Agency Agreement (the "Agreement") on or about May 20, 1977.

B. The first amendment to the Agreement was approved on or about June 11, 1991, and a second amendment to the Agreement was approved on or about March 31, 1992. A third amendment to the Agreement was prepared in 2013 and all necessary signatures were obtained in 2016.

C. A previous version of this Fourth Amendment was prepared and circulated to the member agencies for approval earlier this year, but the Fourth Amendment was not unanimously approved by the member agencies.

C. This revised Fourth Amendment amends the Agreement to include specific authority for the Board of Directors to receive compensation for attendance at Board and committee meetings consistent with State law, and ratifies previous payments made to the Board of Directors.

OPERATIVE PROVISIONS

NOW, THEREFORE, in consideration of the promises made and recited herein, the parties do hereby enter into this Fourth Amendment which modifies and amends the Agreement as follows:

1. AMENDMENT.

1.1 Section 2 (Authority) is amended to read as follows:

"Pursuant to Section 6500 et seq., of the California Government Code there is hereby created a public entity to be known as "SUNLINE", a public entity separate and apart from the individual parties to this Agreement. Pursuant to Section 6509 of the California Government Code, the laws of the State of California applicable to cities organized under a charter, shall govern SUNLINE in the matter of exercising its powers, subject, however to such restrictions as are applicable to charter cities in the manner of exercising such powers, as required by Government Code Section 6509."

1.2 Section 3 (Board of Directors), paragraph E (Meetings) is amended to add a new subparagraph 3, to read as follows:

“3) Compensation

The Board may, by resolution, provide Board members a stipend for attendance at Board meetings and subcommittee meetings. Notwithstanding Section 2 of this Agreement, the maximum stipend a Board member may receive shall be consistent with the limitations on compensation for service on a commission, committee, board, authority, or similar body applicable to general law cities in Government Code section 36516(c), as such section may be amended from time to time.”

2. RATIFICATION OF PAST PAYMENTS. The parties hereby ratify all payments that have been made by the Agency to the Board of Directors as compensation for attendance at Board meetings and subcommittee meetings.

3. GENERAL PROVISIONS.

3.1 **Remainder Unchanged.** Except as specifically modified and amended in this Fourth Amendment, the Agreement, as amended, remains in full force and effect and binding upon the parties.

3.2 **Applicable Law.** The laws of the State of California shall govern the interpretation and enforcement of this Fourth Amendment.

3.3 **References.** All references to the Agreement include all their respective terms and provisions. All defined terms utilized in this Fourth Amendment have the same meaning as provided in the Agreement, unless expressly stated to the contrary in this Fourth Amendment.

3.4 **Counterparts.** This Fourth Amendment may be signed in multiple counterparts which, when signed by all parties, shall constitute a binding agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Fourth Amendment to the Agreement on the date and year first written above.

CITY OF DESERT HOT SPRINGS

Dated: _____

By: _____

Name: _____

Title: _____

ATTEST:

_____, City Clerk

APPROVED AS TO FORM

_____, City Attorney

CITY OF PALM SPRINGS

Dated: _____

By: _____

David H. Ready, Esq., Ph.D.
City Manager

ATTEST:

Kathleen D. Hart, MMC
Interim City Clerk

APPROVED AS TO FORM

_____, City Attorney

CITY OF PALM DESERT

Dated: _____

By: _____

Name: _____

Title: _____

ATTEST:

_____, City Clerk

APPROVED AS TO FORM

_____, City Attorney

CITY OF INDIO

Dated: _____

By: _____

Name: _____

Title: _____

ATTEST:

_____, City Clerk

APPROVED AS TO FORM

_____, City Attorney

CITY OF COACHELLA

Dated: _____

By: _____

Name: _____

Title: _____

ATTEST:

_____, City Clerk

APPROVED AS TO FORM

_____, City Attorney

CITY OF LA QUINTA

Dated: _____

By: _____

Name: _____

Title: _____

ATTEST:

_____, City Clerk

APPROVED AS TO FORM

_____, City Attorney

CITY OF INDIAN WELLS

Dated: _____

By: _____

Name: _____

Title: _____

ATTEST:

_____, City Clerk

APPROVED AS TO FORM

_____, City Attorney

CITY OF RANCHO MIRAGE

Dated: _____

By: _____

Name: _____

Title: _____

ATTEST:

_____, City Clerk

APPROVED AS TO FORM

_____, City Attorney

CITY OF CATHEDRAL CITY

Dated: _____

By: _____

Name: _____

Title: _____

ATTEST:

_____, City Clerk

APPROVED AS TO FORM

_____, City Attorney

Dated: _____

COUNTY OF RIVERSIDE

By: _____

ATTEST:

APPROVED AS TO FORM



CITY OF PALM SPRINGS

OFFICE OF THE CITY CLERK

3200 E. Tahquitz Canyon Way

Palm Springs, CA 92262

(760) 323-8204

EXCERPTS OF MINUTES

At the City Council meeting of the City of Palm Springs held September 7, 2016, the City Council took the following action:

EXCLUDED CONSENT CALENDAR:

Councilmember Foat and Councilmember Kors stated as the City Council delegate and alternate, they may have an income related conflict of interest with respect to Item 1.C., would not participate in the discussion or the vote, and left Council Chamber.

1.C. AMENDMENT TO SUNLINE JOINT-POWERS TRANSPORTATION AGENCY AGREEMENT:

City Clerk Thompson provided background information as outlined in the Staff Report dated September 7, 2016.

Mayor Pro Tem Mills noted his opposition to the proposed amendment to the Sunline Joint-Powers Agreement.

MOTION: Reject Amendment No. 4 to the Joint Powers Agreement.
Motion Mayor Pro Tem Mills, failed for lack of a second.

MOTION:

- 1) Approve Amendment No. 4 to Agreement No. A1281 for the SunLine Joint-Powers Transportation Agreement;
- 2) Authorize the City Manager to execute Amendment No. 4; and
- 3) Adopt FPPC Form 806, authorize the City Manager to prepare and execute FPPC Form 806 Public Official Appointments, and direct the City Clerk to post on the City's website, if SunLine approves the payment of a stipend. A1281.

Motion Councilmember Roberts, seconded by Mayor Moon and failed 1-2 on a roll call vote.

AYES: Councilmember Roberts
NOES: Mayor Pro Tem Mills and Mayor Moon
ABSENT: Councilmember Foat and Councilmember Kors

Councilmember Foat and Councilmember Kors returned to the dais.

Later in the meeting the City Council reconsidered this item and approved Item 1.C. (Please see Reconsideration immediately following Public Hearings.)

RECONSIDERATION:

Mayor Pro Tem Mills stated he received information regarding Item 1.C., regarding the agreement with Sunline Transit Agency, and requested the City Council reconsider the Item.

Councilmember Foat and Councilmember Kors left Council Chamber.

ACTION: Reconsider Item 1.C. regarding Amendment to the Joint Powers Agreement with Sunline.

Motion Mayor Pro Tem Mills, seconded by Mayor Moon and unanimously carried 3-0 on a roll call vote.

AYES: Councilmember Roberts, Mayor Pro Tem Mills, and Mayor Moon.
NOES: None.
ABSENT: Councilmember Foat and Councilmember Kors.

1.C. AMENDMENT TO SUNLINE JOINT-POWERS TRANSPORTATION AGENCY AGREEMENT:

Mayor Pro Tem Mills stated he received information that Sunline Board Members already receive a stipend.

ACTION:

- 1) Approve Amendment No. 4 to Agreement No. A1281 for the Sunline Joint-Powers Transportation Agreement;
- 2) Authorize the City Manager to execute Amendment No. 4; and
- 3) Adopt FPPC Form 806, authorize the City Manager to prepare and execute FPPC Form 806 Public Official Appointments, and direct the City Clerk to post on the City's website, if Sunline approves the payment of a stipend. A1281.

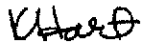
Motion Mayor Pro Tem Mills, seconded by Councilmember Roberts and carried 3-0-2 on a roll call vote.

AYES: Councilmember Roberts, Mayor Pro Tem Mills, and Mayor Moon.
NOES: None.
ABSENT: Councilmember Foat and Councilmember Kors.

Councilmember Foat and Councilmember Kors returned to the dais.

I, KATHLEEN D. HART, Interim City Clerk of the City of Palm Springs, hereby certify that the above action was taken by City Council of the City of Palm Springs on the 7th day of September, 2016, by the following vote:

AYES: Councilmember Roberts, Mayor, Pro Tem Mills, and Mayor Moon
NOES: None
ABSENT: None.
ABSTAIN: Councilmember Foat and Councilmember Kors



Kathleen D. Hart, MMC
Interim City Clerk



APPROVED BY CITY COUNCIL

9.7.16 IC A1281

CITY COUNCIL STAFF REPORT

DATE: SEPTEMBER 7, 2016 CONSENT CALENDAR
SUBJECT: AMENDMENT TO SUNLINE JOINT-POWERS TRANSPORTATION AGENCY AGREEMENT
FROM: DAVID H. READY, CITY MANAGER
BY: OFFICE OF THE CITY CLERK

SUMMARY

The City Council will consider the approval of the fourth amendment to the Joint Powers Agreement for SunLine that would allow Board members to be paid a stipend for meeting attendance not to exceed \$150.00 per month.

RECOMMENDATION:

1. Approve Amendment No. 4 to Agreement No. A1281 for the SunLine Joint-Powers Transportation Agreement.
2. Authorize the City Manager to execute Amendment No. 4.
3. Adopt FPPC Form 806, authorize the City Manager to prepare and execute FPPC Form 806 *Public Official Appointments*, and direct the City Clerk to post on the City's website, if SunLine approves the payment of a stipend.

STAFF ANALYSIS:

In May, 1977, the County of Riverside and the incorporated cities in the Coachella Valley entered into the SunLine Joint-Powers Transportation Agency Agreement in order to collectively provide a public transportation system in the Coachella Valley. Since that time, the agreement was amended twice in the early 1990s related to taxicab regulations, and a third amendment was promulgated in 2013 to eliminate weighted voting but that third amendment is still in the process of being approved by the member agencies.

On May 25, 2016, the SunLine Transit Agency Board of directors directed its staff to prepare a proposed fourth amendment to the agreement to specify that the Board of Directors may receive compensation for their attendance at Board meetings and Board

ITEM NO. IC

Subcommittee meetings. As a Joint-Powers Agency that includes the County, charter cities and general law cities, SunLine may pay compensation to its Board members consistent with the law applicable to its member agencies. The law places no limits on the compensation to members of the Board of Supervisors and City Council members in charter cities, but general law cities are subject to the limitations in Government Code Section 36516. SunLine has required that the agreement be revised to specifically authorize the Board members to receive stipends for their attendance at meetings consistent with the limitations applicable to general law cities.

The amount of such stipends will be set by resolution of the SunLine Board and will be paid from SunLine Transit Agency funds. The amendment provides a maximum allowable stipend amount of \$150 per month.

This contract is with a public entity and exempt from the certification requirements of non-discrimination in contracting pursuant to newly enacted Ordinance No. 1896.

Councilmember Foat is the City's representative to the SunLine Board of Directors, and Councilmember Kors is the City's alternate representative.

The FPPC amended § 18705.5 of the Regulations to authorize public officials to vote on their own appointments to compensated positions on various regional boards and commissions. However, before a public official may participate in a decision or vote to appoint themselves to a compensation position, § 18705.5 requires a new Form 806, as developed by the FPPC, be adopted by the City Council, filed and posted on the website.

FISCAL IMPACT:

There is no direct, fiscal impact to the City of Palm Springs by approving this Fourth Amendment. Any stipend approved, by the Sunline Board, will be paid from SunLine Transit Agency funds.



JAMES THOMPSON, CITY CLERK



DAVID H. READY, CITY MANAGER

Attachments:
Proposed Amendment No. 4

FOURTH AMENDMENT TO SUNLINE JOINT POWERS TRANSPORTATION AGENCY AGREEMENT

This Fourth Amendment to SunLine Joint Powers Transportation Agency Agreement ("Fourth Amendment") is entered into by and between the COUNTY OF RIVERSIDE, the CITY OF COACHELLA, the CITY OF INDIO, the CITY OF LA QUINTA, the CITY OF INDIAN WELLS, the CITY OF PALM DESERT, the CITY OF RANCHO MIRAGE, the CITY OF PALM SPRINGS, the CITY OF CATHEDRAL CITY, and the CITY OF DESERT HOT SPRINGS (collectively, the "Parties"), and any other public agencies which subsequently becomes parties to the Agreement. This Fourth Amendment is made and entered into on the date last executed by the Parties hereto.

RECITALS

A. SunLine Transit Agency is a joint powers agency established by the SunLine Joint Powers Transportation Agency Agreement (the "Agreement") on or about May 20, 1977.

B. The first amendment to the Agreement was approved on or about June 11, 1991, and a second amendment to the Agreement was approved on or about March 31, 1992. A third amendment to the Agreement was prepared in 2013 but SunLine is still in the process of obtaining all of the required signatures for that third amendment.

C. The Parties desire to enter into this Fourth Amendment to revise the Agreement to include specific authority for the Board of Directors to receive compensation for attendance at Board and committee meetings consistent with State law.

OPERATIVE PROVISIONS

NOW, THEREFORE, in consideration of the promises made and recited herein, the parties do hereby enter into this Fourth Amendment which modifies and amends the Agreement as follows:

1. **AMENDMENT**. Section 3 (Board of Directors), paragraph E (Meetings) is amended to add a new subparagraph 3, to read as follows:

"3) Compensation

The Board may, by resolution, provide Board members a stipend for attendance at Board meetings and subcommittee meetings, provided that the maximum stipend a Board member may receive shall be one hundred fifty dollars (\$150) per month consistent with the limitations on compensation for service on a commission, committee, board, authority, or similar body applicable to general law cities in Government Code section 36516(c), or such other amount as may be applicable to general law cities or joint powers agencies in the future."

2. GENERAL PROVISIONS.

2.1 **Remainder Unchanged.** Except as specifically modified and amended in this Fourth Amendment, the Agreement, as amended, remains in full force and effect and binding upon the parties.

2.2 **Applicable Law.** The laws of the State of California shall govern the interpretation and enforcement of this Fourth Amendment.

2.3 **References.** All references to the Agreement include all their respective terms and provisions. All defined terms utilized in this Fourth Amendment have the same meaning as provided in the Agreement, unless expressly stated to the contrary in this Fourth Amendment.

2.4 **Counterparts.** This Fourth Amendment may be signed in multiple counterparts which, when signed by all parties, shall constitute a binding agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Fourth Amendment to the Agreement on the date and year first written above.

CITY OF DESERT HOT SPRINGS

Dated: _____

By: _____

Name: _____

Title: _____

ATTEST:

_____, City Clerk

APPROVED AS TO FORM

_____, City Attorney

CITY OF PALM SPRINGS

Dated: _____

By: _____

Name: _____

Title: _____

ATTEST:

_____, City Clerk

APPROVED AS TO FORM

_____, City Attorney

CITY OF PALM DESERT

Dated: _____

By: _____

Name: _____

Title: _____

ATTEST:

_____, City Clerk

APPROVED AS TO FORM

_____, City Attorney