



**BOARD OF COUNTY
COMMISSIONERS**



TOWN COUNCIL

JOINT INFORMATION MEETING AGENDA DOCUMENTATION

PREPARATION DATE: September 27, 2018

MEETING DATE: October 1, 2018

SUBMITTING DEPARTMENT: Administration

DEPARTMENT DIRECTOR: Larry Pardee & Alyssa Watkins

PRESENTER: Larry Pardee, Town Manager

SUBJECT: START Joint Powers Agreement

STATEMENT/PURPOSE

The purpose of this item is to present amendments to the START Joint Powers Agreement (JPA) which were discussed and directed at the retreat in February of 2018.

BACKGROUND/ALTERNATIVES

The Town Council and the County Commission discussed potential amendments to the START JPA at the February joint retreat this year and the Town Council directed the Town Attorney to prepare draft amendments based on the discussion. Adopting the changes as proposed provides some clarification for the START Board and the Transit Director in managing daily operations and expectations for decision making and the changes should have a positive impact moving forward. The requested changes were focused on:

- Clarifying the role of the START Board as it relates to broad policy decisions.
- Clarifying the role of the START Board for decisions that would affect the adopted budget.
- Clarifying the purpose of the operating plan and its relation to the budget.
- Communicating decisions that may affect the broader public, existing policy and the approved budget.
- Clarifying that internal operational and management decisions are made by the Transit Director as approved by the Town Manager.
- Clarifying that no new obligations regarding management, control, maintenance or supervision of property facilities or programs that significantly impact the broader public, the budget, or deviate from existing policy can be approved by the Board without the Town and County's approval.

Clarifying that the START Board can enter into contracts so long as they are within the approved budget, operating plan and policies already approved by the Town and County, also I would like to extend a special Thank You to Town Attorney, Audrey Cohen-Davis who reviewed the START JPA and spent notable time carefully listening to the audio from the meeting to ensure all points were captured and addressed in the proposed third amendment to the agreement. The Town Attorney also met with Transit Director, Darren Brugmann along with administrative staff from the Town and provided the proposed amendments to County

staff, and the START board for further review and comment. The amendments proposed accurately reflect the Council and Commissions discussion and direction provided at the retreat.

Due to the issues associated with budget approval, administrative decision making, and the political nature of rates, fares, routes and funding, the Town Manager and County Administrator would like to suggest as we work forward into the future with the Elected officials on the JPA we transition the START Board into more of an advisory role similar in nature to the Parks and Recreation Board.

An advisory focus for this board would help to clarify decision making and set expectations in terms of what decisions can and may be overturned by the Council and Commission as well as the board's role in providing direction to the Transit Director and how that interaction functions successfully when combined with the Transit Director reporting directly to the Town Manager. An example is on page 2 of the agreement where the amendment clarifies that significant changes to the routing, scheduling, fares, etc. need to be communicated to the Town and County but the reality in many instances is that the elected officials are oftentimes acting as the final decision maker for these significant changes. As noted, the proposed amendments reflect the Council and Commission's direction and staff would encourage further adjustments be consider as we work forward in the future.

The Council and Commission have many options to consider including:

1. Approve the draft Third Amendment to the START JPA as presented and direct the Town Attorney to send the amendment to the Wyoming Attorney General for approval.
2. Adopt the amendments and direct staff to draft further amendments to the START JPA to reflect the role of the START Board as more of an advisory role.
3. Discuss the proposed amendments and continue the item to the next available Joint Information Meeting (JIM).
4. Take no action thereby keeping the current START JPA intact.
5. Other.

[ATTACHMENTS](#)

DRAFT Third Amendment to the Agreement Establishing Jackson-Teton County Joint Powers Transit System.

[FISCAL IMPACT](#)

There are no direct fiscal impacts to adoption of this third amendment.

[STAFF IMPACT](#)

The staff impact of preparing the amendment is notable in that the Town Attorney spent considerable time drafting and confirming direction provided from the JIM retreat in February. Additional follow up staff time will be spent on submitting the amendment to the Wyoming Attorney General for review and approval, obtaining signatures from the Mayor and Commissioner Chairman and Clerks, and scanning and archiving the document in the permanent records of the Town of Jackson.

The staff impact of the changes is positive in that the changes clarify to a certain extent the role of the Board in making decisions.

As noted above, the Town Manager and County Administrator both encourage our Elected's considered further refinements to the agreement to more of an advisory role for the START board.

[STAKEHOLDER ANALYSIS](#)

The stakeholders involved in this item include the START Board, Town Council, and County Commission in that the amendments to the agreement help clarify the START Board's role in certain situations. The Transit Director is a stakeholder in that he desires clarification in terms of the Board's role on various issues. The

Town Manager and County Administrators are stakeholders because they are invested in the success of this department and the Town Manager directly supervises the Transit Director and monitors budget expenses and the impact of decisions on the budget. The community is a stakeholder because public dollars are spent to provide efficient and effective transportation options and because they are served by START Bus.

LEGAL REVIEW

Complete. The Third Amendment was prepared by the Town Attorney and reflects the direction provided at the JIM Retreat in February of this year. The amendment was also reviewed by the County Attorney's office.

RECOMMENDATION

The Town Manager and County Administrator recommend the JPA be approved as the Third Amendment to the START JPA.

SUGGESTED MOTION

Should the Town Council and County Commission be ready to take action, one possible motion would be:

I move to approve the draft Third Amendment to the START JPA as presented and direct the Town Attorney to send the amendment to the Wyoming Attorney General for approval.

THIRD AMENDMENT TO THE AGREEMENT ESTABLISHING JACKSON-TETON COUNTY JOINT POWERS TRANSIT SYSTEM

This Third Amendment to the Agreement Establishing Jackson-Teton County Joint Powers Transit System is made and entered into to be effective as of the _____ day of _____, 2018, by and between the Town of Jackson, Wyoming, a Municipal Corporation of the State of Wyoming, hereinafter referred to as "Town", and Teton County, Wyoming, a duly organized county of the State of Wyoming, hereinafter referred to as "County."

WITNESSETH:

WHEREAS, The Town of Jackson and Teton County entered into an Agreement establishing the Jackson-Teton County Joint Powers Transit System ("JPA") on September 4, 2001; and

WHEREAS, a First Amendment to the JPA effective June 6, 2011 was made to reflect a financing split for sales tax distributions; and,

WHEREAS, a Second Amendment to the JPA effective on June 12, 2015 amended the JPA to reflect a change in the hiring, dismissal, and management of the Transit Director; and,

WHEREAS, the parties wish to further amend the JPA to clear up ambiguities on the role of elected officials and the delegation of authority to the START Board in connection with the method of operation, operating plan, budget, and agents and employees of START.

NOW THEREFORE, it is hereby resolved by the Town and County in consideration of the foregoing and of the cooperation to be had between the parties and the performance of the promises contained herein, and the parties hereto agree as follows:

Paragraph 5. Delegation of Authority for Operation, Regulation, Control and Maintenance of Property, Facilities and Programs, shall be amended with the following that reflects a clarification on decisions affecting existing policy of the Parties.

The Board is hereby delegated the authority to control, maintain, manage, operate and regulate the transit system described herein, whether

individually or jointly owned, as well as all related equipment and facilities. Such authority specifically includes the routing and scheduling of bus services, establishing fares, advertising, and seasonal adjustments to bus services within the approved operating plan submitted by the Board with the Budget ultimately approved by the Parties. Any significant changes or deviations that may affect the broader public, existing policy and the approved Budget shall be communicated to the Parties.

Paragraph 8 shall be amended to reflect clarification on the operating plan:

The fiscal year of the Board shall be July 1 to June 30th of each year. The Board shall prepare and submit its proposed budget, together with its proposed operating plan, to the Parties not later than March 20th of each year. The operating plan shall be sufficiently detailed to eliminate ambiguities with regard to the nature and extent of any management decisions, proposed capital projects or expenditures or personnel hiring. The operating plan shall also include any policy changes or deviations directed by both Parties that will affect the final Budget. The Board will provide the Parties with reports detailing its activities and expenditures on a quarterly/seasonal basis. Upon approval of a START budget by the Town and County, the Board shall not be required to seek subsequent approval of expenditures from these agencies so long as the Board does not exceed the approved Budget, except for internal operational and management decisions. Notwithstanding the foregoing, the Board shall be required to comply with all applicable procurement procedures established by the Town.

Paragraph 9. Method of Operation, *paragraph 2*, shall be amended with the following that reflects a clarification on the day to day control, management, supervision, operation and regulation of the transit system and facilities:

Within the foregoing constraints, the day to day control, management (including special event management), supervision, operation and regulation of the transit system and facilities shall be under the administration of the Board. No *new* obligations to engage in the management, control, maintenance or supervision of property, facilities or programs that may significantly impact the broader public, the approved Budget or deviate from existing policy may be delegated to the Board by the Town or County, or assumed by the Board, without the approval of both of the Parties. No capital projects may be undertaken and no unbudgeted capital expenditures may be incurred without the prior approval of both Parties.

Paragraph 10. Agents and Employees, paragraph 1, shall be amended with the following that reflects a change in the authority regarding contracts, which shall now read as follows:

The Board shall, in carrying out the purposes, duties and functions set forth herein, have the authority to contract with organizations providing services, funding or facilities needed to carry out the purposes of this Agreement within the approved Budget, operating plan, and policies approved by the Parties for each year. All contracts with such organizations shall be approved as to form, in advance, by the Town Attorney and County Attorney.

IN WITNESS WHEREOF, the undersigned have executed this agreement on the day and year indicated, but to be effective as of the day and year above written.

TOWN OF JACKSON, WYOMING

By: _____
Pete Muldoon, Mayor

Dated

Attest:

By: _____
Sandy Birdyshaw, Town Clerk

BOARD OF COUNTY COMMISSIONERS
OF TETON COUNTY, WYOMING

By: _____
Mark Newcomb, Chair

Dated

Attest:

By: _____
Sherry Daigle, County Clerk

STATE OF WYOMING
OFFICE OF ATTORNEY GENERAL

In accordance with Wyo. Stat. §16-1-105(a)(ii), I hereby certify that the foregoing Third Amendment to the Agreement establishing the Jackson-Teton County Joint Powers Transit System was received by this office and has been reviewed and is approved as to form and with respect to compliance with the Constitution and Law of the State of Wyoming. The approval of this Third Amendment to the September 4, 2001

Agreement Establishing Jackson-Teton County Joint Powers Transit System is limited to the terms and conditions of the Agreement and Amendment themselves, and the approval does not extend to any activities, services, project or financing of any activities, services or project contemplated under the Agreement or Amendment.

Approved this ____ day of _____, 2018.

ATTORNEY GENERAL

By: _____
Peter Michael
Attorney General
State of Wyoming