

**Concho Valley Transit District
RESOLUTION 110415-A**

WHEREAS, the Concho Valley Transit District (CVTD) is the principal provider of public transportation services to the City of San Angelo (COSA) and to the Concho Valley, and

WHEREAS, COSA desires to enter into an Interlocal Cooperation Agreement with CVTD to render transportation services in connection with Goodfellow Air Force Base, and

Now therefore be it resolved the Board of Directors of the Concho Valley Transit District approve the following:

- 1. The Concho Valley Transit District Board of Directors does hereby accept the Interlocal Agreement (Second Amendment) between CVTD and COSA to render transportation services in connection with Goodfellow Air Force Base.**

Duly adopted at the meeting of the Board of Directors of the Concho Valley Transit District this 4th day of November, 2015.

Steve Floyd, Chairman

Dwain Morrison, Secretary

**SECOND AMENDMENT TO THE INTERLOCAL AGREEMENT
BY AND BETWEEN CITY OF SAN ANGELO
AND CONCHO VALLEY TRANSIT DISTRICT**

This Second Amendment to the Interlocal Agreement (Second Amendment) is made and entered into this ____ day of _____, 2015 (but effective as of October 1, 2015("Effective Date")), by and between the Concho Valley Transit District, a political subdivision of the State of Texas (CVTD) and the City of San Angelo, a Texas home-rule municipality (City).

WHEREAS, CVTD and City executed an Interlocal Agreement (Original Agreement) on August 21, 2014, a copy of which is attached to this Second Amendment as Attachment "A" hereto, which by this reference is incorporated into and made a part of this Second Amendment; and

WHEREAS, CVTD and City now desire to amend said Original Amendment to extend the term for one (1) additional year, effective beginning October 1, 2015 and ending September 30, 2016, provide consequent compensation for said extended term; and enter hereby into Second Amendment.

NOW THEREFORE, in consideration of the premises and of the mutual promises, covenants and agreements of the parties hereinafter set forth, it is hereby agreed between the parties that Second Amendment shall be and the same is hereby amended as follows:

FIRST. 2. TERM The term of the Agreement shall be for a period of one (1) year term, commencing October 1, 2015 and ending September 30, 2016.

SECOND. 5. CITY OBLIGATION. City agrees to contribute Forty Eight Thousand Dollars (\$48,000.00) per year toward the operational costs incurred by CVTD under Agreement, including but not limited to, personnel, vehicle, maintenance, fuel, insurance, dispatch, parking and customer service costs, for CVTD's performance of duties under Section 4, CVTD OBLIGATION, above, and to make payment to CVTD within (30) days after receipt of CVTD's invoice.

THIRD. All remaining terms, conditions, clauses and provisions of Second Amendment to the extent not changed, altered or specifically amended by this instrument, shall remain in full force and effect in all respects and are hereby ratified by the parties hereto.

[Signature Page to Follow]

EXECUTED in duplicate originals on this the ____ day of _____, 2015.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by their respective officials thereunto duly authorized, this the day and year above written.

CVTD

**BOARD OF DIRECTORS
CONCHO VALLEY TRANSIT DISTRICT**

By: _____

Name: _____

Title: _____

ATTEST:

CITY

CITY OF SAN ANGELO, TEXAS

By: _____

Daniel Valenzuela, City Manager

ATTEST:

Bryan Kendrick, City Clerk

**SECOND AMENDMENT TO THE INTERLOCAL AGREEMENT
BY AND BETWEEN CITY OF SAN ANGELO
AND CONCHO VALLEY TRANSIT DISTRICT**

Approved as to Content:

Morgan Chegwidden, Budget Manager

Approved as to Content:

Tina Carriger, Finance Director

Approved as to Form:

Theresa James, City Attorney

INTERLOCAL AGREEMENT

This Interlocal Agreement ("Agreement") is entered into this 21st day of August, 2014 (but effective as of October 1, 2013) ("Effective Date") by and between City of San Angelo, Texas, a local government ("City") and Concho Valley Transit District, a local government ("CVTD") (singularly and individually, "Party," and jointly, "Parties"), under the authority of Sections 791.001 – 791.011 of the Texas Government Code.

RECITALS:

A. Parties are authorized to enter into an interlocal agreement to perform a governmental function or service in which Parties are mutually interested and which each Party to the contract is authorized to perform individually.

B. The operation and maintenance of urban transit services to meet the needs of the citizens and communities within Tom Green County, Texas, is a governmental function or service in which Parties are mutually interested and which each Party to the contract is authorized to perform individually.

C. Parties entered into an Interlocal Cooperation Agreement on September 1, 2009, and two subsequent amendments to that agreement, for the provision of urban transit services within City, to expire August 31, 2014 ("Interlocal Cooperation Agreement").

D. Parties have determined that Interlocal Cooperation Agreement did not provide for a dedicated Goodfellow Air Force Base bus route and have identified the need for urban transit services in connection with Goodfellow Air Force Base.

E. Parties tested the feasibility and viability of a dedicated Goodfellow Air Force Base bus route by launching an eight-week pilot program, and determined that such route was both feasible and viable and in the best interest of the citizens and communities within Tom Green County, Texas.

F. Parties desire for CVTD to oversee, direct, operate and maintain a dedicated Goodfellow Air Force Base bus route within the City of San Angelo ("Service"), and for City to pay CVTD a portion of operational and maintenance costs for the performance of the services under this Agreement.

G. CVTD acknowledges that it is required to comply with the Federal Transit Administration Master Agreement, dated October 31, 2013, and all applicable Federal Transit Administration regulations, policies and directives.

H. Parties find that the amount of compensation to be paid by City to CVTD fairly compensates CVTD for the performance of services under this Agreement.

I. Parties intend that this Agreement supplement rather than supersede or supplant the current agreement for urban transit services or any other agreement made by or between City and CVTD.

J. On August 21, 2014 the City Council of the City of San Angelo, Texas, authorized the City Manager to enter into this Agreement with CVTD, under the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, Parties agree as follows:

TERMS:

1. **RECITALS:** The recitals are true and correct and hereby incorporated into and made a part of this Agreement.
2. **TERM:** The term of this Agreement shall be one (1) year commencing on Effective Date.
3. **OPTION TO EXTEND:** Upon mutual agreement of Parties, Parties shall have the option to extend or renew the term hereof for a term of one (1) year, based upon an agreement as to City's contribution to CVTD and on a finding that the exercise of the

option is in the best interest of each Party, subject to the availability and appropriation of funds by City.

4. **CVTD OBLIGATION:**

A. **SCOPE OF SERVICE.** CVTD shall provide transportation services within the City of San Angelo, Texas to run from the vicinity of Goodfellow AFB (Goodfellow Express public transportation route) to other locations within San Angelo. CVTD shall operate a bus, which shall be capable of comfortably accommodating passengers commensurate with public transportation. The bus shall be maintained by CVTD in a clean, neat and orderly condition and in good working order and condition. The bus shall provide transportation for persons to popular destinations in the City of San Angelo as identified below between the hours of 6:00 PM on Fridays and 1:00 AM on Saturdays and 12:00 PM on Saturdays and 1:00 AM on Sundays. The bus will operate in the following schedule throughout each operating hour of the day:

<u>Locations</u>	<u>Arrival Times</u>
Goodfellow AFB	:00
Chadbourne & Beauregard	:05
Beauregard & Sherwood Way	:10
HEB	:12
Buffalo Wild Wings	:14
Cinemark Tinseltown	:15/:25
Wal-Mart (South)	:19
Hobby Lobby	:26
Sunset Mall	:29
Texas Road House	:34
Midnight Rodeo	:37
Cheddar's	:42
Goodfellow AFB	:50

B. PERSONNEL. CVTD has, or will secure, all personnel required in performing services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with City.

C. SPECIAL CONSIDERATIONS. CVTD holidays are New Year's Eve, New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and the day after, Christmas Eve and Christmas Day. The Goodfellow Express will not operate on these holidays. CVTD will follow its Bad Weather Policy in the event dangerous weather conditions are forecasted. During these times CVTD bus services, including Goodfellow Express, may be halted.

5. **CITY OBLIGATION:** City agrees to contribute Forty Eight Thousand Dollars (\$48,000.00) toward the operational costs incurred by CVTD under Agreement, including but not limited to, personnel, vehicle, maintenance, fuel, insurance, dispatch, parking and customer service costs, for CVTD's performance of duties under Section 4, CVTD OBLIGATION, above, and to make payment to CVTD within (30) days after receipt of CVTD's invoice.
6. **CONTINGENCY CLAUSE:** The obligation of City to contribute to CVTD under the provisions of this Agreement is expressly made contingent upon the appropriation, budgeting or availability of sufficient funds by City. In the event that such funds are not budgeted, appropriated or otherwise not made available for the purpose of payment under this Agreement at any time after the current fiscal year, then City or CVTD shall have the option of terminating the Agreement under Section 9, TERMINATION, below, except that all services provided to that point shall be compensated at the agreed rate.
7. **INDEPENDENT CONTRACTOR:** Parties shall act at all times under this Agreement as independent contractors. Parties agree that CVTD shall not have and shall not exercise

any control or direction over the manner or method by which City provides its obligations under this Agreement. Parties agree that City shall not have and shall not exercise any control or direction over the manner or method by which CVTD provides its obligations under this Agreement. The provisions set forth herein shall survive the expiration or other termination of this Agreement, regardless of the cause of such termination.

8. **STATUS OF EMPLOYEES:** Each Party shall retain supervision and control of its own employees at all times while performing this Agreement and no employee of one entity shall be considered a borrowed servant of the other entity for Workers' Compensation purposes or for any other reason. The City agrees that all persons employed by it to furnish services hereunder are employees or agents of the City and not of CVTD, and CVTD agrees that all persons employed by it to furnish services hereunder are employees or agents of the CVTD and not of the City. Such employees or agents of either entity are not entitled to benefits conferred on the other entity's employees.
9. **TERMINATION:** This Agreement may be terminated by either Party with or without cause upon sixty (60) days prior written notice to the other Party and shall continue in force and remain binding on Parties until such time as the governing body of either party terminates said Agreement.
10. **EXECUTION:** If the governing body of a Party is required to approve this Agreement, it shall not be entered into until approved by the governing body of that Party. In that event, this Agreement shall be executed by the duly authorized official(s) of the Party as expressed in the approving resolution or order of the governing body of said Party.
11. **ENTIRE AGREEMENT:** This Agreement supersedes any and all other agreements, either oral or in writing, between Parties with respect to Service. No other agreement, statement, or promise relating to the subject matter of this Agreement, which is not

contained herein, shall not be valid or binding on the Parties. In the event of a conflict between Interlocal Cooperation Agreement and Agreement with respect to Service, Agreement will take precedence, and then only to the extent necessary to reconcile the conflict.

12. CIVIL LIABILITY, HOLD HARMLESS, INDEMNIFICATION, AND INSURANCE

A. Any civil liability relating to the furnishing of services under this Agreement shall be the responsibility of the culpable party. CVTD shall be responsible for the consequences of its negligence, and City shall be responsible for the consequences of its negligence. CVTD shall be solely responsible for liability arising out of the operation of the Goodfellow Express Bus Route as described under Section 4. CVTD Obligation, Subsection A. Scope of Service and all personnel required under Section 4. CVTD Obligation, Subsection B. Personnel, including negligent injury of people or property.

B. To the extent allowed by law CVTD agrees to indemnify, save, and hold harmless City, its employees, agents, elected officials, and officers from any and all claims, actions, damages, lawsuits, proceedings, judgments, or liabilities, for personal injury; death, or property damage resulting from the acts or omissions of the CVTD or acts or omissions of others under CVTD's supervision or control arising out of the operation of Goodfellow Express. In the event of any cause of action or claim asserted by any third party, City will provide the CVTD timely notice of such claim, dispute or notice. Thereafter, CVTD shall at its own expense, faithfully and completely defend and protect City against any and all liabilities arising from this claim, cause of action or notice. If the CVTD should fail to so successfully defend, City may defend, pay or settle the claim or other cause of action with full rights of recourse against the CVTD for any and all fees, costs, expenses, and payments,

including but not limited to attorney's fees and settlement payments, made or agreed to be paid in order to discharge the claim, cause of action, dispute or litigation, to the extent allowed by law.

C. To the extent allowed by law City agrees to indemnify, save, and hold harmless CVTD, its employees, agents, elected officials, and officers from any and all claims, actions, damages, lawsuits, proceedings, judgments, or liabilities, for personal injury; death, or property damage resulting from the acts or omissions of the City or acts or omissions of others under City's supervision or control arising out of the operation of Goodfellow Express. In the event of any cause of action or claim asserted by any third party, CVTD will provide the City timely notice of such claim, dispute or notice. Thereafter, City shall at its own expense, faithfully and completely defend and protect CVTD against any and all liabilities arising from this claim, cause of action or notice. If the City should fail to so successfully defend, CVTD may defend, pay or settle the claim or other cause of action with full rights of recourse against the City for any and all fees, costs, expenses, and payments, including but not limited to attorney's fees and settlement payments, made or agreed to be paid in order to discharge the claim, cause of action, dispute or litigation, to the extent allowed by law.

D. Nothing contained in this Section or this Agreement shall be construed to create a liability or right of indemnification in any third party.

E. The terms in Section 12. Civil Liability, Hold Harmless, Indemnification and Insurance shall survive the termination or expiration of this Agreement.

F. The CVTD shall ensure that any party driving the Goodfellow Express shall be fully licensed and competent to operate the bus. In addition, the CVTD shall acquire and maintain during the term of this Agreement all appropriate insurance coverage, including but

not limited to, commercial liability insurance with at least \$2 million; worker compensation insurance; commercial auto insurance; and any other insurance a prudent owner and operator of a bus used for public transportation would maintain.

13. **AMENDMENT:** This Agreement may only be amended by the mutual agreement of Parties in a writing signed by a duly authorized representative of each Party.
14. **SEVERABILITY:** In the event that any one or more of the provisions contained in Agreement shall be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions herein, and Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
15. **FORCE MAJEURE:** In the event that either Party shall be prevented from performing its duties under this Agreement by an act of nature, by acts of war, riot, or civil commotion, by an act of State, by strikes, fire, flood, or by the occurrence of any other event beyond the control of either Party, it shall not be considered a breach of this Agreement.
16. **NOTICE:** Notice given by one party to the other hereunder shall be in writing and deemed to have been properly given if deposited with the United States Postal Service, registered or Certified mail, return receipt requested, addressed as follows:

CVTD

Concho Valley Transit District
Attn: John Stokes, Executive Director
2801 West Loop 306, Suite A
San Angelo, Texas 76904

CITY

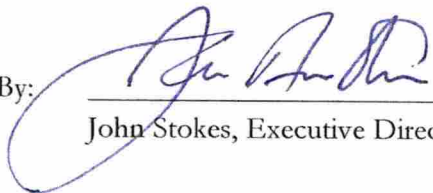
City of San Angelo
Attn: Daniel Valenzuela, City Manager
72 W. College Ave.
San Angelo, Texas 76903

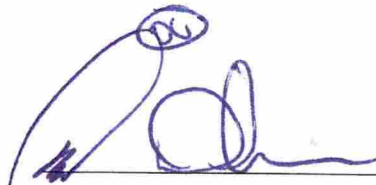
[Signature Page to Follow]

EXECUTED in duplicate originals by City and CVTD the Parties on this the 10th day of September, 2014.

CONCHO VALLEY TRANSIT DISTRICT

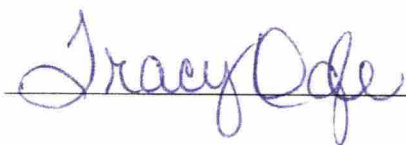
CITY OF SAN ANGELO

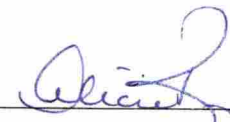
By: 
John Stokes, Executive Director

By: 
Daniel Valenzuela, City Manager

ATTEST:

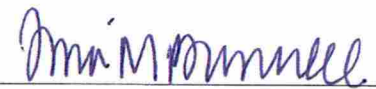
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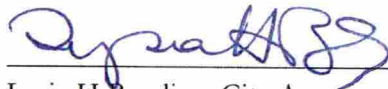
By: 
Tracy Ode

By: 
Alicia Ramirez, City Clerk


Approved as to content:

Approved as to form:

By: 
Tina Bunnell, Director of Finance

By: 
Lysia H Bowling, City Attorney

Approved as to form:

By: 
Wm. Keith Davis
Counsel to the CVTD