

**Concho Valley Council of Governments
Resolution of Support 110415-B**

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, CVTD, and ASU, is authorized by the Constitution and Laws of Texas to contract with each other for bus passenger service to serve areas within CVTD of San Angelo (hereinafter referred to as "COSA"); and

WHEREAS, the administration of ASU authorized the execution of an agreement between CVTD and ASU for student and employee transportation services identified as the "Ram Tram" by CVTD; 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 approve the contract between CVTD and ASU to provide transportation services in and around the ASU community.

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

Steve Floyd, Chairman

Dwain Morrison, Vice Chair

STATE OF TEXAS §
 §
COUNTY OF TOM GREEN §

AGREEMENT

The agreement #6608-16-D-0001 made and entered into this 1st day of November 2015 by and between the CONCHO VALLEY TRANSIT DISTRICT (hereinafter referred to as "CVTD"), and ANGELO STATE UNIVERSITY (hereinafter referred to as "ASU").

WHEREAS, CVTD, and ASU, is authorized by the Constitution and Laws of Texas to contract with each other for bus passenger service to serve areas within the vicinity of San Angelo (hereinafter referred to as "COSA"); and

WHEREAS, the performance of this agreement should assist ASU in meeting the transportation needs of its students, faculty, and staff and should decrease traffic of COSA and ASU streets and help to alleviate the severity of parking problems on campus and streets surrounding the campus while increasing access to COSA; and

WHEREAS, the administration of ASU authorized the execution of an agreement between CVTD and ASU to provide transportation services to include ASU students, ASU employees, and special guests (i.e. parents/siblings); and

NOW THEREFORE, in consideration of the following mutual promise covenants and conditions, it is agreed as follows:

I.

CVTD will, during the term of this Agreement, furnish bus transportation service in and around the ASU community with time schedules and routes determined by CVTD and in accordance with route demand as determined by CVTD. No per ride cash fare will be charged for the routes operating on or between the ASU Campus and COSA identified as commonly referred to as the "Ram Tram". The routes may be amended from time to time by CVTD with ASU understanding an amended route may require an increase in costs to ASU depending on the publicly demanded routes. CVTD will provide ASU with monthly ridership reports based on the service provided to ASU. These reports will be provided within 15 days of each month's end. CVTD agrees to include ASU when analyzing routes in January of each contract year. At that time, any route revisions or modifications for the next contract year of service will be introduced and taken into consideration. All service changes for the next contract year will be completed during the first quarter of each calendar year, allowing preparation time for any CVTD campaigns that accompany said changes. Any modification to the services may result in a change in the number of service hours provided by CVTD as well as the fees charged under this contract.

II.

Buses shall stop to receive or discharge the passengers at such points as shall be determined by CVTD. ASU may identify points at which stops are possible to support ASU students by said buses. CVTD shall provide the busing system for the service along routes and between locations connecting to other public transportation routes until such a time as determined between the parties.

III.

CVTD will exercise due diligence to adhere to the time schedules herein above referred to, but minor deviations therefrom due to variations in traffic, weather or load conditions shall not be deemed to be a default hereunder.

IV.

ASU and CVTD will execute this agreement/contract which will set forth in detail the number of hours of bus transportation service required as well as the cost per service hour which ASU will pay to CVTD. The flat rate for service shall be \$70.00 per hour.

The parties agree that the "hours of bus transportation service" is determined by multiplying the number of buses by the hours of service. For example, if two buses operate for one hour simultaneously that constitutes two hours of bus transportation service. ASU agrees that throughout the term of this agreement it shall utilize at least one bus on Friday from 5:30 pm to 2 am and Saturday from 11:30 am to 2 am (during regular semester terms) and Friday 7:30 pm to 12:30 am and Saturday 7:30 pm to 12:30 am during summer semester terms; a minimum of 800 hours of bus transportation service per year.

CVTD will invoice ASU monthly for the actual number of service hours provided during that month. Invoices will be paid in full within 30 days. Late payments will be charged an additional 1.5% per month or the maximum amount allowed by Texas law.

V.

Upon forty-eight hours' notice either fax (325-227-6852 addressed to the General Manager, email at Vicente.huerta@cvcog.org or calling 325-947-8729 x 408 by ASU's Department of Parking and Transportation Services or designated ASU representative to either the General Manager or a designee of the General Manager of CVTD, up to one additional regular transit bus may be dispatched to provide additional bus service on the ASU Ram Tram service route. The charge for the additional buses will be at a rate indicative of the total allocated cost indicated for that contract year per hour per bus. ASU will be charged from the time that the additional bus arrives at ASU to the time that the bus drops off the last rider. CVTD will prepare a billing on a case-by-case basis of request for special/additional services and will make timely invoices

for ASU accordingly for each day's additional services and bill ASU after use of the additional bus.

VI.

This agreement is an expectation that CVTD will operate its regular sized public transit buses on the ASU Ram Tram service routes. Any exceptions must be notified to ASU's Department of Parking and Transportation Services as they occur.

VII.

The obligations assumed by CVTD herein are expressly subject to strike, acts of God, lockouts, or other industrial disturbances, fires, floods, accidents to vehicle, or other cause not within the control of CVTD and which, by the exercise of due diligence, CVTD is unable to prevent or overcome, and it is further agreed that in the event that no service is rendered by CVTD during any such period, that compensation, therefore, shall be proportionately abated during such period, and refunds to ASU where appropriate.

VIII.

Period of Performance shall commence on November 6, 2015 and run through October 31, 2016. Each subsequent year shall commence Performance on November 1st and expire October 31st. This entire contract shall expire October 31, 2018.

ASU shall be responsible for submitting a new calendar with expected performance dates identifying "Regular Semester" terms (highlighted in yellow) and "Summer Semester" terms (highlighted in green) and dates of non-performance (bolded in red) by the beginning of August each year to ensure adequate coverage and planning for the following scholastic year.

IX.

Any notice or other communication required or desired to be given, excluding the notice required under paragraph V. above, must be in writing and sent by certified mail, return receipt requested, or personally served. Each such notice is deemed to be duly given three days after deposit in any depository maintained by the United States or when personally served. Each such notice must be addressed to the parties at the following addresses or to any other address as may be specified by a party by a notice given as provided herein:

To CVTD:
Attn: Procurement
2801 W. Loop 306, Ste A
San Angelo, TX 76904

**To ASU:
Attn: Won-Jae Lee, Ph.D.
Executive Director (Asian Relations)
Administration Building, Room 204
ASU Station 1108
San Angelo, TX 76909-1008**

X.

The bus transportation service operated by CVTD on the ASU campus and other selected locations by CVTD identified as the "Ram Tram" shall provide transportation to ASU Students, Faculty, and identified ASU Guests at no additional cost.

XI.

ASU and CVTD will undertake and conduct a program designed to publicize the existence of said bus service to both ASU students and staff. In promoting the service, CVTD will provide ASU advertising spaces, as available, that include one interior card in each bus operated on ASU property. Interior cards will be printed at the expense of ASU and must be printed on the correct material and size. CVTD and ASU will abide by the advertising policy set forth by CVTD.

XII.

CVTD will provide and use at all times, buses that are in good and safe mechanical condition. CVTD will also ensure that the interior and exterior of these vehicles are reasonably clean and undamaged. All secondary or support equipment, to include but not limited to communication, used in the expected operation of the ASU Ram Tram, should also be functioning as designed. CVTD will make a good faith effort to regularly utilize vehicles, which utilize exterior markings that allow patrons to quickly identify that the vehicle is part of the transportation services provided to the ASU community. All ASU marks must be approved in writing by the Departments of Campus Services and Collegiate Licensing prior to use by CVTD. CVTD will also provide competent and duly licensed drivers by whom said buses shall be driven. For all services provided to ASU, CVTD must provide the vehicle, driver and supporting operations for services provided to ASU. CVTD may not use vehicles or employees maintained by ASU.

XIII.

In addition to those services which are agreed to pursuant to this Agreement, and subject to the conditions in Federal and State regulations, CVTD may provide additional service upon request by ASU at the agreed upon contract rate for that specific charter service. The fulfillment of the request will be based upon availability of transit system personnel and equipment and/or assets. Each requested service must be a minimum of two consecutive hours in duration. All requests for additional service must be made 48 hours in advance to CVTD to receive the agreed upon rate. In the event of same day request, CVTD will provide service based on availability of personnel and equipment at the full rate of \$100.00 per hour. All requests for additional service will require a Purchase Order issued by ASU for the requested service before service is to be provided. The ASU Ram Tram routes will not be altered to provide service for these requests.

XIV.

In providing and furnishing said bus service during the term hereof, CVTD shall act solely as the public service transportation provider and not as an agent or employee of ASU, and ASU shall have no control over CVTD operations in connection with providing said service except as hereinabove provided and ASU shall have no control or supervision whatsoever over the drivers of the buses used in said service who shall be employed by CVTD's agent, Concho Valley Council of Governments. Said drivers shall not constitute agents or employees of ASU, and shall be subject solely to CVTD supervision and control.

XV.

To the extent permitted by law, CVTD agrees to indemnify, protect and hold harmless and defend ASU and its Board of Regents from and against liabilities, claims or suits arising out of this agreement, provided however, that this indemnification shall be congruent with and limited to the general liability coverage and the automobile liability coverage maintained by CVTD, as stated below, covering both CVTD and Concho Valley Council of Governments against liability for personal injury or property damages arising out of the operation of said bus services. CVTD will have no responsibility under this paragraph to indemnify ASU or its Board of Regents beyond the coverage or coverage limits of the general liability coverage and the automobile liability coverage maintained by CVTD as stated below.

CVTD will maintain general liability coverage and automobile liability coverage against liability for personal injury or property damages arising out of the operation of said bus services in the amount of at least \$2,000,000 for each occurrence, with a \$4,000,000 annual aggregate for the general liability coverage. CVTD currently maintains general liability coverage and automobile liability coverage through Texas Municipal League Intergovernmental Risk Pool ("the Risk Pool"). The coverage

provided by the Risk Pool will include the liability assumed by CVTD to indemnify ASU and its Board of Regents ("the ASU Parties"). If, in the future, CVTD elects to obtain general liability coverage and automobile liability coverage through an insurance company rather than the Risk Pool, the insurance policy or policies providing such coverage will name the ASU Parties as additional insured's.

ASU shall not be liable for damage to any and all buses or other CVTD property used in the bus service operation unless caused solely by ASU's negligence. CVTD shall not be liable to ASU for (1) damage to pavement by normal operation of buses, or (2) any damage or injury caused by acts or omissions over which CVTD, its employees or agents had no control.

XVI.

ASU will absorb the cost of any required modifications to its facilities including installation of curb cuts, alterations in barriers, and other capital improvements. ASU agrees to permit CVTD buses and other vehicles operated with or by transit supervisors to operate on paved roads not open to the public or other areas of the ASU campus, provided the service relates to servicing ASU students, faculty and staff. CVTD agrees to provide reasonable assistance to ASU in applying for and obtaining grants or other funding for transportation-related improvements or projects related to the services provided under this Agreement.

XVII.

CVTD agrees to maintain and operate said bus service and the buses used in providing the same in a safe, efficient and lawful manner and, in so doing, shall comply with all applicable statutes, municipal ordinances, and traffic rules and regulations promulgated by law. CVTD will communicate with and seek assistance from the Local Police Department on all traffic and police related matters that occur while providing said bus service. CVTD will also seek the involvement of other local agencies when appropriate.

XVIII.

Either party may terminate said contract with 90 days written notice to the other party.

XIX.

No action or defense may be founded upon this agreement except by the parties' signatory hereto. In no event shall CVTD be deemed to be in default of any provision of this agreement for failure to perform, where such failure is due solely to strikes, walkouts, civil insurrections or disorders, acts of God, or for any other cause or causes wholly beyond the control of CVTD.

XX.

CVTD, in accepting this agreement, attests that CVTD is in compliance with the nondiscrimination clause contained in Section 202 of Executive order 11246, as amended, relative to equal employment opportunity for all persons without regard to race, color, religion, sex, or national origin, and the implementing rule and regulations prescribed by the Secretary of Labor, which is incorporated herein by reference. CVTD further attests that it is in compliance with the following laws, as amended, and their implementing rules and regulations, as a condition of this contract:

1. Title VI and VII of the Civil Rights Act of 1964
2. Rehabilitation Act of 1973 (P.L. 93-112)
3. Section 504, Total Accessibility Act
4. Americans with Disabilities Act of 1990

XXI.

The agreement cannot be assigned or subcontracted without the written and dated agreement of both parties.

The obligations and undertakings of each of the parties to this agreement shall be performable at San Angelo, Tom Green County, Texas.

This agreement is governed by the laws of the State of Texas.

This agreement constitutes the entire agreement between CVTD and ASU, all negotiations, and all understandings between the parties are merged herein.

IN WITNESS WHEREOF, Concho Valley Council of Governments Executive Director and the ASU administration have hereunto caused their proper officers to set their hands, this ____ day of _____ 2015.

JOHN AUSTIN STOKES
Executive Director, CVCOG

BRIAN J. MAY, Ph.D.
President, ASU

Attach:

1. ASU 2015 Calendar
2. ASU 2016 Calendar

2015

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