

RESOLUTION NO. 12-18

A RESOLUTION APPROVING AN
INTERGOVERNMENTAL AGREEMENT FOR INTER-
CONNECTION OF BUS SERVICES BETWEEN THE
CITY OF FOUNTAIN, COLORADO AND THE CITY OF
COLORADO SPRINGS, COLORADO FOR SERVICE
TO THE EL PASO COUNTY CITIZENS' SERVICE
CENTER

WHEREAS, the City of Fountain ("Fountain") wishes to inter-connect Fountain's bus service to the City of Colorado Springs ("City") bus service in order to provide transit service from Fountain to the El Paso County Citizens Service Center; and

WHEREAS, an Intergovernmental Agreement allowing Fountain to lawfully enter into the Colorado Springs service area is necessary to allow Fountain bus riders to transfer to City bus service or continue to utilize Fountain bus service to the El Paso County Citizens Service Center; and

WHEREAS, the inter-connection of Fountain's transit service directly to the El Paso County Citizens Service Center does not create any joint provision of transit services by either the City or Fountain and each city's service remains separate and distinct.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. The "Intergovernmental Agreement for Inter-connection of Bus Services and Service to El Paso County Citizens Service Center between Fountain and the City, a copy of which is attached hereto and made a part hereof as Exhibit A, is approved.

Section 2. Pursuant to City Code § 1.2.313, the Mayor has the authority to sign the Intergovernmental Agreement on behalf of the City and shall administer its terms.

Dated at Colorado Springs, Colorado this 13th day of March, 2018.



Council President

ATTEST:



Sarah B. Johnson, City Clerk



INTERGOVERNMENTAL AGREEMENT FOR INTER-CONNECTION OF BUS SERVICES AND SERVICE TO EL PASO COUNTY CITIZENS SERVICE CENTER BETWEEN THE CITY OF FOUNTAIN, COLORADO AND THE CITY OF COLORADO SPRINGS, COLORADO.

This Intergovernmental Agreement, dated for reference this 21st day of March, 2018, is made by and between the City of Colorado Springs, a Colorado municipal corporation and home rule city ("City") and the City of Fountain, a Colorado municipal corporation and home rule city ("Fountain"). The City and Fountain may be referred to individually as a "Party" or collectively as the "Parties".

The Parties agree as follows:

Paragraph 1. Authority. This Intergovernmental Agreement is made under authority of Colo. Const., Art. XX, § 6; Colo. Const. Art. XIV, § 18; and Sec. 29-1-203, C.R.S.

Paragraph 2. Purpose. The purpose of this Intergovernmental Agreement is to set the terms and conditions for inter-connection between Fountain bus transit operations and City bus transit operations.

Paragraph 3. Intergovernmental Agreement Term. The term of this Intergovernmental Agreement shall commence at 12:01 am on the 21st day of March, 2018, and shall end at 11:59 pm on the 31st day of December, 2023, unless sooner terminated per the provisions of this Agreement.

Paragraph 4. No Merger or Joint Operation of Bus Systems. The Parties agree that nothing in this Intergovernmental Agreement constitutes, or shall be deemed to constitute, in any manner whatsoever, any joint venture, joint operation, merger of bus systems, or any other form of cooperative or other activity. The sole purpose of this Intergovernmental Agreement is to allow Fountain buses system operations to enter into the City and the Pikes Peak Rural Transportation Authority ("PPRTA") territories at a designated point to allow connection of the Fountain bus system to the bus system provided by the City. Fountain is solely responsible for damages caused by the operation of its buses within the City.

Paragraph 5. No Fountain Operations in City or PPRTA Territory. Fountain agrees that, except as otherwise specifically provided in this Intergovernmental Agreement, Fountain shall not provide any bus service or paratransit service outside the city limits of Fountain. This limitation includes, but is not limited to, any and all property contained within the City, or under the home rule jurisdiction of the City, any unincorporated territory within El Paso County, Fort Carson and any other Department of Defense facilities located outside of the Fountain city limits, and the territory included within the PPRTA.

Paragraph 6. Bus Paratransit Operations. Fountain may have legal obligations under federal or other law to provide paratransit services to persons unable to otherwise utilize the Fountain bus vehicles or system. Fountain shall be responsible for providing round trip services to all paratransit riders who begin their paratransit service trips in Fountain. Fountain paratransit vehicles may enter the territory of the City and the PPRTA for the purpose of delivering paratransit individuals at their destinations within the territory of the City and the PPRTA, and picking up those persons for return to Fountain, it being the intention of the parties that Fountain shall be completely responsible for the costs and provision of paratransit services to Fountain paratransit users.

Paragraph 7. No Guarantee of Inter-connection; Designation of Route. The City does not guarantee or promise inter-connection of the City's bus system to the Fountain bus system. This Intergovernmental Agreement only permits Fountain buses to move within the City and PPRTA territories to a set, designated location to pick up and discharge Fountain passengers. The City has no obligation to amend, alter, provide, or in any manner whatsoever change the City's bus schedules or service routes to accommodate connection with the Fountain Service. The Parties understand and agree that the City and Fountain bus services are separate operations. The designated location for discharge and pick-up of Fountain service passengers shall be at the City's Pikes Peak Community College Transfer Station, located at 5675 S. Academy Blvd., Colorado Springs, CO 80906 ("Transfer Point"). See **Exhibit A**, attached hereto and incorporated herein. Fountain may also provide non-stop, direct bus service from the Fountain Valley Senior Center, located at 5745 Southmoor Drive, Fountain, CO 80817, to the El Paso County Citizens Service Center, located at 1675 W Garden of the Gods Road, Colorado Springs, CO 80907 ("Citizens Center"). See **Exhibit B**, attached hereto and incorporated herein. At any time the City may unilaterally terminate all Fountain service operations within the City or PPRTA territories, or at the City's sole option, the City's Transit Services Manager may designate, from time to time and in writing, a mutually agreeable alternative location for the discharge and pick up of Fountain service passengers and/or an alternate route for service to Citizens Center. A designation by the City's Transit Services Manager of a mutually agreeable alternative location for discharge and pick up shall not be considered an amendment to this Intergovernmental Agreement and will be evidenced by a letter from the City's Transit Services Manager to Fountain designating the new location.

Paragraph 8. National Transit Data. The City and Fountain shall retain their individual responsibilities for reporting respective vehicle miles and other statistics relevant to Federal Transit Administration entitlement formulas to the National Transit Data (NTD).

Paragraph 9. Fares. All Fountain passengers boarding City buses or other vehicles shall pay the fares set by the City. There shall be no fare transfers from or to the Fountain bus system.

Paragraph 10. Usage Fee. Fountain shall provide to the City a monthly written accounting of how many passengers disembark and embark from the Transfer Point on the Fountain service. Fountain shall also provide to the City a monthly written accounting of how many passengers utilize the Fountain bus service to the Citizens Center. The City reserves the right to utilize this information to consider per passenger usage fees in future agreements.

Paragraph 11. No Discharge Or Pickup Permitted Other Than At The Transfer Point or the Citizens Center. The Fountain bus service shall not make stops, pick up or discharge passengers or any other person within the territory and service area of the City or the PPRTA except at the Transfer Point or the Citizens Center. However, the Fountain Paratransit vehicles may deliver and pick up paratransit riders, and any caregivers authorized to accompany the paratransit rider under federal law, of any location within territory or service area of the City or the PPRTA.

Paragraph 12. Assignment. Fountain shall not assign or otherwise transfer this Intergovernmental Agreement or any right or obligation hereunder without the prior written consent of the City.

Paragraph 13. Law. This Intergovernmental Agreement is subject to and shall be interpreted under the law of the State of Colorado, and the Charter, City Code, Ordinances,

Rules and Regulations of the City. Court venue and jurisdiction shall exclusively be in the Colorado District Court for El Paso County, Colorado.

Paragraph 14. Appropriation and Availability of Funds. In accord with the Colo. Const. Art. X, § 20, and the City Charter, performance of the City's obligations under this Intergovernmental Agreement is expressly subject to appropriation of funds by the Colorado Springs City Council. Further, in the event that funds are not appropriated in whole or in part sufficient for performance of the City's obligations under this Intergovernmental Agreement, or appropriated funds may not be expended due to Constitutional or City Charter spending limitations, then the City may terminate this Intergovernmental Agreement without compensation to Fountain. In accord with the Colo. Const., Art. X, § 20, performance of Fountain's obligations under this Intergovernmental Agreement is expressly subject to appropriation of funds by the Fountain City Council. Further, in the event that funds are not appropriated in whole or in part sufficient for performance of Fountain's obligations under this Intergovernmental Agreement, or appropriated funds may not be expended due to Constitutional limitations, then Fountain may terminate this Intergovernmental Agreement without compensation to the City.

Paragraph 15. Fountain Funding. Fountain hereby certifies that Fountain shall appropriate and irrevocably allocate sufficient funds to pay any Fountain financial obligations due to the City which may arise under this Intergovernmental Agreement.

Paragraph 16. Termination for Convenience. The City may terminate this Intergovernmental Agreement for convenience upon ten (10) days prior written notice to Fountain, without compensation to Fountain. The City may terminate this Intergovernmental Agreement immediately and without notice upon failure by Fountain to make or approve any fee or payment required under this Intergovernmental Agreement. Fountain may terminate this Intergovernmental Agreement for convenience upon forty-five (45) days prior written notice to the City.

Paragraph 17. Local Concern. The Parties agree and acknowledge that the activities contained in this Intergovernmental Agreement are matters of local concern only, and that the Parties have mutually joined together for the performance of the matters of local concern, and that nothing in this Agreement shall be construed as making any of the local concerns covered herein matters of mixed concern or statewide concern.

Paragraph 18. Entire Agreement. This Intergovernmental Agreement, together with all exhibits attached hereto, constitutes the entire agreement between the Parties hereto, and all other representations or statements heretofore made, verbal or written, are merged herein, and this Intergovernmental Agreement may be amended only in writing, and executed by duly authorized representatives of the Parties hereto.

Paragraph 19. Nonwaiver of Rights. No waiver of default by the City of any of the terms, covenants, and conditions hereof to be performed, kept, and observed by Fountain shall be construed, or shall operate, as a waiver of any subsequent default of any of the terms, covenants, or conditions herein contained to be performed, kept, and observed by Fountain.

Paragraph 20. Headings. The headings of the several articles and sections of this Intergovernmental Agreement are inserted only as a matter of convenience and for reference and do not define or limit the scope or intent of any provisions of this

Intergovernmental Agreement and shall not be construed to affect in any manner the terms and provisions hereof or the interpretation or construction thereof.

Paragraph 21. Integration. This is a completely integrated agreement and contains the entire agreement between the Parties. Any prior written or oral agreements or representations regarding this Intergovernmental Agreement shall be of no effect and shall not be binding on Fountain or the City. Further, Fountain and the City acknowledge and agree that this is a negotiated text agreement, and that as such no term shall be construed against the City as the author thereof.

Paragraph 22. No Third Party Beneficiary. It is expressly understood and agreed that enforcement of the terms and conditions of this Intergovernmental Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Parties hereto, and nothing contained in this Intergovernmental Agreement shall give or allow any such claim or right of action by any other or third person or entity on such Intergovernmental Agreement. It is the express intention of the Parties hereto that any person or entity, other than the Parties to this Intergovernmental Agreement, receiving services or benefits under this Agreement shall be deemed to be incidental beneficiaries only.

Paragraph 23. Waiver. The provision of inter-connection under this Intergovernmental Agreement is for the benefit of Fountain. Accordingly, Fountain does hereby waive, remise, and release any claim, right, or cause of action it may have, or which may accrue in the future, against the City arising in whole or in part from this Intergovernmental Agreement.

Paragraph 24. Compensation. Except as otherwise stated in this Intergovernmental Agreement, neither Party to this Intergovernmental Agreement shall be required to pay any compensation to the other Party or the other Party's personnel for any services rendered hereunder. Nothing in this Intergovernmental Agreement shall be construed to place the personnel of any Party under the control or employment of another Party. Each Party remains responsible for all pay, entitlement, employment decisions, and workers compensation liabilities, for its own personnel. Nothing in this Intergovernmental Agreement is intended to create or grant to any third party or person any right or claim for damages or the right to bring or maintain any action at law, nor does any Party waive its immunities at law, including immunity granted under the Colorado Governmental Immunity Act.

Paragraph 25. This Intergovernmental Agreement has been approved by the Parties in accord with Sec. 29-1-203 C.R.S., by Resolution of the Colorado Springs City Council and the Fountain City Council, to be attached for reference hereto as **Exhibits C and D**.

Paragraph 26. Counterparts. This Intergovernmental Agreement may be executed in counterparts, each of which is deemed an original, but which together shall constitute one and the same instrument. If this Intergovernmental Agreement is executed in counterparts, no signatory is bound until all of the Parties named below have duly executed or caused to be duly executed a counterpart of this Intergovernmental Agreement. A signature on a copy of this Intergovernmental Agreement received by any Party by facsimile or electronic mail is binding upon the other Parties as an original. All Parties agree that a photocopy of such facsimile or electronic copy may also be treated by the Parties as a duplicate original.

FOR THE CITY OF FOUNTAIN:

By: 

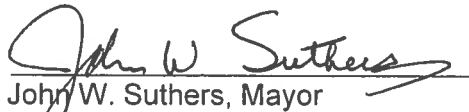
Date: 4/10/18

Approved as to Form



Attorney for the City of Fountain

FOR THE CITY OF COLORADO SPRINGS:

By: 
John W. Suthers, Mayor

Date: 4/20/18

Approved as to Form



Office of the City Attorney
City of Colorado Springs

Exhibit A
Designated Transfer Point

Section 1. Designated Transfer Point - PPCC.

As of the effective date of this Intergovernmental Agreement, the designated transfer point for Fountain bus operations shall be the City of Colorado Springs' Pikes Peak Community College Transfer Station, FBS Bus Bay, as shown in this Exhibit A. Use of this location and bus bay is non-exclusive and expressly subject to the needs of the Colorado Springs bus system. This location may be terminated, or a new replacement transfer point may be designated, by the City of Colorado Springs Transit Services Manager at any time, in accord with paragraph 7 of the Intergovernmental Agreement.

Section 2. PPCC Transfer Station Layout

The following lane assignment shall be effective as of March 21, 2018.

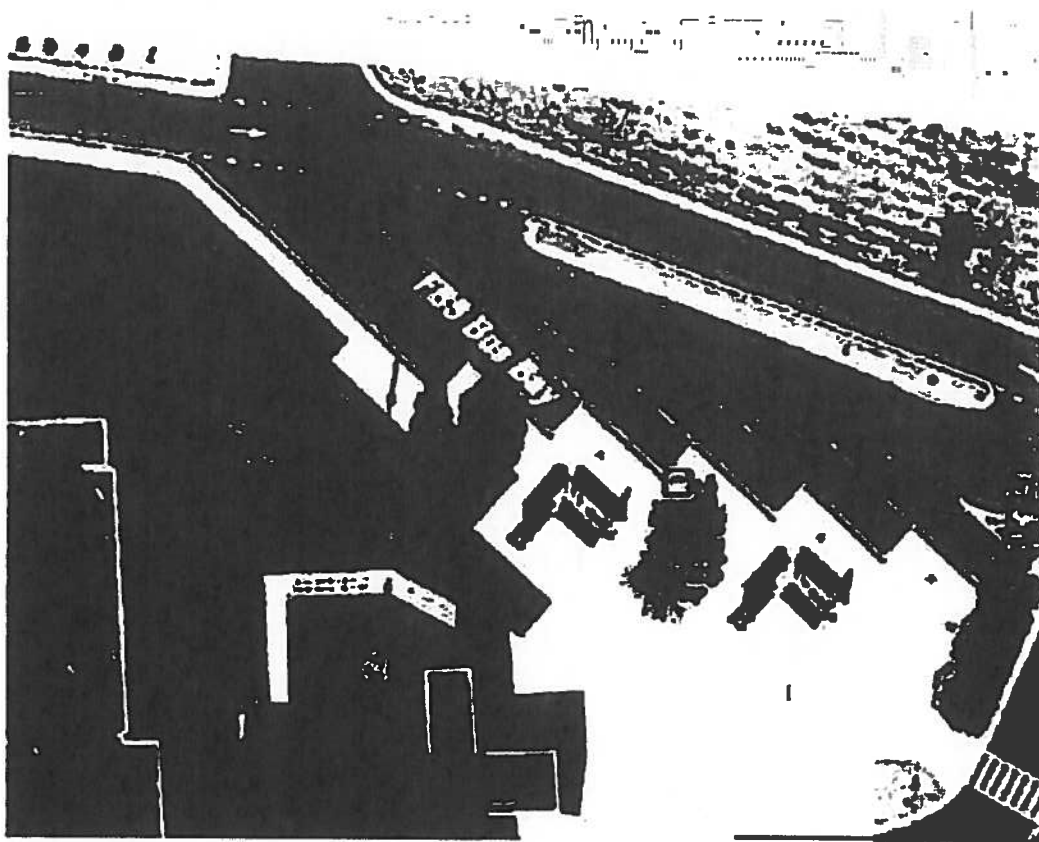


Exhibit B
El Paso County Citizens Service Center

Section 1. Designated Bus Stop – El Paso County Citizens Service Center

As of the effective date of this Intergovernmental Agreement, the designated origination point for Fountain bus operations shall be Fountain Valley Senior Center, located at 5745 Southmoor Drive, Fountain. The bus shall travel directly to the El Paso County Citizens Service Center (Citizens Center) located at 1675 W. Garden of the Gods Road, Colorado Springs, Colorado 80907. The Citizens Center is shown in this Exhibit B. Use of this location is non-exclusive and expressly subject to the needs of the Colorado Springs bus system. This location may be terminated, or a new replacement bus stop may be designated, by the City of Colorado Springs Transit Services Manager at any time, in accord with paragraph 7 of the Intergovernmental Agreement.

Section 2. Route and Bus Stop

The following bus stop shall be effective as of March 21, 2018.

