



RESOLUTION

**AUTHORIZING THE CITY OF NASHUA TO ENTER INTO A CONTRACT WITH
THE SOUHEGAN VALLEY TRANSPORTATION COLLABORATIVE FOR TRANSIT
SERVICES**

CITY OF NASHUA

In the Year Two Thousand and Twenty

RESOLVED by the Board of Alderman of the City of Nashua that the City is authorized to enter into the contract substantially in the attached form with the Souhegan Valley Transportation Collaborative for transit services for the period of July 1, 2020 through June 30, 2021.

LEGISLATIVE YEAR 2020

RESOLUTION: R-20-037

PURPOSE: Authorizing the City of Nashua to enter into a contract with the Souhegan Valley Transportation Collaborative for transit services.

SPONSOR(S): Mayor Jim Donchess

**COMMITTEE
ASSIGNMENT:**

FISCAL NOTE: This revenue contract provides local matching funds to the transit operating grant.

ANALYSIS

This resolution authorizes the City of Nashua to enter into a contract with the Souhegan Valley Transportation Collaborative for the period of July 1, 2020 through June 30, 2021.

Approved as to form: Office of Corporation Counsel

By:



Date: 05/05/2020

SERVICE AGREEMENT

This Agreement between **The City of Nashua**, a New Hampshire municipal corporation, 229 Main Street, Nashua, NH 03061 ("CITY"), the **Souhegan Valley Transportation Collaborative**, a New Hampshire nonprofit corporation, P.O. Box 753, Hollis, NH 03049 ("SVTC") and **Nashua Regional Planning Commission**, a Regional Planning Commission pursuant to RSA 36:45-53, as fiscal agent for SVTC, 30 Temple Street, Suite 310, Nashua NH 03030 ("NRPC").

WHEREAS: CITY operates the Nashua Transit System ("NTS") and has excess capacity to provide Paratransit Services as described herein; and

WHEREAS: SVTC provides wheelchair accessible rides to non-emergency medical appointments and to fulfill fundamental needs such as grocery shopping and essential personal appointments to persons in need residing in any of the communities participating in the funding of SVTC.

WHEREAS: CITY has been authorized by its Board of Aldermen and SVTC and NRPC have been authorized by their respective Board of Directors to enter into this Agreement;

NOW, THEREFORE IT IS AGREED by and between the parties, as follows:

DEFINITIONS SECTION

"Paratransit Service" includes NTS vehicles, drivers, monthly service reporting, other reporting as described in this Agreement and call center operations. Paratransit Service also includes NTS transportation to and from, but is not limited to, the following for Qualified Riders:

- Healthcare appointments including but not limited to doctor visits, outpatient services, counseling, laboratory visits, pharmacies and dialysis
- Social service appointments including SHARE, DHHS and SSA
- Municipal offices including Town Halls and local libraries in the participating towns
- Local community dining locations in participating towns sponsored by St Joseph Community Services
- Local senior activity locations including the Milford Area, Hollis and Brookline Seniors, the Parkhurst Place Community Room, and the Nashua Senior Activity Center and Nashua YMCA
- Rides are available for shopping as scheduling and space allow throughout the SVTC communities and Nashua.
- Local Courts in any of the participating towns or Nashua
- Rides to most destinations in the Six Towns and Nashua will be accepted. Rides to these other destinations and for shopping in Nashua and the Six Towns may or may not be available on any given day due to availability in the daily schedule
- SVTC may submit written requests for modifications to scheduled service days or destinations with 21 days' notice to NTS operations

"Holidays" shall mean: Independence Day, Labor Day, Thanksgiving Day, Christmas Day, New Year's Day and Memorial Day.

“Participating Towns” shall mean Amherst, Brookline, Hollis, Milford, Mont Vernon, and Wilton, New Hampshire.

“Qualified Rider” shall mean any person residing in a Participating Town who has submitted an application and been approved for paratransit services. Individuals permanently residing in long-term care facilities (i.e. nursing homes) are, however, excluded from being a “Qualified Rider.” Individuals admitted to rehabilitation centers in Participating Towns for short-term rehab and who have previously used the Paratransit Service may continue to do so provided all other transportation funding sources have been exhausted.

SECTION 1: SERVICES AND SERVICE AREA

1.1 CITY shall provide, through NTS, Paratransit Services for Qualified Riders subject to this Agreement and the NTS terms and conditions of ridership within and to the boundaries of Nashua, Amherst, Brookline, Hollis, Milford, Mont Vernon, and Wilton, New Hampshire.

1.2 CITY shall provide, through NTS, and SVTC shall purchase at the rate set forth in Section 3.1 thirteen (13) hours per day of scheduled Paratransit Service Monday through Friday, excluding Holidays and the day after Thanksgiving, for a monthly total of schedule service hours equal to the number of service days in the month multiplied by 13 contracted hours of service (# of service days X 13 hours = total monthly contracted service hours). To provide additional flexibility, SVTC will begin the contract at 13 hours of service per day, and when NTS and SVTC determine that demand warrants a reduction of hours (as service hours are reduced), then service will be billed at 12 hours per day. This determination must happen by the 20th day of the month, to be effective on the 1st of the following month. Likewise service can change from 12 back to 13 hours per day in the same manner. The intent is not to make this change on a monthly basis, but rather to be sensitive to changing demands placed on SVTC service.

- On occasion, relative to the day before or the day after a holiday, hours may be redistributed but will not exceed the above stated language in Section 1.2. All changes by SVTC in regards to holiday service must be transmitted in writing by SVTC to NTS at least 8 weeks prior to select holidays or change in service.
- With the exception of the above bullet, at no time shall the monthly allotment of contracted service hours be exceeded without just compensation to NTS.
- If the monthly allotment of schedule service hours are found to be in excess of monthly contracted service hours, NTS will bill SVTC for each hour of overage at the rate set forth in Section 3.1.
- CITY shall provide, through NTS, SVTC notice via phone or email on a monthly basis when 80% of the total contract hours has been exceeded.

1.3 The hours of operation for service shall be Monday through Friday 8AM – 6PM including travel time to/from the Nashua garage, excluding Holidays.

1.4 Any expansion or diminishment of Paratransit Services will require written agreement from both CITY and SVTC, and may require changes to the amount of service hours purchased and/or the hourly rate or both.

1.5 Applications.

Applications for Paratransit Services will include, as a separate page, a copy of the agreed upon *No Show and Cancellation Policy*. Applications received by SVTC will be emailed or otherwise delivered in hardcopy to a designated person at NTS. Applications received by NTS will be

emailed or otherwise delivered in hardcopy to a designated person at SVTC. Every effort will be made by NTS to process applications as soon as possible, but processing may take up to 10 business days. In extreme circumstances, NTS will make every effort to process the application expeditiously.

1.6 Reservations.

Reservations must be made two business days in advance and can be made Monday through Friday, from 8 AM to 5PM. Requests must be submitted by end of business on Thursday for rides scheduled on the following Monday. Business days do not include weekends or Holidays.

Healthcare related trips take priority over all other types of rides. When scheduling conflicts arise, NTS will work with SVTC, to ensure rides are prioritized by senior citizens and those living with a disability over rides reserved by other residents. The SVTC van cannot be back to Nashua for any appointments prior to 10:00 am. All rides may be scheduled up to 2 weeks in advance. There is a 30 minute pick-up window, which riders will be given upon scheduling a trip. The 30-minute pick-up window is included in the total travel time. All reservation pick-up windows are subject to change depending on the daily demand. If changes are required, all passengers will be notified by 5pm the day before the Paratransit service is requested, unless there are weather or emergency related changes necessitating a shorter timeframe.

Total Travel Time		
Travel Times	Amherst, Brookline, Hollis, and Milford	Mont Vernon and Wilton
In-Town Trips	1 hour	1 hour
Out of Town Trips	1.5 hours	1.5 hours
To Nashua	1.5 hours	2 hours

Total Travel Time is the beginning of the 30 minute pick-up window to the appointment time. Riders need to be ready and prompt as drivers are only allowed to wait 5 minutes for a passenger to board the Paratransit. All riders may be dropped off within the beginning of the window or the end of the total travel time (Rider should ensure that their destination will be open during the allotted travel time frame.)

1.7 Shopping.

Shopping is available on weekdays, as agreed upon by SVTC and NTS, for Amherst, Brookline, Hollis, Milford, Mont Vernon, and Wilton residents. A minimum of 1 hour is scheduled for passengers(s) to complete shopping per destination. Due to safety and space limitations on vehicles there is a 2 shopping bag limit per rider. Passengers must be able to manage their shopping bags as NTS drivers are not able to assist.

Shopping carts are allowed with the basket size not to exceed 18" in width; 14" in depth; and 20" in height. These size limitations do not include the handle.

Passengers must inform dispatch of their intent to bring a cart when scheduling a ride. The use of shopping carts is on a space available basis. If your cart cannot be accommodated you will be notified in advance. All items must be contained within the cart, properly controlled by the passenger, and safely secured in the designated storage area.

1.8 Safety.

After prior approval from NTS Supervisors, which approval shall be at his or her sole discretion, NTS drivers will go into driveways with safe turn around access. This is necessary to ensure adequate space is available for Paratransit to turn around. If NTS determines a driveway is unsafe to enter, NTS will notify SVTC and the rider. Drivers are able to assist passengers in boarding or disembarking safely from the Paratransit. As noted previously drivers cannot assist with shopping bags.

When asked, drivers will assist passengers with securing seatbelts. Drivers will secure all wheelchairs or scooters. Drivers will assist riders from and to origin and destination doors unless the access way is not safe due to snow or ice or other unforeseen obstacles.

1.9 No-Shows and Cancellations.

No-Show Policy :

- No-Shows are defined as: rides not cancelled by the passenger or their representative at least two (2) hours before the scheduled pick-up time and rides where the passenger does not board the van to take a scheduled ride within 5 minutes of the van's arrival.
- 1st No-show = letter
- 2nd No-show = 2nd letter
- 3rd No-show = NTS and SVTC will monitor passenger use of the service. If a passenger has three No-Shows in a 30-day period, the NTS Operations Supervisor or designee will contact the passenger to discuss resolving any barriers or constraints that may be causing the pattern of No-Shows.
- Thereafter, if a passenger has frequent No-Shows, including late cancellations, NTS and SVTC will evaluate the passenger's travel history including number of one-way rides scheduled, rides cancelled, and rides not taken (No-Shows). Passenger ridership over the past six month will be used to evaluate for patterns or practice of missed rides and a 10% No-Show rate will be taken into consideration to determine if there is "cause" for service suspension.
- NTS and SVTC will coordinate any additional follow-up actions to be taken prior to an actual suspension letter being sent to the passenger. NTS and SVTC will make every effort to help the passenger resolve any barriers or constraints that may be causing the pattern of No-Shows.
- A suspension due to a pattern or practice of No-Shows will be for 15 days of service.
- All No-Shows are tracked on a monthly basis from date of 1st No-Show, and will be tracked for a rolling six month period. After six months the No-Show will remain on file but will no longer be included in the rolling six month accrual period.
- Cancellation Policy:
 - All cancellations by SVTC passengers require a two (2) hour notice, due to the amount of travel time for towns outside of Nashua, prior to the scheduled pick up time or they will be considered a no show.
- NTS will notify SVTC in writing via email or otherwise delivered in hard copy when a passenger is being sent a suspension letter. A passenger may appeal a decision by NTS to SVTC as per the SVTC *Passenger Appeals Policy* (dated June 2011, or as amended)

- On a case-by-case basis, with extenuating circumstances, SVTC and NTS will work with individual passengers on utilizing alternate transportation plans to address unique needs.
- Any amendments or changes to passenger policies by NTS or SVTC will be mutually agreed upon and communicated in writing to the other party in a timely manner.

SECTION 2: TERM

This agreement shall be effective as of July 1, 2020 and shall terminate on June 30, 2021 unless terminated earlier by one of the parties, in which case, written notice of termination shall be required no less than thirty (30) days prior to the proposed termination date. Upon termination of this Agreement any and all property used in connection with this Agreement will be promptly returned to the party holding title thereto.

SECTION 3: SVTC RATE, FARES AND PAYMENT

3.1 SVTC shall pay \$53 per hour for contracted or scheduled Paratransit Service.

3.2 Fares.

Each one way ride is \$2.00 per person. Personal Care Assistants ride at no cost while accompanying a paid rider. Children age 5 and under ride free but must be accompanied by an adult. Guest(s) are an additional \$2.00 per person, and are treated as a separate rider. NTS must be notified about the guest(s) when the ride is scheduled. Each SVTC Bus Fare Pass provides 1 one-way ride free of charge to the passenger.

3.3 Billing and Payment.

SVTC is obligated to pay any Paratransit Fare fees accrued through the SVTC Free Bus Fare Program on a quarterly basis. NTS will collect the SVTC Free Bus Fare Passes on a monthly basis for pick-up by SVTC.

NTS shall submit quarterly bills for the Purchase of Paratransit Services and the Free Bus Fare Program rides to NRPC.

NRPC will review the Purchase of Paratransit Service bill and request approval by SVTC and submit to NHDOT. Upon approval by SVTC, NRPC will submit the quarterly Purchase of Paratransit Services invoice to NHDOT for payment. Once payment is received from NHDOT, NRPC will release the payment to NTS.

NRPC will send the NTS Free Bus Fare Program bill to SVTC for review and approval. Once approved, NRPC, acting as SVTC's fiscal agent, will release payment to NTS. In the event that SVTC assumes financial management of its resources, SVTC will release said payment to NTS.

3.4 SVTC may conduct service and financial audits for services operated with any funding from SVTC.

SECTION 4: CITY RESPONSIBILITY

4.1 The CITY shall provide reasonable financial and operational data to SVTC with respect to all transportation services, as requested from time to time.

4.2 In performing hereunder, CITY shall comply with all applicable laws, ordinances, regulations and codes of the federal, state and local governments.

4.3 **Interruption of Service/Non-Performance**

CITY and NTS shall not be in default of any provisions of this Agreement for failure to perform where such failure is due to strikes, walk-outs, civil insurrections or disorders, order of civil authorities, shortages of motor fuel or equipment, significant funding reductions, acts of God, or for any other cause or causes beyond the control of CITY or NTS.

SECTION 5:

5.1 **Records.**

i) The Federal Transit Administration (FTA), the NHDOT, the Comptroller General of the United States, or any designee shall have access to any books, documents, papers and records which are pertinent to this Agreement for the purpose of making audit, examination, excerpts and transcriptions.

ii) NTS will provide a ridership information report to SVTC for each month that Paratransit Service is provided. Substantive modifications to the content or format of the report as developed between 2008 and 2020 will be mutually agreed to in writing by SVTC and NTS.

iii) From time to time, additional information may be needed for such things as securing funding and meeting grant requirements. SVTC and NTS will review these requirements in advance to arrive at a mutually agreed upon dataset and timeframe.

iv) NTS shall provide the Hours-Miles-Mobility-Denial report to NRPC on a quarterly basis.

v) NTS shall provide an updated copy of the client list upon request to SVTC but not more than four times per calendar year.

5.2 **Covenant Against Contingent Fees.**

Both parties warrant that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; and that no member of Congress, CITY Board, the SVTC Board or any employee of CITY or SVTC, has any interest, financially or otherwise, in this Agreement.

5.3 **Alteration in Character of Work.** Minor alterations in the character of work shall be authorized in writing by SVTC and acknowledged by CITY by letter.

5.4 **Termination**

SVTC and CITY hereby agree to full performance of the covenants and obligations contained herein, except that each reserves the right, at its option and sole discretion, to terminate the service provided for in this Agreement, or any portion thereof. Termination of this Agreement may be at any time and for any reason, with or without cause, upon providing thirty (30) calendar days prior written notice. Termination shall be effected by delivery of a Notice of Termination specifying the extent to which performance of work under the Agreement is terminated, and the date upon which such termination becomes effective. Upon termination, CITY shall calculate actual expenses incurred up to and including the date of termination together with any penalty or costs imposed by other funding sources or contracts and any costs

attributing to Section 13(c) of the Federal Transit Act of 1964, as amended, the total of which is hereinafter referred to as "termination costs." If SVTC has paid CITY sums in excess of the termination costs, CITY shall refund the excess; if SVTC has paid CITY an amount less than the termination costs, then SVTC shall pay to CITY an amount equal to the difference between the termination costs and the amount that SVTC has already paid under this Agreement within thirty (30) days.

5.5 Additional Work.

Additional work, when authorized by executed contract change order or supplement agreement, shall be compensated for by a fee, mutually agreed upon by CITY and SVTC.

5.6 Successors and Assigns.

This Agreement shall not be assignable, except at the written consent of the parties hereto; and it shall extend to and be binding upon the heirs, executors, administrators, successors and assigns of the parties hereto.

5.7 Title VI Assurances

The parties hereby agree that as a condition of this Agreement, they will comply with Title VI of the Civil Rights Act of 1964, and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, to the end that no person in the United States shall, on the grounds of race, color sex or national origin be subjected to discrimination under any program or activity that receives federal assistance from the Department of Transportation, including the Federal Transit Administration.

5.8 Civil Rights

The parties agree that as a condition of this Agreement they will each comply with all applicable civil rights laws and regulations, in accordance with applicable Federal directives, except to the extent that the Federal government determines otherwise in writing, as such civil rights laws and regulations may be amended from time to time.

SECTION 6: INDEMNIFICATION

Each party to this Agreement agrees to defend, indemnify, save and hold harmless the other (and each of their respective directors, officers, agents and employees) from and against all liabilities, suits, obligations, claims, demands, damages, fines, costs and expenses (including reasonable attorney's fees) arising under this Agreement to the extent that such are attributable, directly or indirectly, to the indemnifying party's negligence, error, omission or intentional act. An indemnifying party's negligence, error, omission or intentional act, as that phrase is used herein, includes the negligence, error, omission or intentional act of its officers, agents and employees. This provision shall survive the termination of this Agreement.

SECTION 7: AMENDMENT

This Agreement may be amended in whole or in part by written agreement of the parties.

SECTION 8: RELATIONSHIP OF PARTIES

Each party to this Agreement shall act in its individual capacity and not as an agent, employee, partner, joint venturer, associate, or any other representative capacity of the other. Each party shall be solely and entirely responsible for its acts or the acts of its agents and employees during the performance of this Agreement.

SECTION 9: INTEGRATION

This agreement represents the entire agreement of the parties with respect to the subject matter hereof, and all agreements entered into prior hereto with respect to the subject matter hereof are revoked and superseded by this Agreement, and no representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein, or in other contemporaneous written agreements. This Agreement may not be changed, modified or rescinded except in writing, signed by all parties hereto, and any attempt at oral modification of this Agreement shall be void and of no effect.

SECTION 10: CHOICE OF LAW

This Agreement shall be interpreted and enforced in accordance with the laws of the State of New Hampshire, excluding any choice of law or conflicts of law rules that would result in the application of the laws of a different jurisdiction.

SECTION 11: SEVERABILITY

If any provision of this Agreement is declared void or unenforceable, such provision shall be deemed severed from this Agreement, which shall otherwise remain in full force and effect.

SECTION 12: WAIVER

Failure of any party to exercise any right or option arising out of a breach of this Agreement shall not be deemed a waiver of any right or option with respect to any subsequent or different breach, or the continuance of any existing breach.

SECTION 13: COUNTERPARTS

This Agreement may be executed in any number of counterparts, all such counterparts shall be deemed to constitute one and the same instrument, and each of said counterparts shall be deemed an original hereof.

SECTION 14: CAPTIONS

Captions and section heading used herein are for convenience only and are not a part of this Agreement and shall not be deemed to limit or alter any provisions hereof and shall not be deemed relevant in construing this Agreement.

SECTION 15: NOTICES

Any notice, consent or other communication ("Notice") required or permitted under this Agreement shall be in writing and either delivered in person, sent by electronic mail (email), sent by facsimile transmission, deposited in the United States mail, postage prepaid, registered or certified mail, return receipt requested, or deposited with any commercial air courier or express service addressed as follows:

*If to SVTC:
Attention:*

*Carol Brooks, Board of Directors Chairperson
Souhegan Valley Transportation Collaborative
P.O. Box 753
Hollis, NH 03049*

*If to CITY:
James Donchess, Mayor
229 Main St
PO Box 2019
Nashua, NH 03061-2019*

Notices shall be deemed received at the time it is personally served, on the day it is sent by facsimile transmission, on the second day after its deposit with any commercial air courier or express service or, if mailed, ten (10) days after the Notice is deposited in the United States mail as above provided. Any time period stated in a Notice shall be computed from the time the Notice is deemed received. Either party may change its mailing address or the person to receive Notice by notifying the other Party as provided in this paragraph. Notices sent by facsimile transmission shall also be sent by regular mail to the recipient at the above address. This requirement for duplicate notice is not intended to change the effective date of the notice sent by facsimile transmission.

SECTION 16: ASSIGNMENT, TRANSFER, DELEGATION, OR SUBCONTRACTING

SVTC and City shall not assign, transfer, delegate, or subcontract any rights, obligations, or duties under this agreement without the prior written consent of the other party. Any such assignment, transfer, delegation, or subcontracting without the prior written consent of the other party is void. Consent shall not be unreasonably withheld. Consent to any assignment, transfer, delegation, or subcontracting shall only apply to the incidents expressed and provided for in the written consent and shall not be deemed to be a consent to any subsequent assignment, transfer, delegation, or subcontracting. Any such assignment, transfer, delegation, or subcontract shall require compliance with or shall incorporate all terms and conditions set forth in this agreement, including any incorporated exhibits and written amendments or modifications. Subject to the foregoing provisions, the contract inures to the benefit of, and is binding upon, the successors and assigns of the parties.

SECTION 17: LEGAL COMPLIANCE AND PROHIBITION

To the extent applicable, SVTC and CITY each warrant compliance with any and all applicable governmental restrictions, regulations and rules of duly constituted authorities having jurisdiction over transit services provided via this Agreement. Parties acknowledge that a breach of this warranty is a material breach of this Agreement and parties are subject to penalties for violation(s) of this provision, including termination of this Agreement.

CITY and SVTC each retain the right to inspect the documents of any and all contractors, subcontractors and sub-subcontractors performing work and/or services relating to this Agreement to ensure compliance with this warranty. Any and all costs associated with inspections are the sole responsibility of the party subject to inspection. SVTC and CITY each hereby agree to indemnify, defend and hold each other harmless for, from and against all losses and liabilities arising from any and all violations thereof.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and delivered as of the date first set forth above.

City of Nashua

By: _____
James Donchess, Mayor

Date: _____

Souhegan Valley Transportation Collaborative

By: _____
Carol Brooks, Chairperson
Title: _____

Date: _____

Nashua Regional Planning Commission

By: _____
Jay Minkarah, Executive Director
Title: _____

Date: _____