



## RESOLUTION

**AUTHORIZING THE CITY OF NASHUA TO ENTER INTO A CONTRACT WITH  
THE TOWN OF MERRIMACK FOR TRANSIT SERVICES**

### ***CITY OF NASHUA***

*In the Year Two Thousand and Twenty One*

**RESOLVED** by the Board of Alderman of the City of Nashua that the City is authorized to enter into a contract substantially in the attached form with the Town of Merrimack for transit services for the period of July 1, 2021 through June 30, 2022.

City of Nashua, New Hampshire Nashua Transit System  
and  
Town of Merrimack, New Hampshire  
AGREEMENT FOR TRANSPORTATION SERVICES  
July 1, 2021 through June 30, 2022

This agreement is made and entered into by and between the City of Nashua, Nashua Transit System (NTS), ("Provider"); and the Town of Merrimack, New Hampshire, ("Town");

1. PERIOD

The period of performance of this agreement shall begin on July 1, 2021 and shall terminate automatically on June 30, 2022.

2. UNDERSTANDING OF THE WORK

The Provider understands that the Town is seeking demand response transportation services for eligible citizens, including disabled citizens and senior citizens to and from locations in Hudson, Nashua, and Merrimack, and their home. This service is principally used to gain access to adult day care, non-emergency medical appointments, groceries, pharmacies and employment. Service will be available Monday through Friday, and excluding Holidays as defined by the Provider (days service is available are the "Service Days"). The hours of operation for service shall be Monday through Friday 8AM to 5PM including travel time to/from the Nashua garage.

3. RIDER ELIGIBILITY

A "Qualified Rider" shall mean any person residing in the Town who has submitted a completed application for demand response services in compliance with FTA 5307 funding requirements. Individuals permanently residing in long-term care facilities (i.e. nursing homes) are, however, excluded from being a "Qualified Rider."

Qualified Rider applications will be emailed or otherwise delivered to the requesting Town citizen by the Provider, the Town, or private medical offices or hospice centers. Completed applications shall be emailed or delivered in hardcopy to a designated person at the Provider.

4. PROVIDER'S RESPONSIBILITIES

- A. The Provider shall provide shared ride service to Qualified Riders that is scheduled daily on Service Days as efficiently as possible based on demand for pick-ups and drop-offs.
- B. The Provider shall notify the Town as soon as possible of emergencies that may interrupt the transportation schedule.
- C. The Provider will make every effort to process completed applications expeditiously but the processing may take up to 10 business days.

- D. It is the Provider's responsibility to enter the Qualified Rider information from the application into the system for the scheduling of services.
- E. The Provider reserves the right at its sole discretion to refuse or suspend transportation to any Qualified Rider or person.
- F. The Provider shall be responsible for safe transportation of Qualified Riders. Qualified Riders will be provided curb-to-curb service as required by the American with Disabilities Act ("ADA").
  - I. Qualified Riders who require door-to-door service shall be provided door-to-door service, however, they must specify when booking their trip that they will need the additional service/help to and from the vehicle.
  - II. The driver CANNOT do the following:
    - a. Help with excessive packages (2 bag limit, no large packages).
    - b. Go beyond the doorway into a building to assist Qualified Riders.
    - c. For lengthy periods of time, leave their vehicles unattended.
    - d. Lose the ability to keep their vehicles under visual observation.
    - e. Take action that would clearly be unsafe.
- G. The Provider shall provide reasonable financial and operational data to the Town with respect to all transportation services subject to this Agreement, as requested from time to time.
- H. In performing hereunder, the Provider shall comply with all applicable laws, ordinances, regulations and codes of the federal, state and local governments.
- I. Interruption of Service/Non-Performance: The Provider 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 the Provider.

## 5. RESERVATIONS

Reservations must be made two (2) business days in advance by the Qualified Rider 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.

Disabled riders receive top priority in scheduling. Senior citizens receive the next priority in scheduling. When scheduling conflicts arise, The Provider will work to ensure rides are prioritized by those living with a disability and then senior citizens over rides reserved by non-senior, non-disabled citizens. The Merrimack 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 demand response service is requested, unless there are weather or emergency related changes necessitating a shorter time-frame.

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 van. 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.)

Qualified Riders cannot make same day changes to their reservations (i.e. Pick-up/Drop-off locations, scheduled times, etc.).

6. SPECIAL CONDITIONS

- A. The Provider reserves the right to deny service and/or require personal care attendants for any clients whom the Provider feels may be a risk to themselves, other passengers or the driver.
- B. The Provider will be closed on the following holidays:  
Independence Day, Labor Day, Thanksgiving Day, Christmas Day, New Year's Day, Memorial Day

7. COMPENSATION

- A. The Town agrees to pay the Provider \$44.04 per hour for Demand Response service. This service will cost the Town half of the actual cost of service per hour, due to the 50% federal subsidy and passenger farebox payments. At a projected average of hours of service per day, the Town has agreed to a total of up to 1155 hours of service, with an estimated Farebox Revenue of \$12,000 for a total billable cost of \$38,866. (see table below).

Merrimack Cost per Hour	Projected Hours of Service	Annual Cost	Estimated Farebox	Cost for FY22
\$ 44.04	1155	\$ 50,866	\$ 12,000	\$ 38,866

- B. The Qualified Rider will pay the following passenger farebox rates per one-way ride:

One-Way Farebox Rates	Destination		
	Nashua	Hudson	Merrimack
Merrimack Origin Ride	\$4.00	\$6.00	\$2.00

- C. The Provider shall invoice the Town for transportation services at the rate specified in this agreement on an annual basis. The Town shall reimburse the Provider at the agreed rate upon invoice and not to exceed 30 days. Checks shall be made payable to: Nashua Transit System.
- D. At the time that the Town expends 80% of Service Hours, the Provider will issue a letter to the Town stating it has reached the 80% point and has 20% or 231 service hours remaining on the contract. If the Town and Provider agree that the remaining service hours in the contract will not be sufficient, the Town has the option to pay the Provider for additional service hours at the same rates as described herein. If the Town expends service hours and chooses not to pay for additional services hours, the Provider will curtail services once a total of service hours has been reached. In the event all service hours are not used at the termination of this Agreement, the Provider shall keep all payments from Town and the Town is not entitled to any refund.

8. RELATIONSHIP

The Provider is an independent contractor and no employee-employer relationship exists between the Provider and the Town. Drivers and employees of the Provider are not subject to the control or supervision of the Town.

9. INDEMNITY

To the extent of its liability insurance coverage, the Provider agrees to indemnify the Town from any and all personal injury and property damage claims which may result from the Provider's negligent operation of its motor vehicles. The Provider shall provide the Town proof of insurance upon request.

10. 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.

11. 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.

12. EARLY TERMINATION

This agreement may be terminated at any time with the mutual consent of the Provider and the Town, and it may be terminated unilaterally by either party upon thirty (30) days written notice to the other.

13. AMENDMENTS

This agreement may be amended or modified anytime with the mutual consent of the Provider and the Town. Amendments shall be in writing and in an instrument of equal dignity with this agreement.

14. COMMUNICATIONS

The mailing address of the Provider is:

*Nashua Transit System  
11 Riverside St.  
Nashua NH, 03062*

and its telephone number is:

*(603) 880-0100*

The contact person is:

*Camille Pattison, Transportation Administrator*

The mailing address of the Town is:

*Town of Merrimack  
6 Baboosic Lake Rd.  
Merrimack, NH 03054-0940*

and its telephone number is:

*(603) 424-7075*

The contact person for the Town is:

*Paul Micali -Assistant Town Manager / Finance Director*

15. 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.

Any claim or action brought relating to this agreement, the work performed or contracted to be performed thereunder, or referable in anyway thereto shall be brought in Hillsborough County (New Hampshire) Superior Court Southern Judicial District or in the New Hampshire 9<sup>th</sup> Circuit Court – Nashua and not elsewhere.

16. NO DAMAGES FOR DELAY

No payment, compensation, or adjustment of any kind shall be made to Agency for damages because of hindrances or delays in the performance of Provider under this Agreement from any cause.

17. ASSIGNMENT, TRANSFER, DELEGATION, OR SUBCONTRACTING

Agency and provider 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.

18. ENTIRE AGREEMENT

These terms of this agreement constitute the entire agreement between the Provider and the Town, and there are no contemporaneous oral agreements contrary hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective officers, duly authorized, on the dates signed below.

PROVIDER: City of Nashua – Nashua Transit

BY \_\_\_\_\_  
James Donchess, Mayor

\_\_\_\_\_  
Witness

DATE \_\_\_\_\_

TOWN: Town of Merrimaek, New Hampshire

BY Paul T. Micali  
Paul T. Micali, Asst Town Manager

Patricia A. Murphy  
Witness  
Admin.

DATE 4/14/2021

**LEGISLATIVE YEAR 2021**

**RESOLUTION:** R-21-140

**PURPOSE:** Authorizing the City of Nashua to enter into a contract with the Town of Merrimack for transit services.

**SPONSOR(S):** Mayor Jim Donchess

**COMMITTEE ASSIGNMENT:** Finance Committee

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

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**ANALYSIS**

This resolution authorizes the City of Nashua to enter into a contract with the Town of Merrimack for transit services for the period of July 1, 2021 through June 30, 2022.

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**Approved as to form:** Office of Corporation Counsel

**By:**  \_\_\_\_\_

**Date:** May 5, 2021



**RESOLUTION R-21-140**

**Authorizing the City of Nashua to enter into a contract with the Town of Merrimack for transit services**

**IN THE BOARD OF ALDERMEN**

1<sup>ST</sup> READING May 11, 2021

Referred to:  
Finance Committee

2<sup>nd</sup> Reading May 25, 2021

3<sup>rd</sup> Reading \_\_\_\_\_

4<sup>th</sup> Reading \_\_\_\_\_

Other Action \_\_\_\_\_

Passed May 25, 2021

Indefinitely Postponed \_\_\_\_\_

Defeated \_\_\_\_\_

Attest: \_\_\_\_\_  
City Clerk

Lari Welshure  
President

Approved \_\_\_\_\_  
Mayor's Signature

\_\_\_\_\_  
Date

**Endorsed by**

\_\_\_\_\_  
MAYOR  
\_\_\_\_\_  
DOWD  
\_\_\_\_\_  
O'BRIEN  
\_\_\_\_\_  
HARRIOTT-GATHRIGHT  
\_\_\_\_\_  
CLEAVER  
\_\_\_\_\_  
LOPEZ  
\_\_\_\_\_  
LU

Vetoed: \_\_\_\_\_

Veto Sustained: \_\_\_\_\_

Veto Overridden: \_\_\_\_\_

Attest: \_\_\_\_\_  
City Clerk

\_\_\_\_\_  
President