

**TRANSIT ENHANCEMENT SERVICE AGREEMENT
FOR
PROVISION OF SUBSIDIES BY CITY**

This Agreement is between the City of Novi, a Michigan municipal corporation located at 45175 Ten Mile Road, Novi, Michigan 48375, ("City") and People's Express Inc., a 501(c)3 nonprofit organization with its principal place of operation located at 175 Barker Road, Whitmore Lake, Michigan 48189. ("Transit Provider"). City and Transit Provider may be referred to collectively as ("Parties") or individually as a ("Party"). This Agreement shall be effective on the date that it is signed by both Parties. ("Effective Date")

In consideration of the mutual covenants promises made herein, and other valuable considerations, receipt of which is hereby acknowledged the Parties do hereby bind themselves to the terms and conditions of this Agreement.

- 1. Agreement Purpose:** After the passage of a .95 countywide transportation millage, Oakland County advised the City that it was eligible to receive curb-to-curb transportation services from one of the providers selected by the County. After receiving proposals from two providers, the City determined that it would be in the best interests of its residents to select Transit Provider to provide transportation services to its residents who are at least age 55 and to residents with a limiting disability who cannot drive. Oakland County has entered into a contract with Transit Provider to provide such services for these City residents. In order to facilitate the services of Transit Provider to eligible City residents, the Novi City Council has chosen to subsidize the cost of rides for its Eligible Riders. This Agreement defines the roles and responsibilities of the Parties with respect to that.
- 2. Definitions:**
 - 2.1. Eligible Riders:** Residents age 55 or older, veterans and individuals with a limiting disability who cannot drive.
 - 2.2. General Public Riders:** Individuals within the City of Novi receiving rides from Transit Provider that do not qualify as Eligible Riders.
- 3. Term and Termination:**
 - 3.1.** The services shall begin on January 1, 2025, at 12:01 a.m., and shall continue until December 31, 2025, at 11:59:59 p.m., unless terminated as provided below. The Parties may mutually agree to extend the Agreement for one additional year or as otherwise agreed to by the Parties.
 - 3.2.** The City may terminate this Agreement for cause if Transit Provider fails to correct a default in their performance within ten (10) days of written notice from the City of the default. Examples of default include failure to confine its vans to the assigned parking area and inappropriate use of City facilities.
 - 3.3.** Additionally, either Party may terminate the Agreement in whole or in part, at any time, for any reason, including convenience, upon providing one ninety (90) days'

written notice to the other Party without incurring any obligation or penalty. Upon receiving a notice of termination, Transit Provider shall take the following actions: 1) cease using City facilities as provided herein and 2) remove all Transit Provider property from City facilities. City shall be responsible for paying Transit Provider for all documented curb-to-curb rides provided by Transit Provider to eligible Novi residents up to the date of termination.

- 3.4.** In the event that the Transit Provider ceases to conduct business in the normal course, becomes insolvent, makes any assignment of its business for the benefit of creditors, suffer or permits the appointment of a receiver or similar officers for its business or assets, or shall avail itself of, or become subject to, any proceeding under the Federal Bankruptcy Act or any other statute relating to insolvency, or the protection of rights of creditors, or allow any creditor to seize its property by lien, levy, or writ of execution, and such condition is not remedied within thirty (30) days after written notice is given by the City, the City shall have the right to terminate this Agreement.
- 3.5.** Upon termination or expiration, the City shall have the right to continue providing payment to Transit Provider to subsidize the cost of rides for its Eligible Riders until a contract or contract amendment is executed.

4. Financial Obligations

- 4.1. Financial and Invoice Obligations:** Except as otherwise set forth in the Agreement, the City's only financial obligation to Transit Provider shall be to provide payment to Transit Provider to subsidize the cost of rides for its Eligible Riders provided by Transit Provider. The City shall not be billed for, nor shall it be responsible for paying fares for General Public Riders. Transit Provider submit a monthly invoice to the City Administrator itemizing amounts due and owing under this Contract, as of the date of the invoice. Invoices shall contain the following information: (a) City Contract Number; (b) dates of services provided; (c) itemized list of rides provided to Eligible Riders during the period and the cost of the fare; (d) Transit Provider Tax ID Number (federal and State); and (e) any other information requested by the City. The City shall have no obligation to make a payment under this Contract until an invoice is submitted in the form set forth herein and shall have no obligation to pay for services, which have not been invoiced (as required herein) within sixty (60) Days of Transit Provider's performance.
- 4.2 No Obligation for Penalties/Costs/Fines.** The City shall not be responsible under any circumstances for any cost, fee, fine, penalty, or direct or indirect, special, incidental or consequential damages suffered by Transit Provider in connection with the performance of this Agreement.
- 4.3 Charges for Riders:** As of the date of this Agreement, Oakland County has established the fares below:

Description	Fee
Individuals age 55+, people with disabilities, low income. (Veterans currently ride free per Oakland County)	\$2 per one way ride
Out of boundary rides	\$1.25 per mile
General Public Riders	\$4.00 per one way ride and \$2.50 per out of boundary mile

4.4 Notice of Fare Increases: Transit Provider shall provide City with thirty (30) days advanced written notice of all fare increases.

5. Transit Provider Warranties:

5.1. Full Knowledge of Agreement Expectations. Transit Provider warrants that before submitting its proposal and/or entering into this Agreement, it had a full opportunity to review all City requirements and/or expectations for this Agreement. Transit Provider is responsible for being adequately and properly prepared to execute this Agreement. Transit Provider has satisfied itself in all material respects that it will be able to perform the Agreement as specified herein.

5.2. Equipment and Supplies. Transit Provider is responsible for providing all equipment and supplies to perform this Agreement, which are not expressly required to be provided by the City.

5.3. Transit Provider Licenses. Transit Provider shall be responsible for maintaining throughout the term this Agreement all licenses, permits, governmental authorizations necessary to perform this Agreement. Upon request by the City, Transit Provider shall furnish copies of any permit, license, and governmental authorization necessary to fulfil this Agreement.

5.4. Control and Supervision of Transit Provider Employees. Transit Provider shall solely control, direct, and supervise all Transit Provider Employees with respect to all Transit Provider obligations under this Agreement. Transit Provider will be solely responsible for and fully liable for the conduct and supervision of any Transit Provider Employees as well as solely liable for the payment of salaries and wages and other compensation due to its employees and agents. No officer, agent, employee or subcontractor of Transit Provider shall be eligible to receive coverage or benefits under any City workers' compensation, unemployment, health insurance, retirement or other benefit plan. Transit Provider and its employees may not represent themselves as employees of City, when working on behalf of Transit Provider, nor enter into agreements on behalf of City.

5.5. Acknowledgment of Independent Transit Provider Status. Nothing in this Agreement is intended to establish an employer-employee relationship between the City and Transit Provider or any Transit Provider employee. In no event shall Transit Provider employees be deemed employees, agents, volunteers, or subcontractors of the City, when working on behalf of Transit Provider. Transit

Provider shall ensure that Transit Provider employees are apprised of their and the limitations independent Transit Providers have of this status.

- 5.6. Transit Provider Taxes.** Transit Provider shall collect and pay its local, state, and federal taxes, including but not limited to, all employment taxes, sales taxes, personal property taxes, and real property taxes. The City shall not be liable to or required to reimburse Transit Provider for any local, state, or federal tax of any kind.
- 5.7. Warranty for Performance of Services.** Transit Provider warrants that all services shall be performed in compliance with all applicable laws, statutes, regulations, ordinances, and professional standards.
- 5.8 Transit Provider Weekly Meetings.** If requested by City, an executive member of the Transit Provider's staff shall participate in weekly in-person meetings with the Manager of Parks, Recreation & Cultural Services-Older Adult Services Division or designee to assess the use of City Facilities.
- 5.9 Rates and Fee Collection.** The Transit Provider shall be responsible for ensuring that Eligible Riders are not charged a fee by Transit Provider for using its transit services. As provided in Section 4.2 of the Agreement, Transit Provider shall track rides provided to Eligible Riders and provide a monthly invoice to City

6. Liability:

- 6.1 Transit Provider Indemnification.** Transit Provider shall indemnify, defend, and hold the City of Novi, its elected and appointed officials, employees, volunteers and agents, harmless from all claims, demands, losses, costs, expenses, judgments and settlements, including attorney fees and interest, incurred by or asserted against the City by any person or entity, which are alleged to have been caused directly or indirectly from the acts or omissions of Transit Provider or Transit Provider's Employees. The City's right to indemnification is in excess and above any insurance rights/policies required by this Agreement.
 - 6.2. No Indemnification from the City.** Transit Provider shall have no rights against the City for indemnification, contribution, subrogation, or any other right to be reimbursed by the City, except as expressly provided herein.
- 7. Transit Provider Provided Insurance.** At all times during this Agreement, Transit Provider shall obtain and maintain insurance according to the requirements listed in Exhibit I.
 - 8. City's Right to Suspend Agreement Performance.** Upon written notice, the City may require Transit Provider to suspend performance of this Agreement if Transit Provider has failed to comply with federal, state, or local laws or any requirements contained in this Agreement. The right to suspend performance of this Agreement is in addition to the City's right to terminate and/or cancel this Contact. The City shall not incur a penalty, expense, or liability to Transit Provider if the City suspends performance of this Contact under this Section.

- 9. Non-Discrimination.** Transit Provider shall not discriminate against an employee or an applicant for employment in hiring, any terms and conditions of employment or matters related to employment, in accordance with applicable federal and state laws. Transit Provider shall provide the ambulance service without regard to race, creed, color, sex, sexual preference, age, physical handicap, marital status, national origin, ancestry, financial ability to pay, or location within the City.
- 10. Conflict of Interest.** Pursuant to Public Act 317 and 318 of 1968, as amended (MCL 15.301, *et seq.* and MCL 15.321, *et seq.*), no contracts shall be entered into between the City and any elected and appointed officials, employees and volunteers of the City, when acting in their personal or official capacity. To avoid any real or perceived conflict of interest, Transit Provider shall disclose to the City the identity of all Transit Provider Employees who: a) are employed by the City on the date the Agreement is executed; and b) become employed by the Transit Provider during the term of the Agreement. However, it shall not be considered a conflict of interest for an employee working less than 25 hours per week for City to become an employee of Transit Provider.
- 11. Access and Records:** Transit Provider will maintain accurate books and records in connection with the performance of this Transit Provider for thirty-six (36) months after the end of this Agreement and Transit Provider shall provide the City with reasonable access to such books and records, upon request.
- 12. Audit.** The City or an independent auditor hired by the City may perform Agreement audits (in its sole discretion) and shall have the authority to access all pertinent records and data and to interview any Transit Provider Employee during the term of this Agreement and for a period of three years after final payment. Transit Provider shall explain any audit findings, questioned costs, or other Agreement compliance deficiencies to the City within thirty (30) Business Days of receiving the draft audit report. Transit Provider's written response shall include all necessary documents and information that refute the draft audit report and an action plan to resolve the audit findings. A copy of Transit Provider's response will be included in the final report. Failure by Transit Provider to respond in writing within thirty (30) Business Days shall be deemed acceptance of the draft audit report and will be noted in the final report.
- 13. Prior Written Consent for Assignment.** Except by operation of law, neither Party may assign, delegate, or subcontract any of its duties or rights under this Agreement without the prior written consent of the other Party; provided, however, Transit Provider may assign or subcontract this Agreement to an affiliate or subsidiary as long as the affiliate or subsidiary is adequately capitalized and can provide adequate written assurances to the City that the affiliate or subsidiary can perform this Agreement. The City may withhold consent, if the City determines that the assignment, delegation, or subcontract would impair performance of this Agreement or the City's ability to recover damages under this Agreement. Transit Provider shall also provide the City with adequate information to allow the City to make a determination regarding the assignment, delegation, or subcontract. Any assignment, delegation, or subcontract by Transit Provider must include a requirement that the assignee, delegee, or subcontractor shall comply with the terms and conditions of this Agreement.

- 14. Third Party Beneficiaries.** This Agreement is intended solely for the benefit of the Parties to the Agreement and is not intended to benefit any other person or entity. No provision of this Agreement may be used by any other person or entity to impose an obligation, standard or care or duty upon the Parties different from or in addition to, the duties described herein.
- 15. Amendments and Waivers.** Any changes to this Agreement must be in an amendment to the Agreement and signed by the signatories of this Agreement or their successors. No waiver of any provision of this Agreement will be valid unless this Agreement is amended to reflect the change to that provision of the Agreement.
- 16. Survival of Terms and Conditions.** The following terms and conditions shall survive and continue in full force beyond the termination or cancellation of this Agreement, or any part thereof, until the terms and conditions are fully satisfied or expire by their nature: Section 1. Agreement Purpose, Section 5 Transit Provider's Warranties, Section 6 Liability, and Section 7 Transit Provider Provided Insurance.
- 17. Compliance with Laws.** Transit Provider shall comply with all federal, state, and local laws, statutes, ordinances, regulations, insurance policy requirements, and requirements applicable to its activities under this Agreement.
- 18. Notices.** All notices required under this Agreement shall be in writing. Notices shall be effective:
- (a) the next Business Day, if personally delivered; (b) the third Business Day, if sent by U.S. mail, postage prepaid, return receipt requested; (c) the next Business Day, if sent by a nationally recognized overnight express courier with a reliable tracking system; or (d) the next Business Day with a receipt of confirmation, if sent by e-mail or fax.
- Notice to City:** Notice to City shall be addressed to Clerk, City of Novi, 45175 Ten Mile Road, Novi, Michigan 48375, 248-347-0456, clerkdepartment@cityofnovi.org and to the Fire Chief at 45125 Ten Mile Road, Novi, Michigan 48375, 248-348-7100.
- Notice to Transit Provider:** Notice to Transit Provider shall be addressed to: Douglas Anderson, People's Express, 10 Jennings Road, PO Box 505, Whitmore Lake, Michigan 48189.
- 19. Severability.** If a court of competent jurisdiction finds a term or condition of this Agreement to be illegal or invalid, then the term or condition shall be deemed severed from this Agreement. All other terms or conditions shall remain in full force and effect. Notwithstanding the above, if Transit Provider's promise to indemnify or hold the City harmless is found illegal or invalid, Transit Provider shall contribute the maximum it is permitted to pay by law toward the payment and satisfaction of any Claims against the City.
- 20. Governing Laws/Consent to Jurisdiction and Venue.** This Agreement shall be governed, interpreted, and enforced by the laws of the State of Michigan. Except as otherwise required by law or court rule, any action brought to enforce, interpret, or decide any Claim arising under or related to this Agreement shall be brought in the 6th Judicial

Circuit Court of the State of Michigan, the 52nd District of the State of Michigan, or the United States District Court for the Eastern District of Michigan, Southern Division, as dictated by the applicable jurisdiction of the court. Except as otherwise required by law or court rule, venue is proper in the courts set forth above.

- 21. Entire Agreement.** This Agreement represents the entire agreement and understanding between the Parties. This Agreement supersedes all other prior oral or written understandings, communications, agreements, or contracts between the Parties. The individuals signing this Agreement on behalf of their respective Parties warrant that they have the requisite authority to bind their respective Party to the terms of this Agreement.

FOR PEOPLE'S EXPRESS INC.

Date

By: Douglas Anderson, Executive Director

Notary Public
Oakland County, Michigan
Acting in _____ County, Michigan
My Commission Expires: _____

FOR CITY OF NOVI

Date

By: Justin Fischer, Mayor

Notary Public
Oakland County, Michigan
Acting in _____ County, Michigan
My Commission Expires: _____

EXHIBIT I INSURANCE REQUIREMENTS

During this Agreement, the Transit Provider shall provide and maintain, at their own expense, all insurance as set forth and marked below, protecting the City against any claims, demands, judgments, settlements, costs and attorney fees. The City, its agents, employees, and elected officials shall be listed as additional named insureds on all General Liability, Professional Liability, and Umbrella policies listed below. The insurance shall be written for not less than any minimum coverage herein specified. Limits of insurance required in no way limit the liability of the Transit Provider.

Primary Coverages

Commercial General Liability Occurrence Form including: (a) Premises and Operations; (b) Products and Completed Operations (including On and Off Premises Coverage); (c) Personal and Advertising Injury; (d) Broad Form Property Damage; (e) Broad Form Contractual including coverage for obligations assumed in this Agreement;

\$5,000,000 – Each Occurrence and/or aggregate combined single limit personal injury including bodily injury and property damage and the maintenance and operation of its vehicles. Coverage shall include: (A) Contractual Liability; (B) Products and Complete Operations Coverage; (C) Independent Transit Providers Coverage; (D) Broad Form General Liability Extensions or equivalent; (E) Annual Contract Aggregate applicable to this Agreement.

Workers' Compensation Insurance with limits statutorily required by any applicable Federal or State Law and Employers Liability insurance with limits of no less than \$500,000 each accident, \$500,000 disease each employee, and \$500,000 disease policy limit.

1. ☐ Fully Insured or State approved self-insurer.
2. ☐ Sole Proprietors must submit a signed Sole Proprietor form.
3. ☐ Exempt entities, Partnerships, LLC, etc., must submit a State of Michigan form WC-337 Certificate of Exemption.

Commercial Automobile Liability Insurance covering bodily injury and property damage arising out of the use of any owned, hired, or non-owned automobile with a combined single limit of \$5,000,000 each accident.

General Insurance Conditions

The aforementioned insurance shall be endorsed, as applicable, and shall contain the following terms, conditions, and/or endorsements. All certificates of insurance shall provide evidence of compliance with all required terms, conditions and/or endorsements.

1. All policies of insurance shall be on a primary, non-contributory basis with any other insurance or self-insurance carried by the City;
2. The insurance company(s) issuing the policy(s) shall have no recourse against the City for subrogation (policy endorsed written waiver), premiums, deductibles, or assessments under any form. All policies shall be endorsed to provide a written waiver of subrogation in favor of

the City;

3. Any and all deductibles or self-insured retentions shall be assumed by and be at the sole risk of the Transit Provider;
4. The Commercial General Liability shall be endorsed to name the City of Novi, its City Council, all employees, all elected and appointed officials, all employees and volunteers, all boards, commissions and/or volunteers thereof as additional insured. Policies shall be issued by insurers who endorse the policies to reflect that in the event of payment of any loss or damages, subrogation rights under those contracts documents will be waived by the insurer with respect to claims against the City.
5. If the Transit Provider's insurance policies have higher limits than the minimum coverage requirements stated in this document the higher limits shall apply and in no way shall limit the overall liability assumed by the Transit Provider under this Agreement.
6. The Transit Provider shall require its Transit Providers or sub-Transit Providers, not protected under the Transit Provider's insurance policies, to procure and maintain insurance with coverages, limits, provisions, and/or clauses equal to those required in this Agreement;
7. **Proof of Insurance:** Certificates of insurance must be provided no less than ten (10) Business Days prior to the City's execution of the Agreement and must bear evidence of all required terms, conditions and endorsements as follows:
 - a) Two (2) copies of the Certificate of Insurance for Worker's Compensation Insurance.
 - b) Two (2) copies of the Certificate of Insurance for Commercial General Liability Insurance.
 - c) Two (2) copies of Insurance for Vehicle Liability Insurance.
 - d) Two (2) copies of Insurance for Ambulance Professional Malpractice Liability Insurance.
 - e) If requested, certified copies of all required policies shall be provided.
8. All insurance carriers must be licensed and approved to do business in the State of Michigan along with the Transit Provider's state of domicile and shall have and maintain a minimum A.M. Best's rating of A- unless otherwise approved by the City Administrator.
9. **Cancellation Notice:** Worker's Compensation Insurance, Commercial General Liability Insurance, Motor Vehicle Liability Insurance and Ambulance Professional Liability Insurance, as described above, shall include an endorsement stating the following: "It is understood and agreed that Thirty (30) Days Advance Written Notice of Cancellation, Non-renewal, Reduction, and/or Material Change shall be sent to the City of Novi, 45175 10 Mile Road, Novi, MI 48375."; and provide 30 days' notice of cancellation/material change endorsement.
10. **Renewal Notices:** If any of the required insurance coverages expire during the term of this Agreement, Transit Provider shall deliver renewal certificates to the City Clerk at least then (1) days prior to their expiration.