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**A BILL FOR AN ORDINANCE**

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RELATING TO SPECIAL TRANSIT SERVICE.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to clarify the operations of the City's special transit service (TheHandi-Van) and to establish policies for improved and efficient operations of special transit services in the City and County of Honolulu.

SECTION 2. Section 13-4.1, Revised Ordinances of Honolulu 1990, is amended to read as follows:

**"Sec. 13-4.1 Authorization.**

The department shall provide a special transit service and establish policies and guidelines for its operation. The policies and guidelines ~~[shall]~~ must conform to the short range transit plan and any update. The department ~~[shall]~~ may contract the private, nonprofit corporation established under Article 8 to manage, operate, and maintain the special transit service on behalf of the city."

SECTION 3. Section 13-4.2, Revised Ordinances of Honolulu 1990, is amended to read as follows:

**"Sec. 13-4.2 Eligibility.**

- (a) Any person desiring a certification to use the special transit service shall first file an application on forms furnished by the department~~[-]~~, or by any entity authorized by the department. The application ~~[shall]~~ may include a certification by the applicant's health care professional that the applicant has a physical or mental disability which precludes the applicant from using the city bus system.
- (b) An applicant must be certified to be paratransit eligible according to the Americans with Disabilities Act of 1990 (ADA); CFR 49, Part 37, Subpart F, Section 37.123 to use the special transit service. Such certification ~~[shall]~~ must be made by either the department or by any ~~[person]~~ entity it so authorizes. The applicant shall participate in an in-person ADA paratransit eligibility assessment as required by the department or the authorized entity.



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- (c) Persons accompanying an ADA paratransit eligible individual [~~shall~~] must be registered in advance with the [~~department,~~] transit management services contractor, and [~~shall~~] must be provided service as follows:
- (1) One other person in addition to the personal care attendant accompanying the ADA paratransit eligible individual may be provided service if the ADA paratransit eligible individual is traveling with a personal care attendant.
  - (2) A family member or friend [~~shall~~] will be regarded as a person accompanying the ADA paratransit eligible individual, unless the family member or friend is acting in the capacity of a personal care attendant.
  - (3) Additional persons accompanying the ADA paratransit eligible individual [~~shall~~] must be provided service; provided that space is available for them on the paratransit vehicle carrying the ADA paratransit eligible individual and that transportation of the additional persons will not result in a denial of service to ADA paratransit eligible persons.
  - (4) In order to be considered as "accompanying" the eligible person for purposes of this subsection, the other person(s) [~~shall~~] must have the same origin and destination as the ADA paratransit eligible individual."

SECTION 4. Section 13-4.5, Revised Ordinances of Honolulu 1990, is amended to read as follows:

**"Sec. 13-4.5 Fare.**

- (a) Definitions. For the purposes of this section:

"ADA Complementary Paratransit Service Standards" means regulatory requirements for the special transit service imposed by the federal government pursuant to 49 CFR, Subtitle A, Section 37.131.

"Agency-sponsored fare" means a fare for a one-way passenger trip on the special transit service paid for in whole or in part by a qualified human service organization, as defined in this section.

"Agency trip" means a one-way passenger trip taken by a paratransit eligible individual to the site of a program administered by a qualified human service organization, as defined in this section, for trips guaranteed to the organization.



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"Core service area" means the corridor extending a width of three-fourths of a mile on each side of a fixed route. The corridor includes the area within a three-fourths of a mile radius of either terminus of a fixed route. The corridor also includes an area of not more than one square mile that does not fall within a corridor, but is entirely surrounded by corridors.

"Qualified human service organization" means an organization that serves persons who qualify for human service or transportation-related programs or services due to disability, income, or advanced age and whose services to such persons include the purchase of agency-sponsored fares, and receives funding, directly or indirectly from the programs listed in Appendix A of 49 CFR, Part 604.

~~(a)~~(b) Single Fare.

- (1) Any person issued a paratransit eligibility identification card under Section 13-4.3 and any person accompanying the ADA paratransit eligible individual ~~[utilizing the special transit service]~~ shall pay a fare of \$2.00 per person per one-way passenger trip or a fare allowed by the ADA, ~~[whichever is less,]~~ except as provided in Section 13-2.6. Revenues from the fare ~~[shall]~~ will be deposited into the bus transportation fund.
- (2) Any person to whom a current paratransit eligibility identification card has been issued under Section 13-4.3 shall pay a single cash fare in accordance with Section 13-2.1 to ride a city transit bus or the city ferry service upon display to the bus operator of the card; except when a fare for special services is charged under Section 13-2.1.

(c) Fares for Services that Exceed ADA Complementary Paratransit Service Standards.

- (1) The department may charge a premium fee in addition to the single fare for a one-way passenger trip on the special transit service for services that exceed ADA complementary paratransit service standards, including but not limited to the following:
  - (A) Same-day one-way passenger trip reservations by paratransit eligible individuals;



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- (B) Passenger trip reservations by paratransit eligible individuals to or from locations outside the core service area for the special transit service; and
- (C) Passenger trip reservations by paratransit eligible individuals outside the hours and days of fixed route service regularly provided by TheBus.
- (2) The department may negotiate with a qualified human service organization and charge a fare higher than the single fare for agency-sponsored fares and agency trips, provided that the fare charged cannot exceed applicable rules set by the Centers for Medicare and Medicaid for paratransit services.
- ~~(b)~~(d) Paratransit Eligible Individual Bus Pass. There is established a paratransit eligible individual bus pass fare plan. Under the plan, a person with a valid bus pass issued pursuant to this section:
- (1) ~~[Shall]~~ Is not ~~[be]~~ required to pay the single cash fare at any time when using the city transit bus service and/or city ferry service, except when a fare for a special service is charged under Section 13-2.1. To be entitled to ride a city transit bus and/or city ferry without payment of the single cash fare, the paratransit eligible individual shall display the valid paratransit eligible individual bus pass to the bus operator; and
- (2) ~~[Shall]~~ Is ~~[be]~~ entitled to an unlimited number of rides on the city transit bus service and/or city ferry service for the duration specified on the paratransit eligible individual bus pass.
- ~~(e)~~(e) Issuance and Effective Date of Bus Passes. Any person issued a valid paratransit eligibility identification card under Section 13-4.3 and who applies for a paratransit eligible individual bus pass from the department ~~[shall]~~ will be issued the paratransit eligible individual bus pass upon making the appropriate payment in accordance with Section 13-2.1, for the duration specified on the bus pass.
- ~~(d)~~(f) A personal care attendant ~~[registered with the department]~~ shall pay no fare at any time when accompanying an ADA paratransit eligible individual and performing services as ~~[a]~~ the individual's personal care attendant.



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~~[(e)]~~[(g)] Employees of the transit management services contractor or the ferry management services contractor who have been certified as ADA paratransit eligible pursuant to Section 13-4.2 may use the special transit service without being charged a cash fare by displaying their employee identification card and their paratransit eligibility identification card."

SECTION 5. Section 13-6.2, Revised Ordinances of Honolulu 1990, is amended to read as follows:

**"Sec. 13-6.2 Contracts for management, operation and maintenance of city bus system, special transit service and/or supplemental services.**

- (a) The department shall contract with the private, nonprofit corporation established under Article 8 to manage, operate, and maintain the city bus system, and may contract with the private, nonprofit corporation established under Article 8 to manage, operate, and maintain the city special transit service on behalf of the city.
- (b) The department may contract with private entities, including the private, nonprofit corporation established under Article 8, to manage, operate, and maintain the supplemental bus service [~~and supplemental special transit service~~] on behalf of the city."

SECTION 6. Section 13-8.2, Revised Ordinances of Honolulu 1990, is amended to read as follows:

**"Sec. 13-8.2 Retention of private, nonprofit corporation to serve as transit management services contractor.**

- (a) The department shall:
  - (1) Retain the private, nonprofit corporation [~~which~~] that was formed at the request of the department pursuant to ordinance, and which served as the bus management services contractor since January 1, 1993; and
  - (2) Enter into a transit management services contract with such private, nonprofit corporation.

To fulfill the city's requirements, the department shall expand the obligations and responsibilities of the private, nonprofit corporation in accordance with this section.



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- (b) As a condition of the transit management services contract, the private, nonprofit corporation shall provide in its articles of incorporation that:
- (1) The purpose of the corporation is to manage, operate, and maintain the city bus system[;]. The purpose of the corporation may include management, operation, and maintenance of the special transit service and other transit-related services on behalf of and for the city;
  - (2) The election of directors of the corporation [~~shall~~] will be subject to the approval of the department, which approval [~~shall~~] will not be unreasonably withheld;
  - (3) The department may remove any director of the corporation when the department determines that the removal is required to fulfill the best interests of the city bus system or special transit service; and
  - (4) The corporation shall conform with applicable ordinances.

~~[Any necessary amendments shall be filed with the state director of commerce and consumer affairs, with an effective date of or prior to April 1, 1997.]~~

- (c) From April 1, 1997, the private, nonprofit corporation [~~shall~~] will be deemed [~~the special transit service contractor and~~] the transit management services contractor, and may be deemed the special transit service contractor for the purposes of this chapter.
- (d) This section [~~shall~~] is not to be construed as precluding the department from contracting with others to provide bus and special transit services to supplement the city bus and special transit systems."

SECTION 7. Section 13-8.3, Revised Ordinances of Honolulu 1990, is amended to read as follows:

**"Sec. 13-8.3 Contract for management, operation, and maintenance of city bus system and special transit service.**

- (a) In accordance with Sections 13-8.1, 13-8.2, 13-6.2, and 13-4.1, the department shall contract with the private, nonprofit corporation to manage, operate, and maintain the city bus system, and may contract with the private, nonprofit corporation to manage, operate, and maintain the special transit service on behalf of the city. Under the contract, the private, nonprofit corporation:



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- (1) Shall be an independent contractor in relation to the city;
  - (2) Shall be the employer of record of bus [~~and special transit service~~] personnel, who shall be deemed employees of the private, nonprofit corporation under 29 USC Section 152(3), and who shall not be deemed public employees under HRS Chapter 89. The private, nonprofit corporation shall also be deemed the employer of record of special transit service personnel should the contractor be retained under contract to manage, operate, and maintain the special transit service on behalf of the city;
  - (3) Shall be deemed an instrumentality of the city for appropriate purposes other than for labor and employment purposes;
  - (4) Shall manage, operate, and maintain the city bus system and special transit service, as applicable, in the most efficient and effective manner and in accordance with sound management practices; and
  - (5) Shall have no purpose, except the management, operation, and maintenance of the city bus system and special transit service, as applicable, and the provision of transit-related services on behalf of and for the city.
- (b) The term of the contract [~~shall~~] will be set by the department, provided that such term [~~shall not~~] cannot be less than five years. The term may encompass a fiscal period for which council appropriations are unavailable. If so, the contract [~~shall~~] must include conditions specifying that:
- (1) The term of the contract is subject to the availability of council appropriations;
  - (2) The council is not obligated to appropriate funds for the contract; and
  - (3) The failure of the council to appropriate funds for the contract [~~shall~~] does not constitute a breach by the department or city.
- (c) For the purpose of Section 9-305 of the charter, inclusion in the contract of the conditions specified under subsection (b):
- (1) [~~Shall~~] Will be sufficient for approval by the director of budget and fiscal services as to the availability of funds for the contract; and



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- (2) [~~Shall~~] Will be deemed a prohibition on extending the contract beyond the term of an appropriation to finance an obligation of the department.
- (d) Under the contract:
  - (1) Reimbursements to the private, nonprofit corporation for the operation and maintenance expenses of the city bus system and special transit service [~~shall~~] will not be deemed income or profit of the corporation;
  - (2) Reimbursements for expenses incurred by the corporation's directors and officers in the performance of official duties:
    - (A) [~~Shall~~] Will be deemed operation expenses of the city bus system or special transit service, as applicable; and
    - (B) [~~Shall~~] Will not be deemed a distributed share of the income or profit of the corporation; and
  - (3) The operating revenues derived from the city bus system and special transit service [~~shall~~] will be income of the city, not of the corporation."

SECTION 8. Section 13-8.4, Revised Ordinances of Honolulu 1990 ("Obligations and responsibilities of transit management services contractor"), is amended by amending subsection (a) to read as follows:

- "(a) Under the transit management services contract, the transit management services contractor, at a minimum, shall have the following general obligations and responsibilities for the city bus system [~~or~~] and, if applicable, the special transit service, excluding any supplemental bus service or supplemental special transit [~~services~~] service provided by the department:
- (1) Be directly responsible and accountable to the director for carrying out the policies established by the department for the management, operation, and maintenance of the city bus system and, if applicable, the special transit service;
  - (2) Provide sufficient and qualified personnel to manage the city bus system and, if applicable, the special transit service;



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- (3) Employ sufficient and qualified personnel for the city bus system and, if applicable, the special transit service ~~[personnel]~~, in accordance with applicable law and obligations;
- (4) Manage the labor and personnel relations with all bus and, if applicable, special transit service personnel;
- (5) Comply with all applicable labor and employment laws, including but not limited to 29 [USC Sections] U.S.C. Section 158 [and], 29 U.S.C. Section 185, and ~~[Section 13(c) of the Urban Mass Transportation Act, as amended, including, but not limited to, observing]~~ 49 U.S.C. Section 5333(b), and observe all applicable collective bargaining agreements and obligations pursuant to federal labor laws;
- (6) Be responsible and accountable for all real and personal property furnished by the city to the contractor;
- (7) Allow the department, managing director, and council to conduct financial and performance audits of the city bus system and, if applicable, the special transit service, and cooperate during the conduct of the audits;
- (8) Recommend to the director annual operating and capital budgets in the format required by the department of budget and fiscal services;
- (9) Collect revenues derived by the city bus system and, if applicable, the special transit service, and, on behalf of the department, transmit the revenues to the director of budget and fiscal services for deposit into the appropriate fund;
- (10) Operate the city bus system in accordance with routes, schedules, and levels of service established pursuant to Section 13-6.1;
- (11) ~~[Operate]~~ if applicable, operate the special transit service in accordance with the policies and guidelines established pursuant to Section 13-4.1; and
- (12) Maintain, inspect, and repair city transit buses~~[-];~~ special transit service vehicles, if applicable; and other vehicles provided by the department."



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SECTION 9. Chapter 13, Article 8, Revised Ordinances of Honolulu 1990 ("Transit Management Services Contractor"), is amended by adding a new Section 13-8.4A to read as follows:

**"Sec. 13-8.4A Obligations and responsibilities of the special transit service contractor if other than the transit management services contractor."**

- (a) If the special transit service contractor is an entity other than the transit management services contractor, the special transit service contractor, at a minimum, shall have the following general obligations and responsibilities for the special transit service, excluding any supplemental special transit service provided by the department:
- (1) Be directly responsible and accountable to the director for carrying out the policies established by the department for the management, operation, and maintenance of the special transit service;
  - (2) Provide sufficient and qualified personnel to manage the special transit service;
  - (3) Employ sufficient and qualified special transit service personnel in accordance with applicable law and obligations;
  - (4) Manage the labor and personnel relations with all special transit service personnel;
  - (5) Comply with all applicable labor and employment laws, including but not limited to 29, U.S.C. Section 158, 29 U.S.C. Section 185, and 49 U.S.C. Section 5333(b), and observe all applicable collective bargaining agreements and obligations pursuant to federal labor laws;
  - (6) Be responsible and accountable for all real and personal property furnished by the city to the contractor;
  - (7) Allow the department, managing director, and council to conduct financial and performance audits of the city special transit service and cooperate during the conduct of the audits;
  - (8) Operate the special transit service in accordance with the policies and guidelines established pursuant to Section 13-4.1; and



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(9) Maintain, inspect, and repair city special transit services vehicles, and other vehicles provided by the department.

(b) The department may procure from the special transit service contractor other services, obligations, and responsibilities that are not contrary to this chapter."

SECTION 10. Section 13-8.7, Revised Ordinances of Honolulu 1990, is amended to read as follows:

**"Sec. 13-8.7 [Annual performance] Performance audit.**

(a) The department shall conduct an audit of the performance of the city bus system and special transit service ~~[during each of the transit management services contractor's fiscal years.]~~ at intervals deemed appropriate by the department, to supplement ongoing financial, regulatory compliance, and performance reviews, and audits conducted by federal, state and local entities; provided that an audit must be conducted at least once every five years. ~~[A performance audit shall:~~

~~(1) Evaluate the actual performance of the city bus system and special transit service in comparison to budgetary levels of service, effectiveness measures, and efficiency measures;~~

~~(2) Identify problems in the management, operation, and maintenance of the city bus system and special transit service; and~~

~~(3) Recommend solutions to the problems identified.~~

~~A performance audit]~~ Audits conducted by the department under this section [shall] must be submitted to the mayor and council within 180 days [from the end of the fiscal year for which conducted.] of completion.

(b) This section ~~[shall]~~ is not to be construed as preventing the council or managing director from conducting a performance audit of the city bus system or special transit service when deemed necessary."

SECTION 11. Chapter 13, Revised Ordinances of Honolulu 1990 ("Public Transit"), is amended by adding a new article to be appropriately designated by the Revisor of Ordinances and to read as follows:



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**"Article \_\_. Taxicab Subsidies**

**Section 13-\_\_\_.1 Authorization.**

The department may establish a taxicab subsidy program as a transportation alternative for riders certified to use the special transit service established under Article 4.

**Section 13-\_\_\_.2 Eligibility.**

- (a) Taxicab subsidies authorized under this article may only be issued to and used by persons certified to use the special transit service established under Article 4.
- (b) Persons certified to use the special transit service established under Article 4 may use subsidies issued under this article to pay for all or a portion of the cost of trips taken on taxicabs, as defined and regulated pursuant to Chapter 12, Article 1, for their daily transportation needs.
- (c) Trips taken by persons using taxicab subsidies issued through the program established under this article will be separate from the special transit service established under Article 4.

**Section 13-\_\_\_.3 Rules.**

- (a) The department may adopt rules under this article in accordance with HRS Chapter 91 to implement the program.
- (b) Prior to the adoption of rules, the department may initiate a pilot program to evaluate the effectiveness of taxicab subsidies as a transportation alternative for persons certified to use the special transit service established under Article 4."



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SECTION 12. Ordinance material to be repealed is bracketed and stricken. New material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the Revisor of Ordinances need not include the brackets, the material that has been bracketed and stricken, or the underscoring.

SECTION 13. This ordinance takes effect upon its approval.

INTRODUCED BY:

Ron Menor

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DATE OF INTRODUCTION:

June 27, 2017  
Honolulu, Hawaii

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Councilmembers

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Deputy Corporation Counsel

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
KIRK CALDWELL, Mayor  
City and County of Honolulu