

State of New York
FTA Section 5310 Program

LEASE AND SERVICE AGREEMENT
FOR CAPITAL EQUIPMENT

THIS AGREEMENT made this day of January 21, 2015,
by and between

County of Erie d/b/a Department of Senior Services

with offices at

95 Franklin Street, 13th Floor, Buffalo, New York 14202

hereinafter referred to as "Contractor" and

Town of West Seneca

with offices at

West Seneca Town Hall, 1250 Union Rd, West Seneca, New York

hereinafter referred to as "Carrier".

W I T N E S S E T H:

WHEREAS, Section 5310 of Chapter 53, Title 49, U.S. Code provides for capital grants to private nonprofit corporations for the purpose of assisting them in providing transportation services meeting the special needs of elderly individuals and/or individuals with disabilities for whom mass transportation services are unavailable, insufficient or inappropriate; and

WHEREAS, the Federal Transit Administration has an established policy of encouraging the use of Section 5310 Program vehicles by private for profit operators; and

WHEREAS, the Contractor is a grantee/subrecipient for certain Capital Equipment or facilities under said federal program pursuant to an approved Project Application and a written Agreement with the State; and

WHEREAS, the Carrier is not a public body engaged in the provision of mass transportation service for the general public; and

WHEREAS, the Contractor has agreed to lease said Capital Equipment to the Carrier for the purpose of providing certain transportation service to elderly individuals and/or individuals with disabilities pursuant to said Project Application and Agreement with the State,

NOW, THEREFORE, in consideration of the mutual covenants herein set forth, the Contractor and the Carrier agree as follows:

1. Definitions. As used in this Agreement:

"Department" means the Department of Transportation of the State of New York.

"State" means the State of New York.

"FTA" means the Federal Transit Administration of the United States Department of Transportation.

"Project Application" means the federal Section 5310 capital application(s) submitted by the Contractor to, and as approved by, the Department and FTA for certain Capital Equipment described in Appendix C of this Agreement, including all project supporting information submitted therewith.

"Capital Equipment" means the vehicles obtained by the Contractor through the federal Section 5310 program administered by the State through the Department, said equipment to be that described in Appendix C.

"Service Period" means the period of time set forth in Appendix C of this Agreement.

"Transportation Service" means the authorized passenger transportation services to be provided by the Carrier during the Service Period, as described in Appendix C of this Agreement.

"Commissioner" means the Commissioner of Transportation of the State of New York or his/her duly authorized representatives.

2. Purpose of Agreement. The purpose of this Agreement is to provide for the lease of the Capital Equipment to the Carrier and the rendering of certain Transportation Service by the Carrier utilizing said Capital Equipment, and to state the terms, conditions and mutual understandings of the parties governing said lease, and the operation and maintenance of the Capital Equipment.

3. Documents Forming the Agreement. This Agreement consists of this document and the following listed attachments:

- Appendix A -- Standard Clauses for NYS Contracts
- Appendix B -- Federal Government Required Clauses (FTA)
- Appendix C -- Scope of Work and Financial Reimbursement
- Appendix D -- Contractor's Authorizing Document
- Appendix E -- Disposition of Equipment

This Agreement also consists of the following documents, which are incorporated by reference:

- (a) Contractor's approved FTA Section 5310 Project Application submitted to the Department;
- (b) Agreement(s) Between Contractor and the State (State Contract No.(s) **C034051**).

4. Title to Capital Equipment. Title to the Capital Equipment shall remain in the name of the Contractor, subject to the restrictions on use and disposition as set forth in this Agreement.

5. Use of Capital Equipment. (a) The Carrier agrees that the Capital Equipment leased from the Contractor in accordance with this Agreement will be used solely for the provision of passenger transportation service as described in Appendix C of this Agreement.

(b) Any unauthorized use of said Capital Equipment that is not in accordance with the Transportation Service as described herein shall be cause for termination of this Agreement by the Contractor or the Department. Use of the Capital Equipment to provide charter or sightseeing transportation service is permitted to the extent such use is consistent with the conditions specified in the Contractor's approved Section 5310 Project Application, except as otherwise provided in Appendix C. Use of the Capital Equipment to provide freight or emergency medical transportation is strictly prohibited.

(c) The Carrier shall submit to the Contractor such information or reports as the Contractor may from time to time request in connection with the use of the Capital Equipment. The Carrier shall immediately notify the Contractor and the Department in all cases where any of the Capital Equipment is used in a manner substantially different from that required by this Agreement.

(d) The Capital Equipment may not, at any time, be used exclusively for the personal transportation or private purposes of the employees, agents, representatives, clients or associates of the Contractor or the Carrier. Violation of this restriction shall be considered cause for the immediate termination of this Agreement by the Department or the Contractor.

6. Maintenance of Equipment. The Carrier agrees to keep the Capital Equipment in a safe and clean condition and in good working order, and to garage or store the equipment in a secure manner. The Carrier agrees to properly maintain the equipment according to the procedures described in the manufacturer's service manual and to generally accepted bus industry practices for such equipment.

Besides this normal maintenance, the equipment should be regularly inspected by trained maintenance personnel and any problems uncovered through this inspection corrected in a reasonable time. Components of equipment should be tested regularly and kept in good working order.

In addition, the Carrier agrees to comply with such other reasonable maintenance or other conditions relating to the safe and acceptable operation of the Capital Equipment, as the Contractor may require.

7. Disposition of Equipment. Upon completion of the Service Period or upon termination of this Agreement, the Capital Equipment shall be returned to the Contractor for disposition in accordance with Appendix E of this Agreement.

8. Contracts of the Carrier. The Carrier shall not execute any contract, amendment thereto or change order, or obligate itself in any manner with any successor carrier or other subcontractor with respect to the use or operation of the Capital Equipment under this Agreement without the prior written concurrence of the Contractor and the Department. The Contractor and the Department shall require the inclusion therein of such terms and conditions as they may deem necessary or desirable to effectuate the purpose of this Agreement as a pre-requisite to their approval. Such terms and conditions

shall include provision for compliance with all applicable rules, regulations and project supporting requirements of Section 5310 of Chapter 53, Title 49, U.S. Code as the latter are specified in the contractor's Project Application.

9. Termination or Suspension. (a) The parties to this Agreement may agree to terminate this Agreement at any time, according to mutually agreed upon terms and conditions which have been forwarded in writing to the Department for advance approval. Such terms and conditions shall include appropriate provision by the Contractor for the continuation of the Transportation Service to elderly individuals and/or individuals with disabilities as required in the Project application. Upon approval by the Department of such terms and conditions, this Agreement shall be terminated.

(b) If the Carrier, before completion, discontinues the Transportation Service pursuant to this Agreement or if, for any reason, the commencement, prosecution or timely completion of these services by the Carrier is rendered improbable, impossible or illegal, the Contractor, by written notice to the Carrier and the Department, may terminate any or all of the Contractor's obligations under this Agreement or may suspend any or all of its obligations under this Agreement until the event or condition resulting in such suspension has ceased or been corrected.

(c) Upon receipt of any such notice of termination or suspension, the Carrier shall promptly carry out the actions required by such notice which may include any or all of the following: (1) termination or suspension of the use of Capital Equipment and such other action as the Contractor deems necessary; (2) furnishing a status report on the physical condition of the Capital Equipment; and (3) furnishing an estimate of the fair market value of the leased Capital Equipment.

10. Records and Documentation. The Carrier shall retain all data, reports, records, logs and other materials and information relating to activities covered by this Agreement for a period of (3) years following the termination date of the Service Period under this Agreement and shall make the same available to the Commissioner, the State Comptroller, the United States Secretary of Transportation and the Comptroller General of the United States, or their authorized representatives, for audit, inspection and copying, upon request.

11. Grant Responsibilities of the Carrier. The Carrier agrees to comply with the terms and conditions contained in the Contractor's approved Section 5310 Project Application and its Agreement with the State, and with all applicable rules, regulations and project supporting information and assurances of Section 5310 of Chapter 53, Title 49, U.S. Code. The Carrier agrees to accomplish and provide, all necessary actions, reports and other documentation as required by the Department for the Section 5310 program, or for the coordinated public transportation service, including but not limited to quarterly reports, insurance records, vehicle inspections, etc. The Carrier agrees to provide the annual certification of insurance described in Section 14 of this Agreement. Also, the Carrier shall submit to the Contractor copies of any documents or reports that are forwarded by the Carrier to the Department that pertain to the use of the Capital Equipment or this Agreement.

12. Approval by Department. This Agreement shall not be effective unless approved in writing by the Department.

13. Carrier Authorization under Federal, State and Local Law. In the event that any approval, permit, action, proceeding or authorization is required by applicable law, ordinance, rule or regulation to enable the Carrier to enter into this Agreement, or to undertake the Transportation Service, or to observe, assume, or carry out any of the provisions of this Agreement, the Carrier will initiate and complete such action as is so required.

14. Carrier Liability. The Carrier will be responsible for all damage to life and property due to activities of the Carrier, his subcontractors, agents or employees in connection with the utilization of the Capital Equipment leased from the Contractor pursuant to this Agreement. The Carrier shall indemnify and hold harmless the Contractor and the State and their employees from any and all claims, actions, suits, proceedings, costs, expenses, judgments, damages and liabilities, including reasonable attorneys' fees, arising out of or resulting from acts or omissions of the Carrier, its contractors, subcontractors, agents or employees, relating to the utilization of the Capital Equipment.

15. Insurance. (a) During the entire term of this Agreement, the Carrier shall maintain insurance covering each vehicle provided to the Carrier, with an insurance company or companies authorized and qualified to do such business in the State of New York, of the Types and at least in the amounts set forth below:

Coverage	Amounts
Bodily Injury Liability Protection	A. \$100,000 per person B. \$300,000 per occurrence for 1-12 seating capacity \$500,000 per occurrence for over 12 seating capacity
Property Damage Liability Protection	\$50,000 per occurrence
Combined Single Limit	\$1,000,000 per occurrence
Basic No-Fault Benefits (Personal injury protection)	Statutory
Uninsured Motorist Insurance	Statutory

(b) During the entire term of this Agreement, the Carrier shall EITHER:

1. Maintain Physical Damage insurance covering each vehicle provided to the Carrier, with an insurance company or companies authorized and qualified to do such business in the State of New York as follows:

Coverage	Limits	Maximum Deductible
Collision	Actual Cash Value	\$1,000
Comprehensive	Actual Cash Value	\$1,000

OR

2. Maintain as a demand deposit in a bank, trust company or industrial bank chartered to conduct business in the State of New York, an amount of money at all times equal to the five year straight line depreciated cost of each vehicle provided to the Carrier. The Carrier shall certify annually to the Contractor and the Department that such an account is being maintained, the name and location of the bank, trust company or industrial bank where maintained, the total amount in such account, and the vehicles covered thereby. None of the funds required to be maintained in any such account by this Agreement shall be withdrawn from such account or expended without written approval thereof by the Department first having been obtained by the Carrier. The Department shall not authorize any such withdrawal or expenditure except in cases where the funds to be withdrawn and expended are to be applied toward the repair or replacement of the vehicles covered thereby under this provision, and the Department may impose additional requirements to assure such use.

Annual certification of coverage's under 1. and/or 2. above shall be sent to the Contractor and the Department.

16. Inspection. During the term of this Agreement, the Carrier shall permit, and require its subcontractors to permit, the Chief Executive Officer of the Contractor, the Commissioner, the State Comptroller, the Secretary of the United States Department of Transportation and the Comptroller General of the United States, or their authorized representatives, to inspect the condition of the Capital Equipment and the operation of said Capital Equipment in Transportation Service and to inspect all data, records and accounts maintained by the Carrier that are required pursuant to this Agreement, at any time during the normal business hours of the Carrier.

17. Term of Agreement. The term of this Agreement shall be the entire Service Period specified in Appendix C of this Agreement, with the provisions of Section 10 of this Agreement remaining in effect as specified therein.

In witness whereof, the Contractor and the Carrier have executed this Agreement by and through their respective authorized representatives, effective the day and year first above written:

FOR THE CONTRACTOR:

BY **Mark Poloncarz/** Maria Whyte

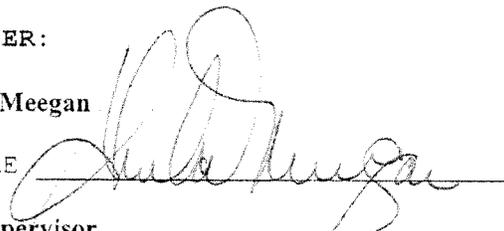
SIGNATURE _____

TITLE **County Executive / Deputy County Executive**

DATE

FOR THE CARRIER:

BY **Sheila Meegan**

SIGNATURE  _____

TITLE **Supervisor**

DATE **2-19-2015**

Approved as to content:

By: (Electronically Signed) _____ DATE _____
Randall Hoak
Commissioner Department of Senior Services

Approved as to form:

By: (Electronically Signed) _____ DATE _____
Martin Polowy
Assistant County Attorney

APPENDIX C

Scope of Work and Financial Reimbursement

Capital Equipment: The Contractor agrees to lease the following Capital Equipment to the Carrier for the Service Period of this Agreement (description of equipment):

2014 FORD E-450 PHOENIX, GAS, TYPE I, with wheel chair lift

Transportation Service: The Carrier agrees to provide the passenger transportation service for elderly individuals and/or individuals with disabilities described in the Contractor's approved Project Application(s), according to the terms and conditions specified therein, for the Service Period of this Agreement. During those periods when the Capital Equipment or a portion thereof is not needed for said service to elderly and/or disabled individuals, it may be used to provide passenger transportation service to other elderly and/or disabled individuals in a frequency approved by the Contractor.

The Carrier shall notify the Contractor and the Department in writing of any substantial proposed change(s) in the Transportation Service prior to any such change(s). For this purpose, the term "service" shall include, but not be limited to schedules, operating hours, routes, timetables, marketing, equipment, fares and passenger terminals and facilities.

In addition to the restrictions on the use of the Capital Equipment stated in Section 5 of this Agreement, the Carrier shall not use the Capital Equipment in charter bus service in competition with any private bus operator outside the area within which the Carrier provides the Transportation Service.

The Carrier shall keep a record of each instance of charter use of the Capital Equipment, and the vehicle-miles incurred by the Capital Equipment for each such instance, and submit a report detailing these instances to the Contractor and the Department on a quarterly basis, for any calendar quarter during which such instances have occurred.

APPENDIX D

Contractor Authorizing Document

Attach a copy of a notarized statement by the Chairman of the Board of Directors of the Contractor, authorizing this Agreement to be signed by the official of the Contractor stated therein.

APPENDIX E
DISPOSITION OF EQUIPMENT

This schedule sets forth the estimated useful life guideline targets for Section 5310 vehicles in New York State. To dispose of a Section 5310 vehicle you must notify the Department of Transportation in writing, providing the odometer reading, an appraisal of the current fair market value of the vehicle, and general information about the condition of the vehicle and why it can no longer be used for transportation purposes.

Vehicles meeting these standards can be disposed of only upon prior written approval from the Department in accordance with Section 9(d) of this Agreement. Failure to fully comply with this procedure by prematurely disposing of a vehicle will result in the grantee's payment of a sum equivalent to 80% of the vehicle's current fair market value as determined by the Department.

GENERAL USEFUL LIFE GUIDELINE TARGETS FOR PROJECT EQUIPMENT

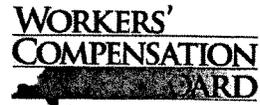
Vehicle Type	Years of Service	Mileage to be Attained
12 to 25 Passenger	5	150,000
26 to 40 Passenger	7	200,000



ANDREW M. CUOMO
GOVERNOR

STATE OF NEW YORK
WORKERS' COMPENSATION BOARD
328 State Street
Schenectady, NY 12305

(518) 402-0247



ROBERT E. BELOTEN
CHAIR

JEFFREY FENSTER
EXECUTIVE DIRECTOR

Office of the Secretary
Compliance With Workers' Compensation Law

I, Kim McCarroll, Secretary for the Workers' Compensation Board, DO HEREBY Certify that:

Name: West Seneca, Town of
WCB #: W878383
Tax ID #: 16-6002404
Qual Date: 2/1/1985

has secured compensation to its employees as a self-insurer in the following manner:

Pursuant to Section 50, subdivisions 3 and 4 of the Workers' Compensation Law. (County, city, village, town, school district, fire district or other political subdivision)

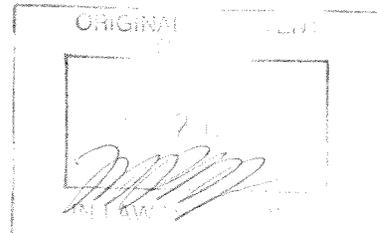
The status of the self-insurer was effective as noted above and remains in full force.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Workers' Compensation Board this 10th day of April 2014.

KIM MCCARROLL
SECRETARY

Status Confirmed By

4/10/2014



NYS AREAWIDE AGENCY ON AGING TRANSPORTATION (AAATRAN)

This grant is a continuation of an existing grant for the entitlement period 4/1/15 to 3/31/16. The grant is used to support operating expenses for transportation services to older adults who need assistance in getting to places outside of walking distance. The Central Dispatch Unit within the Department coordinates van transportation services for elders in the City of Buffalo and various suburban communities. The program also seeks to identify means of transportation for individuals not able to be served through traditional transportation sources.

Total Appropriation	\$61,463
Federal Share	—
State Share	\$55,463
Other Local Sources	\$ 6,000
County Share	—

NYS RETIRED SENIOR VOLUNTEER PROGRAM - (NYSRSVP)

This grant is a continuation of an existing grant for the entitlement period 4/1/15 to 3/31/16. This grant is used primarily to reimburse volunteers for transportation expenses when such expenses could be a barrier to continuing their volunteer placements in various locations in the County.

Total Appropriation	\$5,972
Federal Share	—
State Share	\$5,972
County Share	—

RETIRED SENIOR VOLUNTEER PROGRAM (RSVP)

This grant is a continuation of an existing grant for the entitlement period 4/1/15 to 3/31/16, and is year 1 of 3 of an existing contract. The purpose of this grant program is to provide coordination, training and support services to older persons who wish to volunteer their time and skills to human service agencies and organizations. The grant is used to recruit and train volunteers in currently ninety-five affiliated volunteer stations. Volunteers' efforts are directed primarily toward education, economic opportunities, environment, aging in place and healthy futures.

Total Expense	\$197,887
Interdepartmental Billing	\$ (29,866)
Total Appropriation	\$168,021
Federal Share	\$ 73,891
State Share	—
Other Local Sources	\$ 2,500
County Share	\$ 91,630

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive, subject to prior legislative approval, is hereby authorized to enter into agreements or contracts with funders, New York State and the United States Department of Health and Human Services, sub-contract agencies, the United States Department of Housing and Urban Development, and all interdepartmental transfers supporting contracts for behavioral health and Children's System of Care, which are included in the 2015 County budget.

54. WHEREAS, the Erie County Department of Mental Health contracts for mental disability services, substance abuse, developmental disability services, Children's System of Care programs, and U.S. Department of Housing and Urban Development programs after projections for the County budget are established; and

WHEREAS, actual negotiated contract amounts for not-for-profit contract agencies as approved by the State, Federal, and/or interdepartmental funding sources may differ from the specific amounts projected for these same contractual services accounts.

NOW, THEREFORE, BE IT

RESOLVED, that authorization is hereby granted to transfer appropriations among or between not-for-profit contract agencies and accounts within the operating budget to reflect the outcomes of negotiations with funding sources and not-for-profit contract agencies regarding the allocation of State, Federal, or interdepartmental government reimbursements; and be it further

RESOLVED, that authorization is hereby granted for further revisions, including changes to the appropriated total amounts and/or establishing appropriated amounts for not-for-profit contract agencies or other contractual accounts, in accordance with State, Federal or interdepartmental government approval of changes to their reimbursements.

55. **RESOLVED**, that the County Executive be, and hereby is, authorized to enter into contracts on behalf of the County of Erie for the continuation of grants administered by the New York State Office for the Aging as listed below:

For the period January 1, 2015 through December 31, 2015:

- Area Agency on Aging, Title III-B
- Congregate Dining Nutrition, Title III-C1
- Home-Delivered Nutrition, Title III-C2
- Disease Prevention and Health Promotion Services, Title III-D
- Elder Caregiver Support, Title III-E

For the period April 1, 2015 through March 31, 2016:

- Community Services for the Elderly (CSE)
- Expanded In-Home Services for the Elderly (EISEP)
- Health Insurance Information, Counseling and Assistance (HIICAP)
- Wellness in Nutrition (WIN)
- New York State Retired Senior Volunteer Program (NYSRSVP)
- NYS Areawide Agency on Aging Transportation (AAATRAN)
- Congregate Services Initiative (CSI)

Erie Regional Housing Development Corporation (The Belle Center)
 Friends, Inc.
 Hispanics United of Buffalo, Inc.
 Los Tainos Senior Citizen Center, Inc.
 Metro CDC/Delavan Grider Community Center
 North Buffalo Community Development Corp.
 Northwest Buffalo Community Center, Inc.
 Schiller Park Community Services, Inc.
 Seneca Babcock Community Assn., Inc.
 South Buffalo Community Association, Inc.
 The Salvation Army Tonawanda Corps the Salvation Army, a New York Corp.
 The Salvation Army, a New York Corp.
 Town of Alden
 Town of Amherst by and through the Amherst Center for Senior Services
 Town of Aurora
 Town of Boston
 Town of Cheektowaga
 Town of Concord
 Town of Evans
 Town of Hamburg
 Town of Lancaster
 Town of Newstead
 Town of Tonawanda
 Town of Orchard Park
 Town of West Seneca
 Two Hundred Seventy Two to Two Hundred Eighty Linwood Ave., Inc.
 d/b/a Baptist Manor, Inc.
 Village of Kenmore
 Village of Sloan
 Walden Park Senior Housing II, L.L.C.
 Williamstowne Apartments
 United Church Manor Housing Development Fund Co., Inc.
 University District Community Development Assn., Inc.
 YMCA of Buffalo and Erie County

C. To obtain, distribute and serve home-delivered meals to approved homebound clients:

Kenmore Tonawanda Meals on Wheels, Inc. d/b/a Ken-ton Meals on Wheels
 Meals on Wheels for Western New York, Inc.
 Town of Amherst by and through the Amherst Center for Senior Services

II. For the operation of the Going Places Transportation Program vehicles as no County funding is required for the period January 1, 2015 through December 2015:

City of Lackawanna
 City of Tonawanda
 Town of Aurora
 Town of Cheektowaga
 Town of Clarence

Town of Concord
Town of Evans
Town of Lancaster
Town of Orchard Park
Town of West Seneca

- III. To provide Adult Day Care/Respite services up to the aggregate amount appropriated for such services for the period January 1, 2015 through March 31, 2016:

Aurora Adult Day Services an assumed name of Aurora Adult Day Care Center
Catholic Charities of Buffalo
Kaleida Health - Amherst Adult Day Services
Kaleida Health - DeGraff Adult Day Care
Lord of Life Adult & Child Services, Inc.
Lakeshore Child Care Center, Inc. d/b/a Lakeshore Family Center
Menorah Campus, Inc., (d/b/a The Harry and Jeanette Weinberg Campus)
People, Inc.
Town of Hamburg by and through Town of Hamburg Senior Services

- IV. To enter into contracts with Supportive Services Corporation, Inc., to administer employment programs for seniors, for the period January 1, 2015 and through June 30, 2016.

- V. For the provision of various aging services – including telephone assurance, health promotion, volunteer assistance, legal assistance and geriatric counseling for the period January 1, 2015 through December 31, 2015:

Catholic Charities of Buffalo
Hearts and Hands: Faith in Action
Legal Services for Elderly, Disabled or Disadvantaged of WNY, Inc.
Jewish Family Services of Buffalo

- VI. For the provision of case management, information and referral, chore and transportation services for the period April 1, 2015 through March 31, 2016:

American Red Cross, Serving Erie and Niagara Counties
Catholic Charities of Buffalo
Community Concern of WNY, Inc.
The Concerned Ecumenical Ministry to the Upper West Side of Buffalo, New York, Inc.
Hispanics United of Buffalo, Inc.
Lt. Col. Matt Urban Human Services Center of WNY, Inc., an assumed name of Polish Community Center of Buffalo, Inc.
Massachusetts Community Center & Development Corp., Inc. d/b/a West Side Community Services
Northwest Buffalo Community Center, Inc.
Old First Ward Community Association, Inc.
People Inc.
Schiller Park Community Services, Inc.
South Buffalo Community Association