

COORDINATED SERVICE CONTRACTING

Bay Metro Transit, Bay City, Michigan

SUMMARY OF THE STRATEGY:

Bay Metro Transit administers Michigan Specialized Services funding through the following approaches:

- Contracts with a private operator for specialized services to purchase through a single contract:
 - agency consumer transportation on behalf of a group of human service agencies
 - its own overflow demand-response service
- Reimburses human service agencies for agency consumer transportation provided by the agency
- Monitors the contractor for compliance
- Leases two paratransit vehicles to the contractor
- Makes up the difference between the contracted rate and the Specialized Services subsidy rate with general operating funds (which is less costly than operating in-house)

The human service agencies

- Have a monthly cap on Specialized Services funding
- Refer consumers to fixed route whenever possible
- Assist with procurement and oversight of the contractor
- Operate some consumer transportation in-house

(Note that Bay Metro Transit also contracts for evening JARC transportation. This practice is described separately.)

AGENCY PROFILE

Organization Type: Transportation Authority

Service Area: Bay County, Michigan, along the Saginaw Bay on Lake Huron - 447 sq. mi., est. population: 110,000. Includes Bay City urbanized area

Resources:

- **Fleet size:** 65 vehicles
- **Staff size:** 95 full-time/10 part-time
- **FY 2012 Operating Budget:** approx. \$8 million

Service Summary:

- **Modes Operated:** fixed-route and demand-response (dial-a-ride)
- **Days and Hours of Service:** Monday-Friday approx. 6:30 a.m. - 6:30 p.m., Saturday 9:00 a.m. - 6:00 p.m.
- **General Public Cash Fare:** \$1.00 fixed-route/\$3.00 demand-response
- **Passenger Trips/Year:** 586,000

Contact:

Eric Sprague
Assistant General Manager
Bay Metro Transit
1510 N. Johnson Street
Bay City, MI 48708
(989) 894-2900 x1225
<http://www.baymetro.com>

DETAILED DESCRIPTION:

Bay Metro Transit works with a committee of human service agencies and consumers to coordinate contracted specialized transportation services that are funded by Michigan's Specialized Services operating funding for seniors and people with disabilities. Bay Metro Transit is the

recipient of these funds from Michigan Department of Transportation (\$135,000 per year), and administers the contract with the private operator. The state reimburses Bay Metro for a set rate per rider in the urbanized area (\$4.07 per passenger trip) and per mile in the non-urbanized area (\$1.05 per mile). Bay Metro pays the difference between the state reimbursement and the negotiated rates with the private operator out of its general operating budget (approx. \$60,000 per year). The private operator's contracted rates include additional premiums for individuals who use wheelchairs and fuel surcharges.

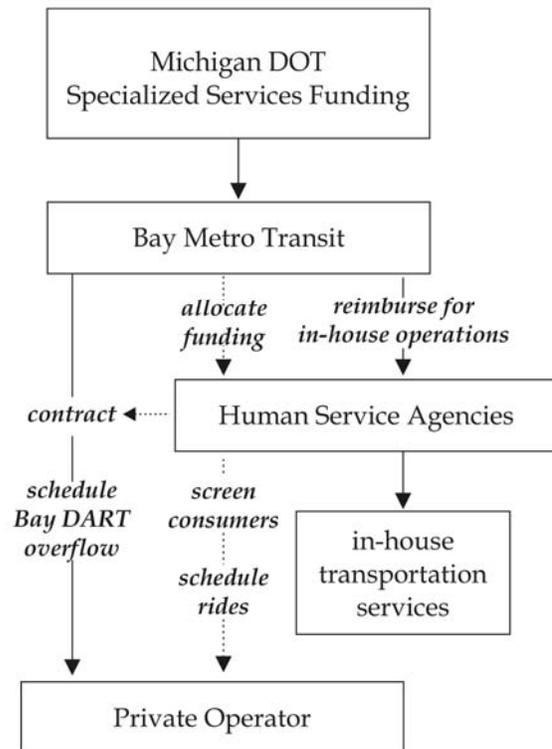
Consumers of the human service agencies represented on the committee, which include sheltered workshops, mental health agencies, and the Area Agency on Aging are transported under the Specialized Services contract. The human service agencies encourage their consumers that are able to ride fixed-route service to do so. The individual agencies schedule the demand-response service for their consumers directly with the private operator. The cost of all Specialized Services trips is billed back to Bay Metro.

The agencies are assigned a monthly cap Specialized Services funding, as a guide to allow them to spread their allocation over a full year without running out of funds. Quarterly, these caps are reviewed and a redistribution may occur if an agency is overspending and another is under-spending.

Bay Metro Transit also schedules overflow services for its own demand-response service, Bay DART, with the private operator as needed through the same contract, since it would be more costly to expand capacity for Bay DART on an ongoing basis.

In addition to purchasing services on their behalf from the private operator, Bay Metro Transit also provides Specialized Services operating funding to those agencies that transport their clients using their own vehicles.

The following figure summarizes the contract relationships.



Bay Metro Transit leases two of its paratransit vehicles to the private contractor. The contractor is required to maintain minimum insurance requirements that comprise what is essentially the deductible for Michigan's transit insurance pool in compliance with Bay Metro's transit insurance pool coverage.

CONDITIONS THAT PROMPTED THE STRATEGY:

Bay Metro Transit has been contracting services to private providers for more than 23 years. Bay Metro Transit has contracted the services funded under the Specialized

Services program since before the current management, so detailed information on conditions prior to this approach was not readily accessible. However, historically, like many other transit agencies across the nation, Bay Metro Transit has had difficulty meeting demand for paratransit services.

RESULTS OF THE STRATEGY:

Bay Metro Transit is able to make effective use of available resources under this arrangement, because:

- The human service agencies work collaboratively through the committee and understand the limitations on the funding.
- The human service agencies have an incentive to refer their consumers to fixed-route (cap on Specialized Services funding), thereby reducing the demand for demand-response service.
- The private operator is available to provide services after regular Bay Metro Transit service hours and augment Bay Metro Transit's capacity during peak hours with only incremental costs.
- The private contractor developed its business in response to the availability of the contract and now provides contracted transportation to several other public agencies and under a charter basis. This growth has helped keep unit costs down for Bay Metro Transit.

METHODS USED TO DOCUMENT RESULTS:

- In 2010, the contracted per-passenger cost was about \$7.00. Bay Metro Transit's cost per demand-response

passenger for in-house service cost about \$25.00 per passenger trip. In the absence of the Specialized Services contract, Bay Metro Transit estimates that providing the 13,200 contractor-provider rides in-house could cost them over \$330,000 per year.

- Under previous contracts with other private providers, service quality was problematic. This was determined based upon complaints received by the human service agencies. A lack of complaints since the current contractor began operations (approx. 3.5 years ago) is evidence that service quality has improved.
- Under previous contracts with other private providers, assuring compliance with FTA drug & alcohol program requirements was problematic. The current contractor has been found by FTA to be in compliance as part of FTA Triennial Review and Drug and Alcohol review.

KEY FACTORS FOR SUCCESS:

- The human service agencies work together to plan the best use of the limited funding.
- The human service agency Committee meets monthly with the contractor. This helps to ensure any issues that may arise are resolved.
- Maintaining a cap on Specialized Services funding for any one human service agency helps ensure that the program stays within budget.

- Involvement of the human service agencies in screening customers for demand-response eligibility and referring their consumers to fixed route services whenever possible helps reduce demand for demand-response service.
- The availability of a private operator that was willing to grow their business in response to the Specialized Services contract, including complying with (and maintaining compliance with) federal requirements for publicly-

funded transit subcontractors (i.e., ADA, Drug and Alcohol Testing).

CHALLENGES:

- Finding a responsive private contractor may be a challenge in other communities, particularly with regards to transporting people with disabilities and complying with FTA drug and alcohol program requirements, driver background checks, proper insurance coverage, etc.

IMPLEMENTATION GUIDE

RECOMMENDED FOR:

- Demand-response transportation tailored to human service agency program needs
- After-hours service
- Overflow demand-response service during peak hours

RECOMMENDED ELEMENTS FOR SUCCESS:

- At least one reliable private operator willing to comply with FTA and State contract requirements (including drug and alcohol program)
- Collaborative working relationships with human service agencies
- An active and engaged committee of human service agencies and consumers
- A sound procurement process
- Collaborative oversight of the contractor
- Close monitoring of contract budget
 - enforce a monthly cap for each participating human service agency
 - alternately could charge any overages back to the agency(ies) with the demand that exceeds available funding

METHODS FOR DOCUMENTING RESULTS:

- Determine per-trip costs of in-house operations and compare to contract unit costs.
- Multiply difference between in-house and contracted unit costs by total annual trips to determine annual savings
- Monitor (and resolve) any complaints against contractor

IMPLEMENTATION TOOLS:

- Sample contracts for
 - private provider
 - agency provider

- Sample vehicle lease agreement with private provider

**SPECIALIZED SERVICES ASSISTANCE
PROGRAM THIRD-PARTY OPERATING AGREEMENT**

THIS AGREEMENT ("Agreement") effective as of October 1, 2011, by and between BAY METROPOLITAN TRANSPORTATION AUTHORITY ("BMTA"), a Michigan statutory authority, with offices at 1510 North Johnson Street, Bay City, Michigan, and [REDACTED], a Michigan limited liability company, with offices at [REDACTED].

WHEREAS, BMTA expects to receive funds from the Michigan Department of Transportation ("MDOT") under the Specialized Services Assistance Program ("Program") primarily designed for persons with disabilities or persons who are 65 years of age or older, all as contemplated by Section 10e(4) of Michigan Public Act 51 of 1951, as amended, codified at MCL 247.660e(4);

WHEREAS, [REDACTED] desires to provide public transportation services to BMTA with funds made available to BMTA under the Program;

WHEREAS, BMTA has applied for funding under the Program for the period from October 1, 2011, to September 30, 2012, and expects to do so for later periods; and

WHEREAS, the purpose of this Agreement is to provide operating assistance funding received by BMTA from the Program to [REDACTED] and [REDACTED] is willing to provide the public transportation services described in BMTA's funding application approved by MDOT.

NOW, THEREFORE, in consideration of the promises, mutual covenants and undertakings hereinafter in this Agreement set forth, BMTA and [REDACTED] agree as follows:

1. The term of this Agreement shall commence on October 1, 2011, and end on September 30, 2012, unless the Agreement is terminated earlier pursuant to the conditions set forth herein.
2. BMTA agrees as follows:
 - (a) To assure that the public transportation services provided by [REDACTED] are consistent with the services described in BMTA's funding application approved by MDOT.
 - (b) To pay [REDACTED] government funds designated for relevant transportation service within ten (10) working days after receipt of [REDACTED]'s invoice.
 - (c) To notify [REDACTED] within five (5) days of receipt of any written request for information by MDOT, or restrictions required by MDOT,

- (d) To inform █████ of any public transportation services changes or changes in state or federal law or Projects known to BMTA which could impact the public transportation services being provided by █████.
- (e) To strive to coordinate public transportation services within its service area.
- (f) To provide to █████ copies of U. S. Department of Transportation / Federal Transit Administration Drug & Alcohol Testing regulations and guidance and also inform █████ of any drug and alcohol testing policy changes.

3. █████ agrees as follows:

- (a) To provide public transportation services as described in BMTA's funding application approved by MDOT.
- (b) To complete and submit to BMTA a monthly invoice for █████'s relevant transportation services no later than ten (10) days after the end of the previous month for which such services were rendered by █████. All invoices so submitted for payment by █████ shall be only on a form preapproved by BMTA and █████'s charges shall be limited to those rates shown on Exhibit "A" attached hereto and made a part hereof by reference.
- (c) To establish and maintain books, records, documents and other accounting records in accordance with generally accepted accounting principles.
- (d) To permit BMTA and/or MDOT to audit all data and records relating to the public transportation services financed in part or in whole by the Project. █████ shall retain and allow access to all data and records pertaining to this Agreement until three (3) years after the final payment by MDOT.
- (e) To carry and maintain comprehensive general liability insurance coverage for bodily injury, including death, personal injury and property damage in the amount of \$1,000,000 for any one occurrence and the same amount in the aggregate. The parties agree that liability policies required under this Agreement may be arranged under individual policies for the full limits required, or by a combination of underlying policies with the balance provided by an excess liability policy. All liability insurance shall be written on an occurrence basis. All general liability policies required or provided under this Agreement shall include as an additional insured both BMTA and MDOT. █████ also agrees to carry and maintain such automobile no-fault insurance coverage in such amounts and with

insurers as BMTA may require and approve for all vehicles operated by ██████ for the purpose of providing any public transportation services funded under this Agreement. ██████ shall punctually pay all insurance premiums when due in respect of all coverages obtained by ██████ so that such coverages remain in effect during the full term of this Agreement. ██████ shall cause its insurers to issue a certificate of insurance to BMTA within ten (10) days of the effective date of this Agreement. The certificate of insurance shall provide at least thirty (30) days' advance notice to BMTA of any suspension or cancellation of insurance or any material change in policy limits, benefits or coverages.

- (f) ██████ shall protect, defend, indemnify and hold BMTA and MDOT, their respective officers, agents and employees harmless of, from and against (a) any and all claims, actions, demands, expenses, damages and losses based upon, arising out of, or in any way related to the duties, obligations and liabilities of ██████ incurred pursuant to any provisions of this Agreement; (b) any and all claims, actions, demands, expenses, damages and losses for personal injury, including death, and property damage resulting from or arising out of, or in any way related to the possession, use or operation of all vehicles operated by ██████ for the purpose of providing any public transportation services funded under this Agreement; and (c) any and all fees (including reasonable attorneys' fees), costs and other expenses incurred by or on behalf of BMTA in the investigation of or defense of any and all such claims, actions and demands. All provisions for indemnification by ██████ shall survive the termination of this Agreement.
- (g) To inform BMTA of any event which may have significant impact on the public transportation services, including its control or cost.
- (h) To cooperate with BMTA and other service providers in coordinating transportation services.
- (i) To comply with the State of Michigan provisions for "Prohibition of Discrimination in State Contracts", as set forth in Appendix A, dated August 1985. ██████ further covenants that it will comply with the Federal Civil Rights Act of 1964, being PL 88-352, 78 Stat. 241, as amended, and will require similar covenants on the part of any contractor or subcontractor employed in the performance of the project for which this Agreement is made.
- (j) To maintain a Viable Drug & Alcohol testing Project as long as this Agreement is in effect. ██████ shall allow BMTA's Drug & Alcohol Administrator access to all drug and alcohol documentation during assessments that will take place quarterly. ██████ understands that compliance with the Federal Transit Administration Drug & Alcohol

Policy is an express condition of this Agreement. [REDACTED] shall be held to the same standards as BMTA, including policy, random selection process, testing services, training, record keeping, and the like.

4. The parties also agree as follow:
 - (a) BMTA or [REDACTED] may, by thirty (30) days' prior written notice, suspend any or all of the rights and obligations under this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected.
 - (b) [REDACTED] agrees to promptly repay any funds overpaid by BMTA to [REDACTED].
5. This Agreement is contingent upon receipt by BMTA of sufficient federal, state and local funds, upon the terms and conditions of such funding as appropriated, authorized and amended, and upon continuation of such funding, as applicable. In the event that circumstances occur that are not reasonably foreseeable, or are beyond the control of the parties, that reduces or otherwise interferes with BMTA's ability to provide or maintain specified services or operational procedures for BMTA's service area, BMTA shall provide immediate notice to [REDACTED] if it would result in any reduction of the funding upon which this Agreement is contingent. In the event any of the foregoing listed contingencies arise, either party to this Agreement may terminate the agreement by giving the other party ten (10) days' prior written notice or as may otherwise be mutually agreed to by the parties.
6. This Agreement has been executed and delivered and it shall be interpreted, construed, and enforced pursuant to and in accordance with the laws of the State of Michigan. Both BMTA and [REDACTED] hereby consent and submit to the jurisdiction of the appropriate courts of the County of Bay for adjudication of any suit, right or cause of action arising under or in connection with this Agreement.
7. No assignment of this Agreement or any of the rights and obligations thereunder shall be valid without the specific written consent of all parties hereto.
8. In the event any portion of this Agreement is held to be unenforceable for any reason, the unenforceability or invalidity thereof shall not affect the remainder of this Agreement, which shall remain in full force and effect and be enforceable in accordance with its terms.
9. This Agreement constitutes the entire agreement between BMTA and [REDACTED] with respect to the subject matter of this Agreement and there are no agreements, understandings, warranties, or representations between

BMTA and [REDACTED] except as set forth in this Agreement. This Agreement can not be amended except in a writing executed by BMTA and [REDACTED]. This Agreement was drafted by counsel for the signatories hereto and there shall not be a presumption or construction against any signatory thereto.

10. This Agreement may be executed in any number of counterparts and each such counterpart shall be considered a valid original.
11. This Agreement shall not be binding on either party until approved by each party and then duly executed and delivered to the other party, in which case it shall be effective as of October 1, 2011.

IN WITNESS WHEREOF, BMTA and [REDACTED] have caused this Agreement to be executed and delivered by their respective duly authorized officers on the day and year first above written.

Exhibit "A" - RATE SCHEDULE

[REDACTED]
Specialized Services Assistance Program Third-Party Operating Agreement

Trips of less than three (3) miles: \$6.00 per rider.
Includes trips with multiple riders

Trips of three (3) or more miles: \$2.15 per mile
Regardless of the number of riders, only mileage is billed as measured from first pick-up to last drop off

Premium for transporting individuals in wheelchairs:
\$3.00 per rider in a wheelchair regardless of the distance of trip

Premium for cost of fuel:
\$.10 per mile if regular grade gasoline is \$4.50 per gallon or higher, as posted at [REDACTED], located at [REDACTED], Bay City, Michigan.

SPECIALIZED SERVICES ASSISTANCE
PROGRAM THIRD-PARTY OPERATING AGREEMENT

THIS AGREEMENT ("Agreement") effective as of October 1, 2011, by and between BAY METROPOLITAN TRANSPORTATION AUTHORITY ("BMTA"), a Michigan statutory authority, with offices at 1510 North Johnson Street, Bay City, Michigan, as party of the first part; and [REDACTED], a Michigan nonprofit corporation, with offices at [REDACTED], Bay city, Michigan; [REDACTED], a Michigan nonprofit corporation, with offices at [REDACTED], Bay City, Michigan; and [REDACTED], a body corporate organized and operated pursuant to Part 7 of the Michigan Revised School Code, with offices at [REDACTED] Bay City, Michigan, as parties of the second part, hereinafter each called individually "Subcontractor" and/or collectively "Subcontractors".

WHEREAS, BMTA expects to receive funds from the Michigan Department of Transportation ("MDOT") under the Specialized Services Assistance Program ("Program") primarily designed for persons with disabilities or persons who are 65 years of age or older, all as contemplated by Section 10e(4) of Michigan Public Act 51 of 1951, as amended, codified at MCL 247.660e(4);

WHEREAS, Subcontractors desire to provide public transportation services to BMTA with funds made available to BMTA under the Program;

WHEREAS, BMTA has applied for funding under the Program for the period from October 1, 2011, to September 30, 2012, and expects to do so for later periods; and

WHEREAS, the purpose of this Agreement is to provide operating assistance funding received by BMTA from the Program to Subcontractors who are each willing to provide the public transportation services described in BMTA's funding application approved by MDOT.

NOW, THEREFORE, in consideration of the promises, mutual covenants and undertakings hereinafter in this Agreement set forth, BMTA, as party of the first part, and [REDACTED], [REDACTED] and [REDACTED] agree as follows:

- (1) The term of this Agreement shall commence on October 1, 2011, and end on September 30, 2012, unless the Agreement is terminated earlier pursuant to the conditions set forth herein.
- (2) BMTA agrees as follows:
 - (a) To assure that the public transportation services provided by Subcontractors are consistent with the services described in BMTA's funding application approved by MDOT.

- (b) To pay Subcontractors the government funds designated for relevant transportation service within ten (10) working days after receipt of an invoice from Subcontractors.
- (c) To notify Subcontractors within five (5) days of receipt of any written request for information by MDOT, or restrictions required by MDOT, concerning the public transportation services provided pursuant to this Agreement.
- (d) To inform Subcontractors of any public transportation services changes or changes in state or federal law or programs known to BMTA which could impact the public transportation services being provided by Subcontractors.
- (e) To strive to coordinate public transportation services within its service area.
- (f) To provide to Subcontractors copies of U. S. Department of Transportation / Federal Transit Administration Drug & Alcohol Testing regulations and guidance and also inform [REDACTED] of any drug and alcohol testing policy changes.

3. Subcontractors, each of them, agree as follows:

- (a) To provide public transportation services as described in BMTA's funding application approved by MDOT.
- (b) To complete and submit to BMTA a monthly invoice for Subcontractors' transportation services no later than ten (10) days after the end of the previous month for which such services were rendered by each Subcontractor. All invoices so submitted for payment by Subcontractors shall be only on a form preapproved by BMTA and the charges of each Subcontractor shall be limited to those rates shown on Exhibit "A: attached hereto and made a part hereof by reference. Anything contained in this Agreement to the contrary notwithstanding, Subcontractors, and each of them, understand and agree that the full amount of any or all monies, revenues or compensation payable pursuant to this Agreement to any Subcontractor shall be determined and fixed in the sole judgment and discretion of BMTA, regardless of any other allocation or determination made by any so-called "Specialized Services local coordinating committee" or the like.
- (c) To establish and maintain books, records, documents and other accounting records in accordance with generally accepted accounting principles.

- (d) To permit BMTA and/or MDOT to audit all data and records relating to the public transportation services financed in part or in whole by the Program. Subcontractors shall retain and allow access to all data and records pertaining to this Agreement until three (3) years after the final payment by MDOT.
- (e) To carry and maintain comprehensive general liability insurance coverage for bodily injury, including death, personal injury and property damage in the amount of \$1,000,000 for any one occurrence and the same amount in the aggregate. The parties agree that liability policies required under this Agreement may be arranged under individual policies for the full limits required, or by a combination of underlying policies with the balance provided by an excess liability policy. All liability insurance shall be written on an occurrence basis. All general liability policies required or provided under this Agreement shall include as an additional insured both BMTA and MDOT. Subcontractors, and each of them, also agree to carry and maintain such automobile no-fault insurance coverage in such amounts and with insurers as BMTA may require and approve for all vehicles operated by Subcontractors for the purpose of providing any public transportation services funded under this Agreement. Subcontractors shall punctually pay all insurance premiums when due in respect of all coverages obtained by Subcontractors so that such coverages remain in effect during the full term of this Agreement. Each Subcontractors shall cause its respective insurers to issue a certificate of insurance to BMTA within ten (10) days of the effective date of this Agreement. The certificate of insurance shall provide at least thirty (30) days' advance notice to BMTA of any suspension or cancellation of insurance or any material change in policy limits, benefits or coverages.
- (f) Subcontractors, and each of them, shall protect, defend, indemnify and hold BMTA and MDOT, their respective officers, agents and employees harmless of, from and against (a) any and all claims, actions, demands, expenses, damages and losses based upon, arising out of, or in any way related to the duties, obligations and liabilities of Subcontractors incurred pursuant to any provisions of this Agreement; (b) any and all claims, actions, demands, expenses, damages and losses for personal injury, including death, and property damage resulting from or arising out of, or in any way related to the possession, use or operation of all vehicles operated by Subcontractors for the purpose of providing any public transportation services funded under this Agreement; and (c) any and all fees (including reasonable attorneys' fees), costs and other expenses incurred by or on behalf of BMTA in the investigation of

or defense of any and all such claims, actions and demands. All provisions for indemnification by Subcontractors, and each of them, shall survive the termination of this Agreement.

- (g) To inform BMTA of any event which may have significant impact on the public transportation services, including its control or cost.
- (h) To cooperate with BMTA and other service providers in coordinating public transportation services.
- (i) To comply with the State of Michigan provisions for "Prohibition of Discrimination in State Contracts", as set forth in Appendix A, dated August 1985. [REDACTED] further covenants that it will comply with the Federal Civil Rights Act of 1964, being PL 88-352, 78 Stat. 241, as amended, and will require similar covenants on the part of any contractor or subcontractor employed in the performance of the project for which this Agreement is made.
- (j) To maintain a Viable Drug & Alcohol testing program as long as this Agreement is in effect. Subcontractors shall allow BMTA's Drug & Alcohol Administrator access to all drug and alcohol documentation during assessments that will take place quarterly annually. Subcontractors understand that compliance with the Federal Transit Administration Drug & Alcohol Policy is an express condition of this Agreement. Subcontractors shall be held to the same standards as BMTA, including policy, random selection process, testing services, training, record keeping, and the like.

4. The parties also agree as follow:

- (a) BMTA or Subcontractors, or any of them, may, by thirty (30) days' prior written notice, suspend any or all of the rights and obligations under this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected.
- (b) Subcontractors, and each of them, agree to promptly repay any funds overpaid by BMTA to Subcontractor.

5. This Agreement is contingent upon receipt by BMTA of sufficient federal, state and local funds, upon the terms and conditions of such funding as appropriated, authorized and amended, and upon continuation of such funding, as applicable. In the event that circumstances occur that are not reasonably foreseeable, or are beyond the control of the parties, that reduce or otherwise interfere with BMTA's ability to provide or maintain specified services or operational procedures for BMTA's service area, BMTA shall provide immediate notice to Subcontractors if it would result in

any reduction of the funding upon which this Agreement is contingent. In the event any of the foregoing listed contingencies arise, either party to this Agreement may terminate the agreement by giving the other party ten (10) days' prior written notice or as may otherwise be mutually agreed to by the parties.

6. This Agreement has been executed and delivered and it shall be interpreted, construed, and enforced pursuant to and in accordance with the laws of the State of Michigan. Both BMTA and Subcontractors hereby consent and submit to the jurisdiction of the appropriate courts of the County of Bay for adjudication of any suit, right or cause of action arising under or in connection with this Agreement.
7. No assignment by any party of this Agreement or any of the rights and obligations thereunder shall be valid without the specific written consent of all parties hereto.
8. In the event any portion of this Agreement is held to be unenforceable for any reason, the unenforceability or invalidity thereof shall not affect the remainder of this Agreement, which shall remain in full force and effect and be enforceable in accordance with its terms.
9. This Agreement constitutes the entire agreement between BMTA and Subcontractors, and each of them, with respect to the subject matter of this Agreement and there are no agreements, understandings, warranties, or representations between BMTA and Subcontractors, or any of them, except as set forth in this Agreement. This Agreement can not be amended except in a writing executed by both BMTA and Subcontractors. This Agreement was drafted by counsel for the signatories hereto and there shall not be a presumption or construction against any signatory thereto.
10. This Agreement may be executed in any number of counterparts and each such counterpart shall be considered a valid original.
11. This Agreement shall not be binding on either party until approved by each party and then duly executed and delivered to the other party, in which case it shall be effective as of October 1, 2011.

IN WITNESS WHEREOF, BMTA and [REDACTED] have caused this Agreement to be executed and delivered by their respective duly authorized officers on the day and year first above written.

Exhibit "A" – RATE SCHEDULE

SPECIALIZED SERVICES ASSISTANCE PROGRAM THIRD-PARTY AGREEMENT

Funds provided by MDOT for the Specialized Services Program for the period from October 1, 2011 to September 30, 2012 are \$138,434.00, of which BMTA has allocated \$53,400.00 to the following subcontractors. This allocation by BMTA is subject to redistribution or reallocation at BMTA's discretion.

██████████: \$6,000.00
██████: \$36,400.00
██████: \$11,000.00

Reimbursement rate for eligible transportation expense: \$1.20 per mile.

VEHICLE LEASE AGREEMENT

THIS VEHICLE LEASE AGREEMENT ("Agreement") effective as of October 1, 2011, by and between BAY METROPOLITAN TRANSPORTATION AUTHORITY ("BMTA"), a Michigan statutory authority, with offices at 1510 North Johnson Street, Bay City, Michigan, and [REDACTED], a Michigan limited liability company, with offices at [REDACTED], Bay City, Michigan.

WITNESSETH:

WHEREAS, [REDACTED] is desirous of leasing from BMTA the vehicles described in the list attached hereto as Schedule "A" (collectively the "Vehicles") so as to allow [REDACTED] on BMTA's behalf to provide public transportation services for eligible individuals in Bay County, Michigan, who need public transportation to work under the Job Access and Reverse Commute Project ("Project"), all as contemplated by the provisions of 49 USC 5316.

WHEREAS, BMTA owns the Vehicles and is desirous of leasing the same to [REDACTED], but only on the express condition that [REDACTED] make all the promises, assurances and undertakings set forth in this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual covenants, promises and undertakings hereinafter in this Agreement set forth, BMTA and [REDACTED] agree as follows:

1. LEASE. BMTA hereby agrees to lease to [REDACTED] and [REDACTED] hereby agrees to lease from BMTA the Vehicles, together with all accessories, additions, repairs and replacement parts affixed thereto, now or in the future. Throughout the full term of this Lease Agreement, Schedule "A" of this Agreement may be modified, altered, amended or changed by the parties to reflect periodic additions or deletions of individual vehicles.

2. RENT. [REDACTED] agrees to pay to BMTA the sum of One Dollar (\$1.00) forthwith and such payment shall be the total rental charges payable by [REDACTED] to BMTA in respect of the Vehicles.

3. TERM OF THE AGREEMENT. The term of this Lease Agreement shall commence on October 1, 2011, and shall be terminated as provided in paragraph 7 of this Agreement.

4. USE. All Vehicles leased to [REDACTED] shall be used exclusively to provide public transportation services on BMTA's behalf under the Project in Bay County, Michigan. [REDACTED] shall observe and adhere to the operating procedures and guidelines as issued by BMTA and which relate to the maintenance, use or operation of the Vehicles. If [REDACTED] fails to operate the Vehicles as provided herein or otherwise defaults on [REDACTED]'s obligations under this Agreement, BMTA shall have the right to immediately terminate this Agreement and, at BMTA's option, to enter [REDACTED]'s premises to remove and take possession of the Vehicles, all without legal process.

5. OWNERSHIP. Title to and ownership of the Vehicles shall at all times be and remain in the name of BMTA and [REDACTED] shall have no right of property or ownership therein, except the right to use the Vehicles in accordance with the terms of this

Agreement. BMTA shall arrange for the issuance of commercial license plates for the Vehicles at all times while leased to [REDACTED].

6. COMPLIANCE WITH STATUTES, ORDINANCES AND REGULATIONS. All

Vehicles leased by BMTA have been obtained by BMTA pursuant to certain financial assistance grants from the Michigan Department of Transportation and/or the Federal Transit Administration. [REDACTED]'s use and operation of the Vehicles shall comply with all applicable state, federal and local statutes, ordinances and regulations. All drivers employed by [REDACTED] to operate the Vehicles shall comply with all applicable state, federal and local laws, rules, regulations and safety standards.

7. TERMINATION. The term of this Agreement shall commence on October 1, 2011, and shall be terminated on September 30, 2012, or earlier on the date of any of the following events first to occur:

A. The termination date provided for in a certain Job Access and Reverse Commute Project Third-Party Agreement made under date of October 1, 2011, by and between BMTA and [REDACTED] and which is now in effect and/or any successor agreement; or

B. That date being thirty (30) days after either party has delivered to the other party written notice of its intention to terminate this Agreement; or

C. That date which BMTA and [REDACTED] mutually agree shall be an effective date of termination of this Agreement or as otherwise provided in paragraph 4 of this Agreement.

8. DISPOSAL OF VEHICLES. [REDACTED] agrees that it will not sublease or otherwise dispose of any Vehicles without the prior written approval of BMTA.

9. CLEANING AND STORAGE OF VEHICLES. [REDACTED] will clean the Vehicles inside and out regularly. Vehicles will be stored at a secure location provided by [REDACTED] and approved by BMTA.

10. MAINTENANCE OF VEHICLES. [REDACTED] shall be responsible for scheduling all maintenance with BMTA's maintenance department. Scheduled preventive maintenance shall be at mileage intervals specified by BMTA. All warranty work with vehicle and lift manufacturers shall be scheduled by BMTA's Maintenance Supervisor. [REDACTED] shall be responsible for delivering Vehicles to either BMTA's garage or to a dealership when maintenance is required. [REDACTED] shall be responsible for assuring the Vehicles are maintained according to the standards of safety and reliability applied to all BMTA vehicles, which include, but are not limited to the following:

A. BODY INTERIOR. No sign or advertising material shall be permitted on or in the Vehicles without BMTA's prior approval, with the exception only of "no smoking" signs.

B. BODY EXTERIOR. No modifications shall be made to the exterior of the Vehicles or the paint scheme without BMTA's prior approval.

C. INSPECTION. Vehicles shall be available periodically for inspection by BMTA to ensure that the above stipulations are being adhered to.

[REDACTED] agrees that as component parts of the Vehicles either wear out or become otherwise inoperative to replace the same with either parts which are approved

by the manufacturer of the Vehicles or such substitute parts as BMTA may from time to time allow. [REDACTED] acknowledges that it has inspected the Vehicles and accepts the Vehicles as being in good operating order, repair and appearance and, at the expiration or termination of this Agreement, [REDACTED] shall return the Vehicles to BMTA in the same good operating condition, repair and appearance as when received, reasonable wear and tear excepted. [REDACTED] shall maintain insurance coverage on the Vehicles in accordance with the provisions of paragraph 15 of this Agreement during the period of time that the Vehicles are being transferred to BMTA, notwithstanding that this Lease Agreement may be terminated.

11. DAMAGE TO VEHICLES. [REDACTED] agrees that it will, in the event of damage to any Vehicles not covered by insurance, repair or pay the expense of repairing the Vehicles to pre-damage condition, except for normal wear and tear.

12. OPERATING COSTS. [REDACTED] shall pay all operating costs whatsoever of the Vehicles, including (without limitation) the cost of fuel, oil, repairs, maintenance and insurance as prescribed in this Agreement.

13. MAINTENANCE, AUDIT AND INSPECTION OF OPERATING RECORDS. [REDACTED] agrees to maintain all records and supporting documentation pertaining to reported operating statistics (i.e., fuel usage and mileage) as required by BMTA, and will make these records available at its office at all reasonable times while this Agreement is in effect. Such records will be made available for inspection by BMTA, the Michigan Department of Transportation and by any authorized representative of the state or federal government. [REDACTED] shall furnish copies of all such records upon request.

14. OPERATOR REQUIREMENTS. █████ shall provide qualified drivers, with proper State of Michigan commercial drivers licenses containing all necessary endorsements. Operators shall complete a BMTA-sponsored defensive driving course. Operators shall also participate in a federally mandated drug and alcohol testing program approved by BMTA. █████ shall provide for its employees workers' compensation insurance, including employer's liability (with a minimum limit per occurrence of \$500,000), to cover employee injuries or disease compensable under the Michigan Workers' Disability Compensation Act.

15. VEHICLE INSURANCE. Because all Vehicles are owned by BMTA, the Vehicles shall be fully insured as part of BMTA's membership in the Michigan Transit Pool ("MTP"). Insurance coverages and policy limits shall be consistent with the terms of the contract now or hereafter in effect between BMTA and MTP. All costs of obtaining and maintaining such insurance on the Vehicles through MTP shall be paid by █████ or, if paid by BMTA, reimbursed by █████ to BMTA. The parties acknowledge that the insurance coverages available to BMTA and █████ through MTP are subject to self-insured retention levels in the amount of \$100,000 for third-party liability coverage and \$10,000 for collision and comprehensive coverage on the Vehicles. At its own cost and expense, █████ shall also obtain and maintain appropriate insurance coverages in respect of the Vehicles from a commercial insurer admitted in Michigan and acceptable to BMTA for the purpose of protecting both █████ and BMTA to the extent of the self-insured retention levels. █████ shall punctually pay all insurance premiums when due in respect of all coverages obtained by █████ so that such coverages remain in effect during the full term of this Agreement. █████ shall cause its insurer to name BMTA as an

additional insured in respect of all such coverages and [REDACTED] shall cause its insurer to issue a certificate of insurance to BMTA within ten (10) days of the effective date of this Agreement. The certificate of insurance shall provide at least thirty (30) days advance notice to BMTA of any suspension or cancellation of insurance or any material change in policy limits, benefits or coverages.

16. LOSS OR DAMAGE. If and when any Vehicles are involved in any accident, collision or incident resulting in loss or damage, [REDACTED] shall immediately notify BMTA of all such accidents, collisions and incidents. [REDACTED] shall also cooperate fully with BMTA to prevent loss through accidents, to collect collision damages from third parties, and to aid in every possible way in defense of suits or other proceedings brought as the result of the operation of any Vehicles. [REDACTED] shall deliver to BMTA promptly any and all papers, notices and documents served upon [REDACTED], or [REDACTED]'s agents, in connection with any claim, suit, action or proceeding commenced or started against [REDACTED] arising out of the use or operation of any Vehicles. [REDACTED] shall also comply with any other reporting procedures in respect of such loss or damage as established by BMTA.

17. INDEMNIFICATION. [REDACTED] shall protect, defend, indemnify and hold BMTA harmless of, from and against (a) any and all claims, actions, demands, expenses, damages and losses based upon, arising out of, or in any way related to the duties, obligations and liabilities of [REDACTED] incurred pursuant to any provisions of this Vehicle Lease Agreement and the Job Access and Reverse Commute Project Third-Party Agreement; (b) any and all claims, actions, demands, expenses, damages and losses for personal injury, including death, and property damage resulting from or arising out of, or in any way related to the possession, use or operation of the Vehicles; and (c)

any and all fees (including reasonable attorneys' fees), costs and other expenses incurred by or on behalf of BMTA in the investigation of or defense against any and all such claims, actions and demands. All provisions for indemnification by [REDACTED] shall survive the termination of this Agreement.

18. RELATIONSHIP BETWEEN BMTA AND [REDACTED]. The relationship of [REDACTED] to BMTA shall be that of independent contractor. No partnership, association, or joint enterprise shall arise between the parties hereto as the result of any of the provisions of this Agreement nor shall any provision herein be construed as making any employee of [REDACTED] an employee of BMTA for any purpose.

19. CHANGES TO AGREEMENT. This Agreement constitutes the entire agreement between BMTA and [REDACTED] with respect to the subject matter of this Agreement and there are no agreements, understandings, warranties, or representations between BMTA and [REDACTED] except only as set forth in this Agreement and the Job Access and Reverse Commute Project Third-Party Agreement. This Agreement can not be amended except in a writing executed by BMTA and [REDACTED]. This Agreement was drafted by counsel for the signatories hereto and there shall not be a presumption or construction against any signatory hereto.

20. JOB ACCESS AND REVERSE COMMUTE PROJECT THIRD-PARTY AGREEMENT. In the event there is, or could be, any contradiction or inconsistency between the terms, provisions or conditions contained in this Vehicle Lease Agreement, on one hand, and any term, provision or condition contained in the Job Access and Reverse Commute Project Third-Party Agreement, on the other hand, then, under such circumstances, the terms, provisions or conditions of this Vehicle Lease Agreement

shall control and govern the rights, duties and obligations of the parties hereto and the contradictory or inconsistent terms, provisions or conditions of the Job Access and Reverse Commute Project Third-Party Agreement shall be deemed annulled, deleted and held for naught.

21. APPLICABLE LAW. This Agreement has been executed and delivered and it shall be interpreted, construed, and enforced pursuant to and in accordance with the laws of the State of Michigan.

22. ASSIGNABILITY. No assignment of this Agreement or any of the rights and obligations thereunder shall be valid without the specific written consent of all parties hereto.

23. PARTIAL INVALIDITY. In the event any portion of this Agreement is held to be unenforceable for any reason, the unenforceability or invalidity thereof shall not affect the remainder of this Agreement, which shall remain in full force and effect and be enforceable in accordance with its terms.

24. COUNTERPARTS. This Agreement may be executed in any number of counterparts and each such counterpart shall be considered a valid original.

25. BINDING AND EFFECTIVE DATE. This Agreement shall not be binding on either party until approved by each party and then duly executed and delivered to the other party, in which case it shall be effective as of October 1, 2011.

IN WITNESS WHEREOF, BMTA and [REDACTED] have caused this Agreement to be executed and delivered by their respective duly authorized officers on the day and year first above written.

Schedule A:

Description of BMTA Vehicles Leased to [REDACTED]

as of October 1, 2011

BMTA Vehicle No.	<u>Year/Model</u>	<u>VIN#</u>
[REDACTED]	2008 Ford Lift Van	[REDACTED]
[REDACTED]	2010 Ford Lift Van	[REDACTED]