

APPENDIX G

THIRD PARTY LEASE OF CAPITAL EQUIPMENT FOR MIDDLETOWN AREA TRANSIT SERVICE

THIS THIRD PARTY LEASE OF CAPITAL EQUIPMENT FOR MIDDLETOWN AREA TRANSIT SERVICE (“Agreement”) is made this [REDACTED] day of [REDACTED], 20[REDACTED], by and between **COUNTY OF ORANGE**, a municipal corporation having its principal offices at 255 Main Street, Goshen, New York 10924, by and through its Department of Planning and Development (“County”) and [REDACTED], a [REDACTED] having its principal offices at [REDACTED] (“Carrier”). The County and the Carrier are each individually referred to in this Agreement as a “Party” and collectively referred to as the “Parties.”

WHEREAS, Section 5307 of Chapter 53 of Title 49, United States Code (“U.S.C.”) provides for the payment of Federal financial assistance for public transportation services in urbanized areas through a formula grant program administered by the Federal Transit Administration (“FTA”) an operating administration within the United States Department of Transportation (“Federal Transit Funding”); and

WHEREAS, the State of New York (“State”) provides certain matching funds for capital assistance projects pursuant to Article 13 of the State Transportation Law and such funds are administered by the State Department of Transportation (“State Transit Funding” and together with the Federal Transit Funding, collectively, the “Transit Funding”); and

WHEREAS, the County is a recipient of the Transit Funding under certain written grant agreements between the County and the FTA, and the County and the State, which Transit Funding is used by the County to purchase certain capital equipment, including transit vehicles, transit equipment, and transit facilities as more particularly described in one or more project applications submitted to, and approved by, the FTA and State Commissioner of Transportation or his duly authorized representative (“State Commissioner”) in accordance with 49 U.S.C. 53 and Article 13 of the State Transportation Law;

WHEREAS, in accordance with the Project Application incorporated into this Agreement pursuant to Section 3(b)(i) of this Agreement (“Project Application”), the County applied for and was granted Transit Funding to be used to purchase certain capital equipment, including transit vehicles, transit equipment, and transit facilities as more particularly described in Appendix B to this Agreement (collectively, the “Capital Equipment”); and

WHEREAS, in accordance with the Project Application, the County wishes to grant a leasehold interest in the Capital Equipment to the Carrier, and the Carrier wishes to accept a leasehold interest in the Capital Equipment as a subrecipient of the Transit Funding through the County subject to the terms and conditions set forth in this Agreement including the condition that the Capital Equipment be used by the Carrier for the sole purpose of operating the Middletown Area Fixed-Route Transit Service (“Middletown Area Transit Service”) pursuant to that certain

Agreement for Vendor Services, dated [REDACTED] by and between the County and the Carrier ("Middletown Area Transit Service Agreement").

NOW, THEREFORE, in consideration of the mutual covenants set forth in this Agreement, the County and the Carrier agree as follows:

1. **Recitals**. The Parties incorporate the foregoing recitals as a material portion of this Agreement.
2. **Purpose of Agreement**. The purpose of this Agreement is to lease the Capital Equipment to the Carrier to be used by the Carrier to provide Middletown Area Transit Service on the terms, conditions, and mutual understandings set forth in this Agreement.
3. **Documents Forming this Agreement**.
 - a. **Attached Documents**. This Agreement consists of this document and the following listed attachments:
 - i. Appendix A-1- Federal Required Clauses
 - ii. Appendix A-2 - State Standard Clauses
 - iii. Appendix A-3 - Supplemental Title VI Provisions
 - iv. Appendix B - Identification of the Capital
 - v. Appendix C - Disposition of Equipment
 - b. **Incorporated Documents**. This Agreement also consists of the following documents, each of which are incorporated into, and made a part of this Agreement, by reference:
 - i. Project Application;
 - ii. Agreement Between County and FTA (Federal Grant No. [REDACTED]) ("County's Federal Grant Funding Agreement"); and
 - iii. Agreement between County and the State (State Contract No. [REDACTED] for State Project No. [REDACTED]) ("County's State Grant Funding Agreement").
 - c. **Conflicts**. In the event of any conflict or inconsistency between the terms and conditions of the main body of this Agreement and any document listed in Sections 3(a) and (b) above, the conflict will be resolved by giving precedence to the following documents in the following order with the earlier listed controlling over the latter:
 - i. Federal Required Clauses unless any requirement, term, provision or condition of the Federal Required Clauses is less stringent than those set forth in the documents listed below in which case the more stringent requirement, term, provision, or condition in the documents listed below will be ultimately controlling;
 - ii. State Standard Clauses unless any requirement, term, provision or condition of the State Standard Clauses is less stringent than those set forth in the documents listed below in which case the more stringent requirement, term,

provision, or condition in the documents listed below will be ultimately controlling;

- iii. Supplemental Title VI Provisions unless any requirement, term, provision or condition of the Supplemental Title VI Provisions is less stringent than those set forth in the documents listed below in which case the more stringent requirement, term, provision, or condition in the documents listed below will be ultimately controlling;
- iv. County's Federal Grant Funding Agreement;
- v. the Project Application;
- vi. County's State Grant Funding Agreement;
- vii. the main body of this Agreement;
- viii. Appendix B to this Agreement; and
- ix. Appendix C to this Agreement.

d. Compliance. The Carrier agrees to comply with:

- i. all applicable terms and conditions contained in the documents listed in Section 3(c) above; and
- ii. all laws, ordinances, rules, regulations, conditions, requirements, guidance, project supporting information and assurances, including without limitation:
 - 1. Chapter 53 of Title 49, U.S.C, and the regulations promulgated thereunder and codified at 49 Code of Federal Regulations ("C.F.R.") Part 601 et seq.; and
 - 2. Article 13 of State Transportation Law and the regulations promulgated thereunder and codified at Title 17 New York Codes, Rules and Regulations,as each may be amended from time to time during the term of this Agreement (collectively, "Applicable Laws").

4. **Grant of Leasehold Interest In, and Use of, the Capital Equipment.**

- a. Grant of Leasehold Interest. For the sum of ONE AND 00/100 (\$1.00) DOLLAR and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, the County hereby grants to Carrier a leasehold interest in the Capital Equipment and the Carrier hereby accepts the leasehold interest in the Capital Equipment for the sole purpose of providing Middletown Area Transit Service on the terms and conditions set forth in this Agreement and the Middletown Area Transit Service Agreement.

b. Use of the Capital Equipment.

- i. Capital Equipment Must Only be Used for Middletown Area Transit Service. The Carrier acknowledges and agrees that the Capital Equipment leased from the County in accordance with this Agreement will only be used to provide Middletown Area Transit Service in accordance with the Middletown Area Transit Service Agreement as a condition of the Transit Funding and the Applicable Laws.

1. No Charter Service. The Carrier acknowledges that use of the Capital Equipment to provide charter or sightseeing transportation service is prohibited under the Transit Funding pursuant to 49 U.S.C 5323(d) and 49 C.F.R. 604(c). Pursuant to 49 C.F.R. 604(c) “charter service” means:
 - a. Transportation provided at the request of a third party for the exclusive use of a bus or van for a negotiated price. The following features may be characteristic of charter service:
 - i. A third party pays the transit provider a negotiated price for the group;
 - ii. Any fares charged to individual members of the group are collected by a third party;
 - iii. The service is not part of the transit provider's regularly scheduled service, or is offered for a limited period of time; or
 - iv. A third party determines the origin and destination of the trip as well as scheduling; or
 - b. Transportation provided to the public for events or functions that occur on an irregular basis or for a limited duration and:
 - i. A premium fare is charged that is greater than the usual or customary fixed route fare; or
 - ii. The service is paid for in whole or in part by a third party.
 2. No Personal Use of the Capital Equipment. The Capital Equipment must not, at any time, be used for the personal transportation or the private purposes of the employees, agents, representatives, clients, or associates of the Carrier.
- ii. Violations. Violations of the restrictions set forth in this Section 4 is cause for the immediate termination of this Agreement by the FTA, the State Commissioner or the County.
- c. Reporting Regarding the Use of the Capital Equipment.
 - i. Duty to Keep Records. The Carrier shall keep accurate records regarding the use of the Capital Equipment and shall submit to the County such information or reports as the County, the FTA or the State may from time to time request in connection with the Capital Equipment.
 - ii. Reports of Non-Middletown Area Transit Service. In the event that the Carrier uses the Capital Equipment in violation of this Section 4 or any of the Applicable Laws, the Carrier shall keep a record of each instance as an instance of use of the Capital Equipment in non- Middletown Area Transit Service, and the vehicle-miles incurred by the Capital Equipment for each such instance, and submit a report detailing these instances to the County and

the State Department of Transportation on a quarterly basis, for any calendar quarter during which such instances have occurred.

- d. Notification of Changes in the Middletown Area Transit Service. The Carrier shall notify the County in writing in advance of any substantial proposed changes in Middletown Area Transit Service prior to any such changes. For the purposes of this Section 4(d), the terms “changes in Middletown Area Transit Service” includes, but is not limited to scheduling, operating hours, routes, timetables, marketing, equipment, fares, and passenger terminals and facilities.
5. **Maintenance of the Capital Equipment.** The Carrier agrees to keep and maintain the Capital Equipment at a high level of cleanliness, safety and mechanical soundness, and garage or store the Capital Equipment in a secure manner. The Carrier agrees to properly maintain the Capital Equipment according to the procedures described in the manufacturer's service manual and through generally accepted bus industry practices for such Capital Equipment. Besides this normal maintenance, the Capital Equipment must be regularly inspected by trained maintenance personnel and any problems uncovered through such inspection must be corrected in a reasonable time. Components of the Capital Equipment must be tested regularly and kept in good working order. In addition, the Carrier agrees to comply with such other maintenance or other conditions relating to the safe and acceptable operation of the Capital Equipment, as the County may from time to time require including, but not limited to, the transit asset management requirements set forth in 49 C.F.R 625, as may be amended from time to time during the term of this Agreement.
6. **Disposition of the Capital Equipment.** Upon the expiration or termination of this Agreement, the Capital Equipment must be disposed of in the manner provided for in Appendix C to this Agreement.
7. **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 with respect to its rights and responsibilities under this Agreement without the prior written approval of the County, the FTA, and the State Commissioner. The County, the FTA, and the State Commissioner will require the inclusion in any such contract, amendment, or document with any successor carrier of such terms and conditions as each of them may deem necessary or desirable to further the purpose of this Agreement as a prerequisite to their respective approval. Such terms and conditions will include provision for the successor carrier's compliance with all Applicable Laws, the Project Application, the County's Federal Grant Funding Agreement, and the County's State Grant Funding Agreement.
8. **Term, Termination, and Suspension.**
 - a. Term. The term of this Agreement commences on [REDACTED] and continues in effect until the earlier of the expiration or termination of the Middletown Area Transit Service Agreement or the expiration or termination of this Agreement (“Term”).

- b. Termination. The County may, by written notice to Carrier effective upon mailing, terminate this Agreement in whole or in part at any time (1) for the County's convenience, (2) upon the failure of Carrier to comply with any of the terms or conditions of this Agreement or the Middletown Area Transit Service Agreement, or (3) upon the Carrier becoming insolvent or bankrupt.
 - c. Effect of Termination. Upon receipt of written notice of termination, the Carrier shall return the Capital Equipment to the County immediately or as otherwise directed by the County. Notwithstanding any other provision of this Agreement, the Carrier shall not be relieved of liability to the County for damages sustained by the County by virtue of Carrier's breach of this Agreement or the Middletown Area Transit Service Agreement or its failure to perform in accordance with applicable standards, and the County may withhold payments to the Carrier for the purposes of set-off until such time as the exact amount of damages due to the County from Carrier is determined. If the Carrier discontinues the Middletown Area Transit Service or if, for any reason, the commencement, prosecution, or timely completion of the Middletown Area Transit Service by the Carrier is rendered improbable, impossible, illegal, or if, the County in its sole opinion deems the Carrier or the operation of the Middletown Area Transit Service in violation of the terms and conditions of this Agreement or the Middletown Area Transit Service Agreement, the County, may by written notice to the Carrier, suspend and/or terminate any or all of the Carrier's rights and/or obligations under this Agreement until the event or condition resulting in such termination or suspension has ceased or been corrected. 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 of the following:
 - i. termination or suspension of the use of the Capital Equipment and such other action as the County deems necessary;
 - ii. furnishing a status report on the physical condition of the Capital Equipment; and/or
 - iii. furnishing an estimate of the current fair market value of the Capital Equipment.
9. 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 six (6) years following the expiration or the earlier termination of this Agreement and, upon request, shall make the same available to the County, the FTA or the State Commissioner or their respective designees for audit, inspection, and copying.
10. Carrier Authorization Under Applicable 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 Middletown Area Transit Service, or to observe, assume, or carry out any of the provisions of this Agreement, the Carrier will initiate and expeditiously complete such action as is so required.

11. **Carrier Liability.** The Carrier will be responsible for any and all damage to life and property due to activities of the Carrier, its contractors, subcontractors, agents, or employees in connection with the use of the Capital Equipment leased from the County pursuant to this Agreement and the use of the Capital Equipment to provide the Middletown Area Transit Service. The Carrier shall indemnify and hold harmless the County, the FTA, the State and their respective officials, employees, and agents from any and all claims, 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 use of the Capital Equipment. The Carrier, in performing the Middletown Area Transit Service is an independent contractor and not an employee or agent of the County.
12. **Insurance.** The Carrier agrees to procure and maintain during the term of this Agreement at its own expense, insurance of the kinds and in the amounts required in this Section 12, with insurance companies authorized to do business in the State, or in self-insured condition pursuant to order of the State Department of Transportation, covering all operations under this Agreement, whether performed by the Carrier or its subcontractors, agents, or employees. Such policies are to be in the broadest form available on usual commercial terms and must be written by insurers of recognized financial standing satisfactory to the County who have been fully informed as to the nature of this Agreement and the type of service in which the Carrier Equipment will be utilized. Except for workers' compensation and disability insurance, the Carrier shall name the County, the FTA, and the State as additional insureds on all such policies with the understanding that any obligations imposed upon the insured (including, without limitation, the liability to pay premiums) are the sole obligation of the Carrier. Notwithstanding anything to the contrary in this Agreement, the Carrier irrevocably waives all claims against the County for all losses, damages, claims, or expenses resulting from risks commercially insurable under the insurance policies described in this Section 12. The provision of insurance by the Carrier will not in any way limit the Carrier's liability under this Agreement. Before operating the Capital Equipment and annually thereafter, the Carrier shall furnish to the County a certificate or certificates in a form satisfactory to the County showing that it has complied with this Section 12, which certificate(s) must provide that the policies will not be changed or cancelled until thirty (30) days written notice has been given to the County. The kinds and amounts of insurance are as follows:
- a. **Workers' Liability Insurance.** The Carrier shall maintain, at all times, a policy or policies of workers' compensation insurance covering the obligations of the Carrier at the State statutory limit.
 - b. **Disability.** The Carrier shall maintain, at all times, a policy or policies of disability insurance covering the obligations of the Carrier at the State statutory limit.
 - c. **Bodily Injury and Property Damage.** The Carrier shall, at all times, maintain a policy or policies of bodily injury liability and property damage liability insurance in accordance with the applicable State laws and regulations covering the Carrier, the

County, and the State, at adequate limits for the protection of all parties and subject to the approval of the County. Adequate coverage must consist of no less than \$5,000,000 combined single limit for bodily injury and property damage (broad form general liability coverage); adequate coverage must also consist of automobile liability coverage of no less than \$5,000,000 combined single limit for bodily injury and property damage per occurrence. The Carrier may comply with this requirement by providing general and automobile liability coverage of \$1,000,000 each, plus umbrella or excess liability coverage of \$4,000,000 or more.

- d. Theft, Fire, and Collision Losses. The Carrier shall maintain, at all times, collision and comprehensive insurance so as to assure recovery of the replacement cost of the Capital Equipment, in the event of theft, damage, or complete loss from fire or collision. The collision insurance must not contain a deductible provision greater than ONE THOUSAND AND 00/100 DOLLARS (\$1,000.00). The Carrier agrees to deliver to the County, the FTA's, the State's, and the County's share of the proceeds of any settlement on theft, fire, and/or collision losses, pro-rated on the basis of each entity's percentage of contribution to the purchase price of the Capital Equipment as these shares are described in the County's Federal Grant Funding Agreement and the County's State Grant Funding Agreement.
- e. Required Clauses. Each policy of insurance must contain clauses to the effect that (i) such insurance will be primary without right of contribution of any other insurance carried by or on behalf of the County with respect to its interests, (ii) it must not be cancelled, including, without limitation, for non-payment of premium, or materially amended, without fifteen (15) days prior written notice to the County, directed to the County's Risk Management Division and the County's Commissioner of the Department of Planning and Development and the County will have the option to pay any necessary premiums to keep such insurance in effect and charge the cost back to the Carrier.
- f. Requirements if Such Insurance Is Not Written on a Per Occurrence Basis. To the extent it is commercially available, each policy of insurance must be provided on an "occurrence" basis. If any insurance is not so commercially available on an "occurrence" basis, it must be provided on a "claims made" basis, and all such "claims made" policies must provide that:
 - i. Policy retroactive dates coincide with or precede the Carrier's start of the performance of this Agreement (including subsequent policies purchased as renewals or replacements);
 - ii. If the insurance is terminated for any reason and/or for at least three (3) years following the expiration or termination of this Agreement, the Carrier will maintain an extended reporting provision and/or similar insurance for the period of performance plus three (3) years from the date of such termination.

- iii. Immediate notice must be given to the County's Commissioner of the Department of Planning and Development and the County's Risk Management Division of circumstances or incidents that might give rise to future claims with respect to this Agreement or the Capital Equipment.

13. **Inspections.** During the term of this Agreement, the Carrier shall permit and require its subcontractors to permit the County Executive, as the Chief Executive Officer of the County, the State Commissioner, the State Comptroller, the Secretary of the United States Department of Transportation, and Comptroller General of the United States, or their respective authorized representatives, at any time during the normal business hours of the Carrier, to inspect the condition of the Capital Equipment and the operation of the Capital Equipment in Middletown Area Transit Service and to inspect all data, records, and accounts maintained by the Carrier that are required pursuant to this Agreement or the Applicable Laws.

14. **Advertising on Capital Equipment.**

- a. Subject to Section 14(c) of this Agreement, the County permits the Carrier to place advertisements and signage on the Capital Equipment. The Carrier agrees to use reasonable discretion in the selection and approval of advertisements that would appear on the Capital Equipment. Net revenues from advertising appearing on the Capital Equipment shall be accounted for by the Carrier and used to support the operation of the Middletown Area Transit Service in and for the County.
- b. The County, at its sole cost and expense, reserves the right to advertise public service information on the Capital Equipment.
- c. The County reserves the right to reject and require the removal of any paid or unpaid advertisements on the Capital Equipment in its sole and absolute discretion. The Carrier agrees to immediately remove any such rejected advertisement or signage at the direction of the County's County Executive, County's Commissioner of Planning and Development, or the County Transit Coordinator. The Carrier agrees that the County will bear no liability for any expense incurred because of the County's rejection of any such advertisement or signage on the Capital Equipment.

15. **Headings for Convenience and Reference Only.** Headings of sections and subsections of this Agreement are inserted for convenience and reference purposes only and do not affect in any way the meaning or interpretation of this Agreement.

16. **Sexual Harassment Certification.** Pursuant to the State Finance Law §139-l, by execution of this Agreement, the Carrier and the individual signing this Agreement on behalf of the Carrier certifies, under penalty of perjury, that the Carrier has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy must, at a minimum, meet the requirements of Section 201-g of the State Labor Law. A model policy and training has been created by the State Department of Labor and can be found on its website at:

<https://www.ny.gov/programs/combating-sexual-harassment-workplace>

The County's policy against sexual harassment and other unlawful discrimination and harassment in the workplace can be found on the County's website at:

<https://www.orangecountygov.com/1137/Human-Resources>

17. **Executory Clause.** The County shall have no liability under this Agreement to the Carrier or anyone else beyond funds appropriated and available for this Agreement.
18. **Independent Contractor.** In accepting the Capital Equipment as a subrecipient of the County under the Transit Funding and on the condition of such Transit Funding that the Capital Equipment only be used by the Carrier to operate Middletown Area Transit Service, the Carrier shall operate as, and have the status of, an independent contractor and shall not act as an agent, or be an agent, of the County. In accordance with such status as an independent contractor, the Carrier covenants and agrees that neither it or its employees or agents will hold themselves out as, nor claim to be officers or employees of the County, or any department, agency, or unit of the County, by reason of this Agreement, and that it will not, by reason of this Agreement, make any claim, demand, or application to, or for any right or privilege applicable to an officer or employee of the County including, but not limited to, workers' compensation coverage, health coverage, unemployment insurance benefits, social security coverage or employee retirement membership or credit.
19. **Waiver.** The failure of either Party to insist in any one or more instance upon the strict performance of any one or more of the obligations under this Agreement, or to exercise any election herein contained, will not be construed as a waiver or relinquishment for the future of the performance of such one or more obligations of this Agreement or of the right to exercise such election, but the same will continue and remain in full force and effect with respect to any subsequent breach or omission.
20. **Amendments.** Any modification of this Agreement must be in writing and executed by the Parties.
21. **Governing Law.** This Agreement is governed by the laws of the State.
22. **Arbitration and Venue.** Any and all disputes involving this Agreement, including the breach or alleged breach thereof, may not be submitted to arbitration unless specifically agreed thereto in writing by the County Executive of the County, but must instead only be heard in the Supreme Court of the State, with venue in Orange County or if appropriate, in the Federal District Court with venue in the Southern District of New York, White Plains division.
23. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties hereto and supersedes all prior communications, negotiations, arrangements, and agreements, whether oral or written, between the Parties with respect to the subject matter hereof.

24. **Signatures.** A manually signed copy of this Agreement delivered by facsimile, email, or other means of electronic transmission will be deemed to have the same legal force and effect as delivery of an original signed copy of this Agreement.

IN WITNESS WHEREOF, the County and the Carrier have executed this Agreement by and through their respective authorized representatives effective the day and year first above written.

COUNTY OF ORANGE

CARRIER

BY: _____
Stefan ("Steven") M. Neuhaus
County Executive

BY: _____
NAME:
TITLE:

ACKNOWLEDGMENTS

STATE OF _____)
)SS:
COUNTY OF _____)

On this ____ day of _____, in the year 20__, before me personally came _____ to me known, who, being by me duly sworn, did depose and say that he/she resides in _____; that he/she is the _____ of the _____, the municipal corporation described in and which executed the foregoing instrument; that he/she knows the corporate seal of the said corporation; that the seal affixed to the said instrument is such corporate seal; and that it was so affixed by order of the _____, and that he/she signed his/her/ name there to by like order.

Notary Public

STATE OF NEW YORK)
) SS:
COUNTY OF ORANGE)

On this ____ day of _____, in the year 20__, before me personally came _____ to me known, who, being by me duly sworn, did depose and say that he resides in _____, N.Y., that he is the _____ of the County of Orange, the municipal corporation described in and which executed the foregoing instrument; that he knows the corporate seal of the said corporation; that the seal affixed to the said instrument is such corporate seal; and that it was so affixed by order of the Orange County Legislature, and that he signed his name to by like order.

Notary Public

APPENDIX A-1

Federal Standard Clauses

APPENDIX A-2

New York State Standard Clauses

APPENDIX A-3

Supplemental Title VI Provisions

APPENDIX B

Identification of the Capital Equipment

Capital Equipment: The Capital Equipment leased from the County to the Carrier pursuant to Section 4(a) of the Agreement is as follows:

<u>YEAR</u>	<u>MAKE</u>	<u>MODEL</u>	<u>VIN#</u>
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APPENDIX C

Disposition of Equipment

No part of the Capital Equipment will be sold, rendered unusable, or relinquished without the express prior written approval of the County, the FTA, the State Commissioner, and State Comptroller. If any Capital Equipment, or portion of such Capital Equipment, is so sold, other than for their replacement in Middletown Area Transit Service with like facilities or equipment, (i) the County's, the FTA's, and the State's share of the proceeds from such sale will be delivered by Carrier to County on a pro-rated basis equal to each entity's percentage contribution to the purchase price of the Capital Equipment as these shares are described in the County's Federal Grant Funding Agreement and the County's State Grant Funding Agreement; and (ii) any disposition of the Capital Equipment must conform with 49 C.F.R 18, which regulations are hereby incorporated into and made a part of this Appendix C to the Agreement.