

**EXHIBIT E**

**PROGRAM SPECIFIC TERMS AND CONDITIONS – TRANSIT**

**(Section 5311(f): Intercity Bus Program)**

This exhibit forms an integral part of the Agreement between the Department and the Agency.

The Agency as the “subrecipient” shall comply with the following requirements:

1. **Conformance with Enabling Legislation.** This Agreement is in conformance with Section 5311(f) of the Federal Transit Act of 1991, as amended (49 U.S.C. app. § 5311(f)) and Section 341.051(1)(a), F.S.
2. **Prevention Programs.** The Section 5311(f) subrecipient shall establish and implement anti-drug and alcohol misuse prevention programs in accordance with the terms of 49 CFR 655, 49 U.S.C. 5331, and 49 CFR 40.
3. **Adherence to Certifications and Assurances.** The Section 5311(f) subrecipient shall ensure adherence with all federally required certifications and assurances made in its application to the Department for Section 5311(f) funds.
4. **FTA Compliance.** The Section 5311(f) subrecipient shall at all times comply with all applicable Federal Transit Administration (“FTA”) regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the Department and FTA, as they may be amended or promulgated from time to time during the term of this contract. Failure to comply shall constitute a material breach of this contract.
5. **Civil Rights Act.** The 5311(f) subrecipient, in accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. 2000e, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. 12132, and Federal transit law at 49 U.S.C. 5332, agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the 5311(f) subrecipient agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
6. **Third-Party Contracts.** The 5311(f) subrecipient agrees to provide all third-party contract agreements to the Department for review prior to entering into the agreement. The procurement package will include the checklist provided in the Department’s “Procurement Guidance for Transit Agencies.”
7. **Charter Operation.** The Section 5311(f) subrecipient agrees to comply with 49 U.S.C. 5323(d)(r) and 49 CFR 604, which provide that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 CFR 604.9. Any charter service provided under one of the exceptions must be “incidental,” i.e., it must not interfere with or detract from the provision of mass transportation.
8. **Exclusive Operation** Pursuant to 49 U.S.C. 5323(f) and 49 CFR 605, the Section 5311(f) subrecipient of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, subrecipients may not use federally funded equipment, vehicles, or facilities.
9. **Disadvantaged Business Enterprises (DBE).** This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of*

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*Transportation Financial Assistance Programs.* The 5311(f) subrecipient must complete biannual DBE reports and submit them to the Department by May 1 and November 1 annually.

- 10. Buy America.** The Section 5311(f) subrecipient agrees to comply with Buy America requirements outlined in 49 U.S.C. 5323(j) and 49 CFR 661, as it relates to the use of steel, iron, and manufactured products produced in the United States. They must include the appropriate Buy America certifications in all procurements. Sample language can be found in the Department's "Procurement Guidance for Transit Agencies."
- 11. Water Pollution Control.** The Section 5311(f) subrecipient agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, codified at 33 U.S.C. 1251 et seq., as amended, if the agreement exceeds \$150,000.
- 12. Anti-Lobbying.** The Section 5311(f) subrecipient agrees to comply with the requirements pursuant to Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352(b)(5) and 49 CFR 20, Appendix A, Section 7. Sample language can be found in the Department's "Procurement Guidance for Transit Agencies."
- 13. Bonding Requirements.** If this Agreement is for a construction project over \$100,000 the recipient must adhere to FTA's bonding requirements as outlined in the Best Practices Procurement Manual. Sample language can be found in the Department's "Procurement Guidance for Transit Agencies."
- 14. Clean Air Act.** The 5311(f) subrecipient agrees to comply with applicable standards, orders or regulations issued pursuant to the Clean Air Act, 42 U.S.C. 7401 et seq., as amended, if this Agreement exceeds \$150,000.
- 15. Resource Conservation and Recovery Act (RCRA).** The 5311(f) subrecipient agrees to comply with all the requirement of Section 6002 of the Resource Conservation and Recovery Act (RCRA), 49 U.S.C. 6962, as amended, including but not limited to the regulatory provisions of 40 CFR 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR 247. Sample language can be found in the Department's "Procurement Guidance for Transit Agencies."
- 16. Davis-Bacon and Copeland Anti-kickback.** The 5311(f) subrecipient agrees to comply with the Davis-Bacon and Copeland Anti-kickback Acts as codified at 40 U.S.C. 3141 et seq. and 18 U.S.C. 874 for any agreement exceeding \$2,000. Sample language can be found in the Department's "Procurement Guidance for Transit Agencies."
- 17. Contract Work Hours and Safety Standards.** For any contract over \$2,000, the 5311(f) subrecipient agrees to comply with the Contract Work Hours and Safety Standards Act, codified at 40 U.S.C. 3701 et seq. Sample language can be found in the Department's "Procurement Guidance for Transit Agencies."
- 18. Breaches and Dispute Resolution.** The 5311(f) subrecipient agrees to include "Breaches and Dispute Resolution" language in all third-party agreements in compliance with 2 CFR 200 and FTA Circular 4220.1E or subsequent revisions.
- 19. Transit Employee Protective Agreements.** The 5311(f) subrecipient agrees to comply with the Transit Employee Protective Agreements as codified in 49 U.S.C. 5333(13(c)) and 29 CFR 215.
- 20. Compliance with FTA Terms and Conditions.** The 5311(f) subrecipient shall not perform any act, fail to perform any act, or refuse to comply with any Department requests which would cause the 5311(f) subrecipient to be in violation of the FTA terms and conditions.

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- 21. Project Management Plan.** The 5311(f) subrecipient agrees to develop a project management plan that details their strategies to control the Project scope, budget, schedule and quality, in compliance with 49 CFR 633.
- 22. Seismic Safety.** The 5311(f) subrecipient is responsible for determining before accepting delivery that the building complies with the seismic design and construction requirements in accordance with Executive Order No. 12699, "Seismic Safety of Federal and Federally-Assisted or Regulated New Building Construction" and comply with implementing U.S. DOT regulations, "Seismic Safety," 49 CFR 41.
- 23. Review of Technical Plans and Specifications.** The 5311(f) subrecipient agrees to permit FTA and/or the State to review, as deemed necessary by FTA and/or the State, the technical plans and specifications.
- 24. Engineering Supervision at Construction Sites.** The 5311(f) subrecipient agrees to provide and maintain competent and adequate engineering supervision at the construction site to ensure that the completed work conforms to the plans and specifications and that the intent of the scope of the Project is carried out.
- 25. Progress Reports, Data and Information.** The 5311(f) subrecipient agrees to provide progress reports and other data and information that may be required by FTA or the State.

*-- End of Exhibit E --*