

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
**PUBLIC TRANSPORTATION
GRANT AGREEMENT EXHIBITS**

Form 725-000-02
STRATEGIC
DEVELOPMENT
OGC 02/20

**EXHIBIT E
PROGRAM SPECIFIC TERMS AND CONDITIONS – TRANSIT**

(Section 5339: Bus & Bus Facilities Formula Program)

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

1. **Conformance with Enabling Legislation.** This Agreement is in conformance with 49 U.S.C. 5339/MAP-21 Section 20029, 49 U.S.C. 5339, and Section 341.051(1)(a), F.S.
2. **Prevention Programs.** The Section 5339 subrecipient shall establish and implement anti-drug and alcohol misuse prevention programs in accordance with the terms of 49 CFR 655.
3. **Adherence to Certifications and Assurances.** The Section 5339 subrecipient shall ensure adherence with all federally required certifications and assurances made in its application to the Department for Section 5339 funds.
4. **Formula Information.** This program is authorized under 49 U.S.C. 5339/MAP-21 Section 20029, Federal Transit Administration Circular Bus and Bus Facilities and FTA Circular 9300.1A "Capital Program: Grant Application Instructions," November 1, 1998, as amended. Said circular, Chapter II, Section 3, outlines the formula for federal apportionments under this program. Section 5339 funds are apportioned to the states by a statutory formula based on the ratio of nonurbanized population of each state to the nonurbanized population of all the states, according to the latest available U.S. census data.
5. **Nonurbanized Population Formula.** The Department’s Central Transit Office and District offices, further sub-allocate the state’s federal apportionment of Section 5339 funds to eligible sub-recipients using the same nonurbanized population formula as the Federal Transit Administration, which is outlined in FDOT Procedure No. 752-030-004, Section 5311 Program.
6. **FTA Compliance.** This Agreement is in conformance with 49 U.S.C. Section 5339/MAP-21 20029 Federal Transit Administration Circular Bus and Bus Facilities as amended and Section 341.051(1) (a), F.S. The Section 5339 subrecipient shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Agreement between the FDOT and FTA, as they may be amended or promulgated from time to time during the term of this contract. Failure to so comply shall constitute a material breach of this contract.
7. **Nondiscrimination.** The Section 5339 subrecipient assures the project will be completed in accordance with all applicable requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR 21, and understands that this assurance extends to its entire facility and to facilities operated in connection with the project.
8. **Charter Operation.** The Section 5339 subrecipient agrees to comply with 49 U.S.C. 5323(d) 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.

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- 9. Exclusive Operation.** Pursuant to 69 U.S.C. 5323(f) and 49 CFR 605, the Section 5339 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.
- 10. Buy America.** The Section 5339 subrecipient agrees to comply with Buy America requirements outlined in 49 U.S.C. 5323(j) and 49 CFR 661 if using the funds granted under this agreement for rolling stock purchases. The recipient also agrees to comply with the pre-award and post-delivery requirements outlined in 49 CFR 661.12.
- 11. Water Pollution Control.** The Section 5339 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 \$100,000.
- 12. Anti-Lobbying.** The Section 5339 subrecipient agrees to comply with the requirements pursuant to Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352(b)(5).
- 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.
- 14. Clean Air Act.** The 5339 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 \$100,000.
- 15. Resource Conservation and Recovery Act (RCRA).** The 5339 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.
- 16. Davis-Bacon and Copeland Anti-kickback.** The 5339 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.
- 17. Contract Work Hours and Safety Standards.** For any contract over \$2,000 the 5339 subrecipient agrees to comply with the Contract Work Hours and Safety Standards Act, codified at 40 U.S.C. 3701 et seq.
- 18. Transit Employee Protective Agreements.** The 5339 subrecipient agrees to comply with the Transit Employee Protective Agreements, codified in 49 U.S.C. 5339 and 29 CFR 215.
- 19. Compliance with FTA Terms and Conditions.** The 5339 subrecipient shall not perform any act, fail to perform any act, or refuse to comply with any FDOT requests which would cause the 5339 subrecipient to be in violation of the FTA terms and conditions.
- 20. Annual Safety Certification.** In accordance with Section 341.061, F.S., and Rule 14-90, Florida Administrative Code, the Agency shall submit, and the Department shall have on file, an annual safety certification stating that the Agency has adopted and is complying with its adopted System Safety and Security Program Plan, and has performed annual safety inspections of all buses operated.

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- 21. Required Audit.** The Agency shall require the independent auditor, retained to perform the audit as required by the Office of Management (OMB) Circular A-133 and/or the Florida Single Audit Act, Section 215.97, F.S., to specifically test and certify that services funded by the program were provided in non-urbanized areas, that there was no restriction on public use, and that the State and Federal share of eligible costs did not exceed amounts specified in the approved project budget (Exhibit B).
- 22. Disadvantaged Business Enterprises (DBE).** This Agreement requires the recipient of Section 5339 funds ensure the Disadvantaged Business Enterprises maximum opportunity to compete for and perform contracts. Information on contracts utilizing 5339 funds must be submitted to the Department District Office every two years.
- 23. FTA Drug and Alcohol Regulation.** The direct recipient of Section 5339 funds is responsible for ensuring that any entity providing transportation services on its behalf is in compliance with the FTA Drug and Alcohol Program, codified at 49 C.F.R. Part 655. If a transit system serves only to pass through non-FTA funding to another transportation agency, the latter is not covered by the regulations. Those pass through funds must be clearly identified and distinct from other FTA funds.
- 24. First-Come, First-Served.** Section 5339 funded programs must provide service on a first-come, first-served basis to the general public. Prioritizing trips is not allowed.
- 25. Special Requirements.** Capital items purchased with these grant funds will require approval by the Department prior to completing your purchases.
- 26. Bus shelters and stops.** In keeping with the current policy of the Department, placement of bus shelters and stops are to be coordinated with the Department District Bicycle/Pedestrian Coordinator prior to installation.
- 27. Transit Vehicle Inventory Management.** The Agency will follow the Department's Transit Vehicle Inventory Management Procedure (725-030-025), which outlines the requirements for continuing management control, inventory transfer and disposal actions. This procedure pertains ONLY to capital procurements of rolling stock using the FTA Section 5310, Section 5311, Section 5316 or Section 5317 programs as the funding source, or where the Department participates in 50% or more of the public transit vehicle's purchase price. This may include vehicles purchased under the State Transit Block Grant Program, State Transit Corridor Program, State Transit Service Development Program, or other applicable Departmental programs.

-- **End of Exhibit E** --