# Idaho Transportation Department

# Public Transportation Office

# FTA 5339 Statewide

# Funding Agreement

# Agreement #: C2379KC

# Amendment: 01

**ITD Public Transportation Office**
**11331 W Chinden Boulevard, Building 8**
**Boise, ID 83714**
http://itd.idaho.gov/pt

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|---|---|
| Pass-Through Awarding Agency: | ITD – Public Transportation Office |
| Awarding Official: (Grants Officers)<br>Name:<br>Phone:<br><br>Email: | <br>Shauna Miller<br>208 334-8533<br><br>PTCapital@itd.idaho.gov |
| Term of Grant: | October 1, 2022 – September 30, 2027 |
| Agreement Total: | $475,000 |
| Funding Program: | FTA 5339 Statewide Bus & Bus Facilities Program |
| CFDA: | 20.526 |
| Federal Award Identification Number (FAIN): | ID-2023-010 |
| Agreement Number: | C2379KC |

| | |
|---|---|
| Subrecipient Organization Name: | Kootenai County |
| Subrecipient Director or Equivalent: | Chad Ingle |
| Subrecipient Address: | PO Box 9000, Coeur d'Alene, ID 83816 |
| Subrecipient Phone: | 208 446-2102 |
| Subrecipient E-mail: | cingle@kcgov.us |

**Scope of Work:**

Amendment 01:
No change to scope of work. Extending agreement end date to 09/30/2027.

Original Scope of Work:
Purchase five demand response buses.

**Responsible Individuals Signatures of Agreement**

This Agreement, together with the Attachments, and documents incorporated herein by reference, set forth the entire Agreement between the parties with respect to the subject matter. There are no understandings, agreements, amendments, or representations, oral or written, not specified herein.

Authorized Signature for Subrecipient:

| Name | Title | Phone | E-mail |
|---|---|---|---|
| | | | |
| Signature and Date: | | | |

| Name | Title | Phone | E-mail |
|---|---|---|---|
| Ron Duran | Public Transportation Manager | 208-334-4475 | Ron.Duran@itd.idaho.gov |
| Signature and Date: | | | |

# AGREEMENT CONDITIONS

**GRANT AGREEMENT BETWEEN THE IDAHO TRANSPORTATION DEPARTMENT**

**AND**

**KOOTENAI COUNTY**

This Agreement is between the **Idaho Transportation Department** (hereinafter called the STATE) and **Kootenai County** (hereinafter called the Subrecipient). The STATE and the Subrecipient are entering into this Agreement. This Agreement is effective when signed by both parties.

The 5339 Bus & Bus Facilities Infrastructure Investment Program (49 U.S.C. 5339) makes federal resources available to states and direct recipients to replace, rehabilitate and purchase buses and related equipment and to construct bus-related facilities including technological changes or innovations to modify low or no emission vehicles or facilities.

WHEREAS the Governor of the State of Idaho has designated the Idaho Transportation Department to administer this grant;

**The parties mutually agree as follows:**

1. **SCOPE OF WORK:** Purchase of 5 Demand Response Buses.
   **Assumption of Responsibility:** The Subrecipient agrees to assume all responsibility for this Project. The Subrecipient further agrees to abide by the appropriate mutual covenants, promises, and representations included in the Federal Transit Administration (FTA) Master Agreement, with special emphasis on the sections pertaining to the particular funding source.

2. **COMPLIANCE WITH LAWS AND REGULATIONS, FEDERAL CHANGES:** The Subrecipient agrees to comply with all applicable laws, regulations, and codes of the State of Idaho, the United States Government, and local governments. The 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 most current FTA Master Agreement included with, and incorporated into, this overall Grant Agreement, as they may be amended or promulgated from time to time during the term of this contract. Subrecipient's failure to comply shall constitute a material breach of this contract.
   https://www.transit.dot.gov/funding/grantee-resources/sample-fta-agreements/sample-fta-agreements

3. **SUBRECIPIENT CAPACITY:**
   A. **Subrecipient Legal, Financial, and Managerial Capacity:** The Subrecipient assures that it has the necessary legal, financial, and managerial capability to apply for, receive, and disburse FTA funds awarded in this grant agreement. The Subrecipient also assures that it will implement and manage this project and project funds in keeping with the intent and provisions of the Subrecipient's grant application and the grant agreement.

   B. **Subrecipient Legal Authority to Accept This Sub-Grant:** The Subrecipient certifies that it has the legal authority to accept grant funds for this project.

C. **Subrecipient Debarment/Suspension Certification**: the Subrecipient entity certifies, to the best of its knowledge and belief, that it and its principals:

i. are not currently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency, per the U.S. General Services Administration (GSA) monthly "Lists of Parties Excluded from Federal Procurement or Non-procurement Programs," available on the GSA web site:
http://www.sam.gov

ii. have not, within the past three years, been convicted of or had a civil judgment against them for: a criminal offense or fraud in connection with obtaining, attempting to obtain, or performing a Federal, state, or local public transaction; a violation of Federal or state antitrust statutes; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records; making false statements; or receiving stolen property;

iii. are not presently indicted for or otherwise criminally or civilly charged by any governmental entity with commission of any of the offenses listed in the paragraph above; and

iv. have not within the last three years had any Federal, state, or local public transaction terminated for cause or default.

If the Subrecipient later becomes aware of any information contradicting these Suspension/Debarment statements, it will promptly provide that to the State who will forward it to FTA.

If the Subrecipient cannot certify for all the Suspension/Debarment statements above, the Subrecipient shall so indicate in a transmittal letter or message of explanation, to be returned with the signed grant agreement (Per 49 CFR Part 29).

D. **Administrative and Accounting Systems:** The Subrecipient certifies it has or will establish a proper accounting system, per generally accepted accounting principles (GAAP) and any Federal or State directives. It further agrees to administer the project, retain all project records, and grant access to project records and personnel as specified in the applicable Federal Uniform Guidance (2 CFR 200).

**4. FEDERAL REQUIREMENTS**

**A. Buy America**

For purchases over $150,000, the Subrecipient agrees to comply with 49 CFR Parts 661 and 663, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. In regards to the purchase of vehicles, all materials and supplies purchased with these funds, will be manufactured in the United States and have:

FY 16 & FY17: more than 60% domestic content
FY18 & FY19: more than 65% domestic content
FY20 & beyond: more than 70% domestic content

The Subrecipient will provide the appropriate certification to verify this.
https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/Buy_America_Fact_Sheet.pdf

**B. Intelligent Transportation System (ITS) Architecture**: If this grant will be used to fully or partially fund acquisition of individual or systems of technologies that support ITS user services as defined in the "National ITS Architecture," the Subrecipient assures it will comply and require its contractors and its subrecipients to comply with all applicable requirements imposed by Section V Regional ITS Architecture and Section VI Project Implementation of the FTA National ITS Architecture Policy on Transit Projects to the extent required by FTA and the State.
http://www.ops.fhwa.dot.gov/its_arch_imp/policy.htm

**C. Charter Service Operations -** The Subrecipient agrees to only provide charter service with written consent from the STATE. If consent is given, the Subrecipient agrees to comply with 49 U.S.C. 5323(d) and 49 CFR Part 604, which provides 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 public transportation.
http://www.gpo.gov/fdsys/granule/CFR-2012-title49-vol7/CFR-2012-title49-vol7-part604/content-detail.html

**D. School Transportation:**

**i.** The Subrecipient assures that it will not engage in school bus operations exclusively for the transportation of students and school personnel, in competition with private school bus operators, per provisions of 49 CFR Part 605.
http://www.gpo.gov/fdsys/granule/CFR-2011-title49-vol7/CFR-2011-title49-vol7-part605

**ii.** If the Subrecipient is a public transportation system, it may provide "School Tripper Service" that is regularly scheduled public transportation service open to the public but designed or modified to accommodate the needs of school students and personnel (must be open to the public, must serve regular transit stops, and must be shown on transit route schedules and maps) and schools signs may NOT be displayed on the vehicle.

**E. Clean Water**

**i.** The Subrecipient agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Subrecipient agrees to report each violation to the State, and understands, and agrees that the State will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

**ii.** The Subrecipient also agrees to include these requirements in each subcontract exceeding $100,000 financed in whole or in part with Federal assistance provided by FTA.
https://one.nhtsa.gov/nhtsa/whatsup/tea21/grantman/html/03_dotcomrul_49cfr18.html

**F. Clean Air**

**i.** The Subrecipient agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Subrecipient agrees to report each violation to the State and understands and agrees that the State will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

**ii.** The Subrecipient also agrees to include these requirements in each subcontract exceeding $100,000 financed in whole or in part with Federal assistance provided by FTA.
https://one.nhtsa.gov/nhtsa/whatsup/tea21/grantman/html/03_dotcomrul_49cfr18.html

**G. Lobbying Prohibition:** None of the funds paid under this agreement shall be used for the purpose of lobbying activities before the Idaho State Legislature or the U.S. Congress.

If this grant is $100,000 or more:

**i.** the Subrecipient *certifies* that it has not and will not use Federal appropriated funds to pay for influencing or attempting to influence an officer or employee of any Federal department or agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal grant, cooperative agreement, or any other Federal award.

**ii.** the Subrecipient assures that it will require its contractors and subcontractors each to report use of non-Federal funds for any of the lobbying activities for which use of Federal funds is prohibited, at the end of each calendar quarter on Federal Standard Form LLL (49 CFR Part 20), and that the Subrecipient will forward all these forms to the State.
http://www.gpo.gov/fdsys/pkg/CFR-2006-title49-vol1/content-detail.html

**H. Nondiscrimination Requirements:** The Subrecipient assures that no person in the United States will, on the basis of race, color, national origin, creed, sex, or age be excluded from participating in, denied the benefits of, or otherwise be subject to discrimination in any program or activity (particularly in the level and quality of transportation services and transportation-related benefits) for which the Subrecipient receives Federal assistance from FTA or USDOT. The Subrecipient agrees to comply with all requirements of US DOT Civil Rights Act implementing regulations (49 CFR 21), and the Title VI Program Guidelines for Federal Transit Administration Recipients (FTA Circular 4702.1) and other applicable nondiscrimination directives.
https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/FTA_Title_VI_FINAL.pdf

**i.** Per 49 USC 5332 (prohibits discrimination on the basis of race, color, creed, national origin, sex, or age, and in employment or business opportunity), Title VI of the Civil Rights Act of 1964 as amended, USDOT implementing regulations (49 CFR 21), 42 USC 2000d (prohibition against exclusion from participation in, denial of benefits of, and discrimination under federally assisted programs on ground of race, color, or national origin)

**ii.** The Subrecipient assures that project and project facility operations, as well as property acquisitions, will be in accordance with the civil rights requirements and understands that this assurance extends to its entire facility, to all facilities operated in connection with this project, and to property acquisitions. The Subrecipient assures:

1. Its FTA-assisted benefits and related services are made available and are equitably distributed without regard to race, color, creed, national origin, sex, age, or disability;

2. The level and quality of its FTA-assisted transit services are sufficient to provide equal access and mobility for any person without regard to race, color, creed, national origin, sex, or age;

3. Opportunities to participate in the transit planning and decision making processes are provided to persons without regard to race, color, creed, national origin, sex, or age;

4. Decisions on the location of transit services and facilities are made without regard to race, color, creed, national origin, sex, or age;

5. Corrective and remedial action is taken to prevent discriminatory treatment of any user of services based on race, color, creed, national origin, sex, or age;

6. Any contracts or sub agreements fully or partly funded through this project will contain language to extend civil rights assurances to contractors and subcontractors; and the Subrecipient will also include such language in any deeds and documents which record the transfer of real property, structures, and improvements.

**I. Nondiscrimination on the Basis of Disability:** The Subrecipient assures that no person with a disability shall be, by reason of that disability, excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in any program or activity receiving or benefiting from Federal assistance. The Subrecipient assures it will comply with 49 CFR Parts 27, 37, 38, and 39, which implement the Americans with Disabilities Act (ADA) and amend Section 504 of Rehabilitation Act of 1973. The Subrecipient understands that it also has responsibilities under ADA in the areas of employment, public accommodations, and telecommunications.
http://www.gpo.gov/fdsys/pkg/CFR-2006-title49-vol1/content-detail.html#1000

The Subrecipient assures that any vehicle purchased or acquired through this project will be ADA accessible, except as exempted in by the State. If the Subrecipient is awarded funds to purchase a non-ADA vehicle for use in demand responsive service, the Subrecipient assures that this demand responsive service provides or will provide equivalent service to disabled persons that meet ADA requirements in keeping with 49 CFR 37.

The Subrecipient assures that *all* new or renovated facilities to be used for the provision of public transportation services will be ADA accessible, including facilities such as maintenance facilities, garages, building access facilities (sidewalks need curb cuts), etc.
http://www.gpo.gov/fdsys/pkg/CFR-2007-title28-vol1/content-detail.html

The Subrecipient assures that any construction contract funded through this project will include ADA requirements.

**J. Equal Employment Opportunities (EEO):** The Subrecipient assures it will:
Treat employees or job applicants fairly, without regard to race, color, creed, national origin, sex, age, or disability;

Take affirmative action to ensure job applicants are employed and employees are treated without regard to race, color, creed, national origin, sex, or age (such action includes but is not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship);

Post notices setting forth agency EEO policy in conspicuous places and make these available to employees and job applicants;

Assure that any contracts or sub-agreements fully or partly funded through this project will contain language to extend EEO assurances to contractors and subcontractors.

If the Subrecipient received $1,000,000 or more of Federal assistance in the previous Federal fiscal year and had 50 or more public-transit-related employees, it agrees to submit to the State an EEO program, which meets FTA requirements.

**K. Discrimination Complaints:** The Subrecipient assures that it will notify the public that complaints of discrimination in the provision of transportation or transportation-related services or benefits may be filed with the State, FTA, or USDOT. The Subrecipient assures it will promptly report to the State any civil rights complaints it receives.

**L. Disadvantaged Business Enterprises (DBE):** The Subrecipient assures Disadvantaged Business Enterprises will have the maximum opportunity to compete for and perform contracts and subcontracts financed under this project, as specified in 49 CFR 26 and per the following:

**i.** If the Subrecipient will purchase one or more transit vehicles (excluding unmodified mass-produced vans or unmodified pop-top vans), it assures that it will obtain from each transit vehicle manufacturer a TVM certification, to show that the manufacturer complies with DBE requirements.

**ii.** The Subrecipient is subject to the State's DBE program filed with the Federal Highway Administration and the State's annual DBE goal with FTA. Additionally, the Subrecipient will report its DBE activity and results to the State semi-annually every year of the Subrecipient agreement.
https://itd.idaho.gov/civilrights/

**iii.** The Subrecipient assures it will not discriminate on the basis of race, religion, color, gender, age, marital status, ability, or national origin in implementation of the project, in award or performance of any third-party contract or sub-agreement supported with this grant, or in administration of its DBE program and 49 CFR 26. If the State receives a complaint regarding discrimination by the Subrecipient, the Subrecipient will cooperate fully in the investigation of the complaint by the State.
http://www.gpo.gov/fdsys/pkg/CFR-2006-title49-vol1/content-detail.html

Technical assistance pertaining to DBE is available at the following link or at (208)-334-8567.
https://itd.idaho.gov/civilrights/

**M. Audits:** The Subrecipient certifies that it will be audited annually as required by the Federal Single Audit Act Amendments of 1996 (per 2 CFR 200 ). The Subrecipient recognizes FTA's, USDOT's, and the State's authority to monitor project activities, to conduct reviews and inspections, and to conduct additional audits in keeping with 2 CFR 200, to verify compliance with grant requirements and assurances. The Subrecipient agrees to make the necessary records available to any of the above parties upon request.
https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/circulars/A133/2017/Compliance_Supplement_2017.pdf

**N. Commercial Driver's License (CDL)Requirement:** The Subrecipient, if not a recipient of Section 5311 funds, assures that if it operates a vehicle that requires a CDL, including a vehicle capable of transporting 16 or more persons (including the driver), will have a USDOT Federal Motor Carrier Safety Administration drug and alcohol testing program.
http://www.fmcsa.dot.gov/overview-drug-and-alcohol-rules

**O. Drug and Alcohol Testing:** If this grant is funded by either Section 5309, 5311, or 5339 the Subrecipient agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR Parts 40 and 655, produce any documentation necessary to establish its compliance with Parts 40 and 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, and ITD, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Parts 40 and 655 and review the testing process. The Subrecipient agrees further to submit the Management Information System (MIS) reports to the State annually, as requested by the State.
https://damis.dot.gov/Login/

**P. Employee Protections, Public Transportation Employee Protective Arrangements**: The Subrecipient agrees to comply with the applicable transit employee protective requirements as follows:

i. **Standard Public Transportation Employee Protective Arrangements -** If this grant is funded by either Section 5309 or Section 5316, to the extent that the Project involves public transportation operations and to the extent required by Federal law, the Subrecipient agrees to implement the Project in accordance with the terms and conditions that the U.S. Secretary of Labor has determined to be fair and equitable to protect the interests of any employees affected by the Project and that comply with the requirements of 49 U.S.C. § 5333(b), in accordance with U.S. DOL guidelines, "Section 5333(b), Federal Transit Law," 29 C.F.R. Part 215, and any amendments thereto. The Subrecipient agrees to implement the Project in accordance with the conditions stated in that U.S. DOL certification. That certification and any documents cited therein are incorporated by reference and made part of the Grant Agreement for the Project.

ii. **Public Transportation Employee Protective Arrangements for Projects in Non-urbanized Areas Authorized by 49 U.S.C. § 5311** - The Subrecipient agrees to comply with the terms and conditions of the Special Warranty for the Non-urbanized Area Program that is most current as of the date of execution of the Grant Agreement for the Project, and any alternative comparable arrangements specified by U.S. DOL for application to the Recipient's project, in accordance with U.S. DOL guidelines, "Section 5333(b), Federal Transit Law," 29 C.F.R. Part 215, and any revisions thereto.

**Q. Incorporation of Federal Transit Administration (FTA) Terms** - The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1 are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Subrecipient shall not perform any act, fail to perform any act, or refuse to comply with any requests which would cause the State to be in violation of the FTA terms and conditions. https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/third-party-contracting-guidance

**R. Conflicts of Interest Prohibited:** The Subrecipient certifies that it will establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of personal or organizational conflict of interest or of being motivated by desires for personal gain for themselves or others, particularly those with whom they have family, business, or other ties.

**5. STATE REQUIREMENTS:**

**A. Indemnification and Insurance:** In this section, "Subrecipient" includes the Subrecipient's employees, agents, and contractors.

The Subrecipient agrees to indemnify, hold harmless, and defend the State of Idaho, its officers, agents, and employees from and against any claim of or liability for error, omission, or negligent act of the Subrecipient arising out of the Subrecipient's assumption of the responsibilities for the Project set forth in this agreement.

The Subrecipient is not required to indemnify the State of Idaho for a claim of or liability for the independent negligence of the State. If there is a claim or liability for joint negligent error or omission of the ¬Subrecipient and the independent negligence of the State, the indemnification and hold harmless obligation shall be apportioned on a comparative fault basis. The term "independent negligence" is negligence other than in the State's selection, administration, monitoring, or controlling of the Subrecipient.

Nothing contained herein shall be deemed to constitute a waiver of the State's sovereign immunity, which immunity is hereby expressly reserved. Moreover, all of the rights, defenses, or protections provided in Idaho Code and or in the Idaho Administrative Procedural Rules are expressly reserved.

**B.** Independent Contractor Status

Unless otherwise expressly stated, vendors and/or non-state entities acting pursuant to this grant shall be that of an independent contractor and not that of an agent or employee of the state. Such parties shall be responsible for paying all employment-related taxes and benefits, such as federal and state income tax withholding, social security contributions, worker's compensation and unemployment insurance premiums, health and life insurance premiums, pension contributions and similar items. Furthermore, such parties shall indemnify the State and hold it harmless form any and all claims for taxes (including but not limited to social security taxes), penalties, attorneys' fees and costs that may be made or assessed against the State arising out of the party's failure to pay such taxes, fees or contributions.

The Subrecipient shall maintain the policies of insurance listed below, to cover losses that may be incurred as a result of the operation and maintenance of project vehicles and/or equipment throughout their period of required use or as a result of other activities under this agreement.

Where specific limits are shown, they shall be the minimum acceptable limits. If the Subrecipient's policy contains higher limits, the State shall be entitled to coverage to the extent of such higher limits.

i. **Automobile Liability**: ITD-PT imposes minimum insurance coverage of $500,000 on all transit vehicles procured with or rehabilitated with federal or state funds. Additionally, Sub-recipients must be in compliance with Federal Motor Carrier Safety Administration (FMCSA) insurance thresholds. The policy shall provide all damage arising out of personal injury to or destruction of property in any one occurrence on any revenue vehicle not covered by 49 CFR Part 387. Furthermore, ITD-PT subrecipients must be at all times in compliance with Idaho Administrative Rule 11.13.01.

The policy shall name the Idaho Transportation Department as "loss payee" of the property damage portion of the policy.

The Subrecipient shall provide *certificate of insurance to the State, annually* and at other times if requested. Each certificate must provide for a 30-day prior notice of cancellation, non-renewal, or material change of conditions.

The Subrecipient shall use any insurance proceeds relating to items purchased under this grant to repair or replace the covered item(s) that has been damaged, destroyed or stolen or; where specific items are not involved, to cover other liability related to this grant project. The title to any replacement vehicle must show the State of Idaho as lien holder.

**C. Performance Requirement:** The failure of the State to insist upon strict performance by the Subrecipient of any provision or covenant in this Agreement, in any one or more instances, may not be considered as a waiver or relinquishment of the provision or covenant for the future. The waiver by the State of any provision or covenant in this Agreement cannot be enforced or relied upon by the Subrecipient unless the waiver is in writing and signed on behalf of the State.

**6. TERMINATION PROVISIONS:**

**A. Failure to Perform:** If, through any cause, the Subrecipient shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if the Subrecipient shall violate any of the covenants, agreements or stipulations of this Agreement, and if after notification by the State of such failure or violation, the Subrecipient fails to take proper corrective action within a reasonable amount of time, the State shall have the right to terminate this Agreement by giving written notice to the Subrecipient of such termination and specifying the effective date thereof. Such notice shall be given at least 15 days before the effective date of such termination. In that event, all finished and unfinished documents, data, studies, surveys, drawings, maps, models, photographs, reports, construction materials, and any construction completed by the Subrecipient under this Agreement shall, at the option of the State, become the State's property and the Subrecipient shall be entitled to receive just and equitable compensation for any satisfactory work completed. Failure to adhere to Project Schedule and any reporting requirements may be deemed by the State to be a "failure to perform" and may result in the loss of the award, at the option of the State.

**B. Convenience Termination:** If, due to changed circumstances, the State or the Subrecipient wishes to terminate this Agreement prior to its completion, the initiating party shall notify the other party in writing of its reasons for requesting the early termination. This request must be made at least 15 days prior to the proposed termination date. If both parties agree that it is in their mutual best interests to terminate this Agreement early, all finished or unfinished documents and other materials as described in the Failure to Perform paragraph above shall, at the option of the State, become the State's property. If the Agreement is terminated as provided herein, the Subrecipient shall be reimbursed for actual expenses not otherwise reimbursed under this Agreement which were incurred by the Subrecipient during the contract period and which are directly attributable to the Subrecipient's performance of this Agreement. The State shall also reimburse the Subrecipient for any costs properly incurred by the Subrecipient in honoring convenience termination clauses in its Agreements with its contractors as long as these clauses conform to the standard convenience termination clause used by the State for similar types of contracts.

**7. NONCOMPLIANCE; DISPUTES; REMEDIES**

**A. Recovery of Funds**: In the event of a default or violation of the terms of this Agreement, the State is entitled to recover all or part of the project funds paid to the Subrecipient. If Subrecipient does not promptly remit the funds in response to a demand, the State may collect the debt by:

- Making an administrative offset against payments that would be due under other grant awards or appropriations,
- Withholding advance payments that would otherwise be due,
- Instituting civil action, or
- Taking any other action permitted by law.

All remedies conferred on the State by this Agreement or any other instrument or agreement are cumulative, not exclusive, and may be exercised concurrently or consecutively at the State's option.

**B. Enforcement**: The State may take one or more actions in the event Subrecipient fails to comply with the terms of the award. Upon written notification explaining the basis of the action, the State may suspend the grant pending corrective action or terminate the grant. The State may impose conditions requiring correction of noncompliance or deficiency. If conditions are imposed, the State will inform Subrecipient of the conditions and corrective action sought, the reason for imposition, and the time allowed for completing corrective actions.

**C. Rights and Remedies:** The duties and obligations imposed by the Agreement and accompanying documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the State or Subrecipient shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach there under, except as may be specifically agreed in writing.

**8. GRANT REQUIREMENTS:**

**A. Billing Procedure and Reimbursements:** The Subrecipient agrees to formally request reimbursement by submitting to the State an itemized invoice(s) for allowable project costs. Each invoice shall clearly identify each cost being billed and shall be in a format acceptable to or specified by the State, with supporting documentation of cost and payment as required below, and other documentation as may be required by the State.

**B.** Requests for reimbursement must be submitted based on the following timeline:

| *Monthly Billing Schedule* | | |
|---|---|---|
| ***Billing Due By*** | **Period Beginning** | **Period Ending** |
| ***December 31*** | October 1 | October 31 |
| ***January 31*** | November 1 | November 30 |
| ***February 28*** | December 1 | December 31 |
| ***March 31*** | January 1 | January 31 |
| ***April 30*** | February 1 | February 28 |
| ***May 31*** | March 1 | March 31 |
| ***June 30*** | April 1 | April 30 |
| ***July 31*** | May 1 | May 31 |
| ***August 31*** | June 1 | June 30 |
| ***September 30*** | July 1 | July 31 |
| ***October 31*** | August 1 | August 31 |
| ***November 30*** | September 1 | September 30 |

Invoices for operating, vehicles, equipment, or facilities shall be accompanied by documentation of the formal obligations or expenses incurred, as well as the source of the match. Supporting documentation shall be copies of vendor invoices, unless alternate documentation accompanied by a viable written explanation is acceptable to the State. Supporting documentation must clearly tie to the itemized costs on the invoice (annotations to facilitate easy review are encouraged). For vehicles, other documents related to the vehicle purchase are also required prior to payments. Please reference the ITD Capital Site for the Vehicle Reimbursement Packet.
http://itd.idaho.gov/pt

The State reserves the right to mandate alternate or specialized billing procedures in any of the following instances:
- when a particular project is split-funded (includes grant funds from more than one source), or;
- when irregular documentation or special timing is needed by the State for some other reason.

Such alternate procedures may be issued separately, but will be provided to the Subrecipient in writing.

**Payments may be withheld if the quarterly report(s) have not been received as required.**

Final billing must be submitted within 60 days of the termination date listed on this grant agreement or as amended.

The State shall reimburse funds to meet formal obligations or expenses only with satisfactory documentation.

If required documentation is determined to be incomplete, incorrect, and/or in conflict with the scope of the project, the Subrecipient will be notified that payment of project funds is being withheld until the incomplete, incorrect, and/or conflicting items are resolved to the State's satisfaction.

C. **Local Match Available:** If this grant is for a vehicle(s) and/or equipment, the Subrecipient has or will have the required local cash match for the project by the time of delivery. If this grant is for other items, the local match will be met as grant funds are spent.

D. **Operating and Maintenance Funds Available:** The Subrecipient, by the time of vehicle and/or equipment delivery, will have or have guarantee of funds necessary to operate and maintain the project vehicle and/or equipment in safe, clean, and mechanically sound condition through the required period of performance (useful life). The State reserves the right to require transfer of the vehicle and/or equipment to another entity if the Subrecipient fails to meet this requirement.

E. **Indirect Costs:** If a federally approved indirect cost rate is negotiated between the subrecipient and the Federal government, this rate must be used. If no such rate exists, the subrecipient may either negotiate a rate with the pass-through entity and the subrecipient (in compliance with this part), or elect the de minimus indirect cost rate as defined in §200.414 Indirect (F&A) costs, paragraph (f), if eligible.

F. **Vehicle and Equipment Maintenance Requirements:** The Subrecipient agrees to develop a written maintenance program and assures that it assumes responsibility to maintain and operate the vehicles and/or equipment obtained under this project at a high level of cleanliness, safety, and mechanical soundness, following at a minimum, the original equipment manufacturers' (OEM) recommended maintenance and inspection procedures and schedules, for at least the useful life of each item, to retain warranties and meet life expectancy of the items. The Subrecipient further assures that it will maintain ADA accessibility features in good working order, removing vehicles with nonworking accessibility features from service and repairing them within 5 days. The Subrecipient agrees to document all maintenance completed and all maintenance expenditures. The State and FTA shall have the right to conduct periodic inspections for the purpose of confirming proper maintenance.

G. **Vehicle and Equipment Use and Disposition:** Use and disposition of project vehicles and equipment shall be subject to restrictions set forth by the State.

The Subrecipient assures that it will not lease or contract the operation of project vehicles without prior written approval from the State.

If a vehicle or equipment purchased with these funds can no longer meet project needs, the Subrecipient agrees to notify the State, indicate its condition, and follow the State's instructions.

H. **Reports:** The Subrecipient is required to submit quarterly reports in a format specified or provided by the State, per instructions provided by the State. The Subrecipient will certify the accuracy of each report.

I. A grantee must submit quarterly reports under the following schedule:

| Quarterly Schedule | | |
|---|---|---|
| Period Beginning | Period Ending | Report Due By |
| January 1 | March 31 | May 31 |
| April 1 | June 30 | August 31 |
| July 1 | September 30 | November 30 |
| October 1 | December 31 | February 28 |

**J. Capital Inventory and Agency Profile:** The Subrecipient agrees to participate fully in the inventory of publicly funded vehicles, transportation equipment, and transportation-related facilities and other transportation related data.

**K. Changes and Amendments:** The Subrecipient shall not execute any amendment or change order to this Agreement without the prior written concurrence of the State. This Agreement may only be modified or amended by a written agreement signed by both parties.

**L. Reimbursement of Grant Funds:** Within sixty (60) days of issuance of a final audit report to the State or, if no audit is required, then within sixty days after acceptance by the State that the Subrecipient has met the requirements of this grant agreement, the Subrecipient's remaining grant balance will return to the State.

**M. Travel Requirements:** Subrecipient must follow State of Idaho travel guidelines for reimbursement or your agency's travel rules, whichever is more restrictive.

**N. Program Fraud and False or Fraudulent Statements and Related Acts:** The Subrecipient certifies that any statement it has made, it makes, it may make, or causes to be made about this grant project is or will be true and accurate. Provision of untrue or inaccurate information may constitute fraud.

**9. ASSIGNMENT OF WORK TO THIRD PARTIES:**

**A. State Consent Required:** No portion of work to be performed under this agreement shall be assigned by the Subrecipient to any third party without written consent of the State.

**B. No Federal or State of Idaho Government Obligation to Third Parties:** The Subrecipient agrees that the Federal and State governments have no liability under this agreement. The Subrecipient assures that it will include language in any contract under this agreement that states the Federal and State governments have no liability under the contract and require the contractor to include language to this effect in any subcontract, except if the Subrecipient has specific written consent from the Federal and/or State governments that it/they will accept liability.

**C. Subcontracting Rules:** In the event the Subrecipient subcontracts any work covered by this Agreement, the Subrecipient shall require compliance by its subcontractors with applicable provisions, statutes or regulations governing their legal responsibilities in public contracts.

In addition, the Subrecipient shall require compliance with all Federal, State, and local laws and regulations and include required Federal clauses in contracts and purchase orders.

**10. Procurement Requirements**:

All procurements for contracted services (complementary paratransit, cabs, etc.) must go through a bidding process.

**A. Procurement System:**

**i. The Subrecipient,** assures it has or will establish a procurement system in compliance with FTA procurement requirements in FTA Circular 4220.1 third party contracting requirements as well as any other implementing requirements of Federal, State, or local government, including:

1. a five-year limitation on rolling stock;
2. requirement for full and open competition;
3. a prohibition against geographic preferences;
4. the use of Brooks Act procedures for procurement of architectural engineering services if the state has not adopted a statute governing procurement of such services; https://www.acec.org/advocacy/qbs/brooks2/
5. inclusion in its contracts all Federal clauses required by Federal laws, executive orders, or their implementing regulations, as required by FTA Circular 4220.1;
6. inclusion in its subcontracts and sub agreements all Federal clauses required by Federal laws, executive orders, or their implementing regulations, as required in FTA Circular 4220.1;
7. written protest procedures;
8. ethical standards of conduct;
9. use of appropriate procurement method. https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/Third%20Party%20Contracting%20Guidance%20%28Circular%204220.1F%29.pdf

**B. Required Provision in Procurement Notices:** The following required provision shall be included in any advertisement or invitation to bid for any procurement under this Agreement:

**Statement of Financial Assistance:** "Statement of Financial Assistance: This Procurement is subject to a financial assistance grant agreement between the State of Idaho and the U.S. Department of Transportation."

**C. Procurement Requirements**: Subrecipient will follow the following procurement guidelines:

Subrecipients are subject to their own procurement policies, and IDAPA Title 38 when applicable. If not applicable at a **MINIMUM** FEDERAL thresholds issued in OMB issued memorandum OM-18-18 must be followed. Note: Circulars may not be updated to reflect the new procurement thresholds issued by OMB through OM-18-18.

**D. Bus and Van Testing:** The Subrecipient will comply with FTA bus testing requirements applicable to heavy-duty large and small buses; medium-duty buses; light-duty mid-size buses; and light-duty small buses, cutaways, or modified vans (does not apply to unmodified mass-produced vans). If testing is not required, the Subrecipient will instead obtain the manufacturer's certification that the vehicle is exempt from FTA bus testing requirements and also obtain a list of recent purchasers of the vehicle (with contact information), to aid evaluation prior to vendor selection. http://www.gpo.gov/fdsys/pkg/CFR-2005-title49-vol1/content-detail.html

**i.** For Equipment Purchases - The Subrecipient will provide the same equipment specifications to each prospective vendor and seek at least three bids or price quotes. The Subrecipient will submit price quotes or bids received to the State with its preferred vendor selection noted, for State approval to purchase. For more information see FTA Best Practices Procurement Manual, https://www.transit.dot.gov/funding/procurement/third-party-procurement/best-practices-procurement-manual

**E. Pre-Award and Post-Delivery Review of New Vehicles:** The Subrecipient assures it will conduct a pre-award and/or post-delivery reviews for all new vehicles purchased under this project, as specified below. The Subrecipient assures it will conduct these reviews per the formats and instructions provided by the State. Pre-Award Reviews must be submitted to the State for approval

**F. Vehicle Identification Numbers to State:** The Subrecipient will provide each vehicle's identification number (VIN) to the State with the first payment invoice for the particular vehicle.

**G. Titles to Vehicles/Equipment & Liens:**

**i.** Title to Project equipment other than vehicles shall rest with the Subrecipient.

**ii.** The Subrecipient hereby agrees that the State of Idaho is lien holder for each vehicle purchased under this Project. The Subrecipient shall arrange with the Idaho Division of Motor Vehicles (DMV) to issue the certificate of title in the name of the Subrecipient with the State of Idaho Transportation Department as lien holder. The Subrecipient shall arrange with DMV to send the original title to the State's Public Transportation Office for this project.

**iii.** The State will hold a lien on the title of any vehicle purchased under this project. The Subrecipient may request a clear title after the vehicle reaches its useful life.

The Subrecipient gives the State Power of Attorney limited to applying for a Vehicle Title from the Idaho Division of Motor Vehicles and to requesting the Idaho Division of Motor Vehicles remove the State's lien from the vehicle title.

## CERTIFICATION REGARDING FEDERAL LOBBYING:

**Certification for Contracts, Grants, Loans, and Cooperative Agreements:**

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-award at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all Subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

## RESTRICTION ON STATE LOBBYING

None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with FTA and/or State general funds as it pertains to this agreement from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

**Authorized Signature for Subrecipient:**

| Name | Title | Phone | E-mail |
|---|---|---|---|
| | | | |
| Signature and Date: | | | |