

**VEHICLE LEASE AGREEMENT
BETWEEN THE SAN DIEGO ASSOCIATION OF GOVERNMENTS,
INSERT SUBRECIPIENT NAME, AND INSERT THIRD-PARTY CONTRACTOR NAME IF
APPLICABLE**

SANDAG CONTRACT NO. INSERT NUMBER

This Vehicle Lease Agreement (LEASE) is effective as of the last signature shown on the signature page of the LEASE entered into, by and between the SAN DIEGO ASSOCIATION OF GOVERNMENTS, hereinafter referred to as SANDAG, and **Insert Subrecipient Name**, hereinafter referred to as SUBRECIPIENT and **Insert Third-Party Contractor Name If Applicable**, hereinafter “third-party contractor” (collectively, the “parties”).

RECITALS

- A.** SANDAG is a designated recipient for Federal Transit Administration (FTA) public transportation funding in the San Diego region and has been given responsibility for allocating FTA Section 5310 funds under Moving Ahead for Progress in the 21st Century Act (MAP-21) and Fixing America’s Surface Transportation Act (FAST Act); and
- B.** SUBRECIPIENT has been selected to receive Section 5310 funds under a concurrently executed Fund Transfer Agreement with SANDAG (AGREEMENT), which also is referenced as SANDAG Contract No. **Insert Number of Corresponding AGREEMENT**. SUBRECIPIENT applied to use the funding provided under the AGREEMENT to acquire **Insert Quantity Insert Vehicle Description** (“Vehicle[s]”) for the purpose of transporting senior and/or disabled passengers, and for such other uses as permitted by FTA for use of Section 5310 funds; and
- C.** The Vehicle(s) are further described in the Vehicle Schedule(s) associated with the AGREEMENT described above, and each such Schedule will be completed upon delivery of the subject Vehicle(s); and
- D.** As the FTA designated recipient for the San Diego region, SANDAG will retain continuing control of Vehicle(s) purchased for use by SUBRECIPIENT if FTA grant funds are used to procure Vehicle(s); and
- E.** If applicable, SUBRECIPIENT will either select a third-party contractor(s), or already has an agreement with a third-party contractor(s), to operate the Vehicle(s) described in the Vehicle Schedule(s) and in accordance with this LEASE; and
- F.** Any selection of a third-party contractor(s) during this term of this LEASE must be accomplished utilizing a competitive procurement method and must be consistent with FTA procurement requirements and the third-party contracting requirements specified in the AGREEMENT; and
- G.** SUBRECIPIENT and/or its third-party contractor(s) agrees to operate Vehicle(s) in accordance with this LEASE and accepts responsibilities associated with that operation via this lease arrangement; and
- H.** SUBRECIPIENT agrees that a default under this LEASE is a default under the AGREEMENT with SANDAG and vice versa.

In consideration of the above recitals, which are contractually binding, and the obligations set forth herein, SANDAG and SUBRECIPIENT agree as follows:

I. ACQUISITION, TRANSFER, AND LEASE

- A. Whenever SUBRECIPIENT requires the purchase of Vehicle(s), SUBRECIPIENT shall notify SANDAG and SANDAG will proceed with the procurement as described in this Section titled Acquisition, Transfer, and Lease.
- B. After receiving SUBRECIPIENT's specifications for Vehicle(s) as well as the non-refundable matching fund contribution for the cost of Vehicle(s), SANDAG shall procure Vehicle(s) in compliance with applicable federal, state, and local procurement requirements and enter into a contract or purchase order with the vehicle manufacturer for the purchase of Vehicle(s).
- C. SUBRECIPIENT shall provide SANDAG with any SUBRECIPIENT information reasonably requested by SANDAG which is necessary to complete the vehicle procurement process.
- D. For the purchase of revenue service rolling stock with FTA funds, SANDAG will ensure that a post-delivery audit is complete before the rolling stock is transferred to the SUBRECIPIENT (49 CFR 663.31), unless there is a current waiver of Buy America requirements by FTA.

1. Post-Delivery Buy America Certification

SANDAG will keep a Buy America compliance certification on file for all revenue service rolling stock paid for with FTA funds. If there is no applicable waiver of the Buy America requirements (Section 49 CFR 661.7), SANDAG will certify that the rolling stock received meets Buy America requirements of 49 CFR 661.5 and 661.11, by reviewing for itself or by means of an audit prepared by someone other than the manufacturer or its agent, documentation provided by the manufacturer that lists:

- a. Components and subcomponent parts of the rolling stock identified by manufacturer of the parts, their country of origin and costs; and
- b. The actual location of the final assembly point for the rolling stock including a description of the activities which took place at the final assembly point and the cost of the final assembly.

2. Post-delivery Purchaser's Requirements Certification

SANDAG will be responsible for ensuring the completion of the Purchaser's Requirements Certification as required under 49 CFR 663.37.

- a. Except for procurements covered under 49 CFR 663.37(a), a resident inspector (other than an agent or employee of the manufacturer) must be present at the manufacturing site throughout the period of manufacture of the rolling stock to be purchased and monitored. Upon completion of manufacture, the resident inspector will complete a report that includes, at a minimum, accurate records of all vehicle construction activities and addresses how the construction and operation of the vehicles fulfills the contract specifications.
- b. Prior to acceptance of the Vehicle(s), the SUBRECIPIENT shall be responsible for the completion of a visual inspection and road test to ensure that the Vehicle(s) meet the specifications, match the contract or purchase order, and are road worthy. SUBRECIPIENT shall submit to SANDAG a visual inspection report, in a form provided by SANDAG, and documentation of the road test for the project files.

- c. Upon receipt of the visual inspection report certifying that the Vehicle(s) meet all specifications, SANDAG will act as approved signatory on the post-delivery Purchaser's Requirements Certification.
3. Post-Delivery Federal Motor Vehicle Safety Standards Compliance Certification

SANDAG will complete and have on file the Federal Motor Vehicle Safety Standards Compliance Certification information as described in 49 CFR 663.41 and 663.43, unless the vehicle(s) is/are exempt from this requirement.
- E. SUBRECIPIENT is responsible for picking up and/or receiving delivery of Vehicle(s). SUBRECIPIENT will notify SANDAG in writing when the Vehicle(s) is/are scheduled for delivery to SUBRECIPIENT.
- F. Effective upon the delivery of Vehicle(s), SANDAG shall:
 1. Provide documentation of any and all warranties related thereto to SUBRECIPIENT;
 2. Lease Vehicle(s) to SUBRECIPIENT on the terms set forth herein; and
 3. Maintain a security interest in the Vehicle(s) and retain satisfactory continuing control as prescribed by FTA. SANDAG will hold title to Vehicle(s), showing SUBRECIPIENT as the registered owner and SANDAG as the registered lien holder on the Vehicle registration(s).
- G. If SUBRECIPIENT selects a third-party contractor(s), changes third-party contractor(s) at any time during the LEASE term, or already has an agreement with a third-party contractor(s), to operate the Vehicle(s) described in the Vehicle Schedule(s), such agreement shall require compliance with applicable provisions of this LEASE and SUBRECIPIENT shall seek advance approval from SANDAG for such agreement.

II. LEASE TERM

The LEASE term will be the period that such Vehicle(s) are retained in service prior to a SANDAG- or FTA- authorized disposition in accordance with useful-life standards as set forth in FTA Circular 5010.1E, as amended. The lease fee shall be one dollar per year, payable annually in arrears. Subject to the provisions of the Section 3 entitled Lease Term, SUBRECIPIENT shall be responsible at its sole cost for all normal maintenance and upkeep, insurance, taxes, and registration fees related to Vehicle(s) during the lease term. SUBRECIPIENT and its third-party contractor shall submit certificates of insurance coverage to SANDAG that comply with the terms of the AGREEMENT at SANDAG's request.

III. FEDERAL REQUIREMENTS

SUBRECIPIENT and SANDAG recognize that many federal requirements apply to rolling stock procurements utilizing federal funds. Certain of those federal requirements will remain the responsibility of SANDAG throughout the term of the LEASE of Vehicle(s) to SUBRECIPIENT. Other requirements will flow through to SUBRECIPIENT. The following generally summarizes those requirements and the parties responsible for compliance with them.

A. Satisfactory Continuing Control

SANDAG shall at all times maintain control over real property, facilities, and equipment and ensure that they are used for the purpose it was acquired as long as needed, whether or not the program project continues to be supported by federal funds (FTA Circular 5010.1E). SANDAG exercises continuing control demonstrated by SANDAG oversight of the SUBRECIPIENT and its use of the federally-funded property which is described in the provisions of the AGREEMENT and this LEASE.

B. Compliance with Competitive Procurement Requirements

SANDAG shall procure Vehicle(s) in compliance with all federal requirements for competitive procurement. SUBRECIPIENT shall select Vehicle(s) from the list of vehicles available through the CalACT/MBTA Vehicle Purchasing Cooperative. SUBRECIPIENT shall develop appropriate plans and specifications for Vehicle(s) to meet SUBRECIPIENT's needs from the vehicle manufacturers available through the CalACT/MBTA Vehicle Purchasing Cooperative. SANDAG shall not be responsible for errors in plans or specifications provided by SUBRECIPIENT.

C. Notification of Changed Conditions

SANDAG is obligated to notify the federal government of any change in conditions, including changes in local law, claims, or litigation that would affect use of Vehicle(s). SUBRECIPIENT agrees that, in the event such circumstances occur, it will notify SANDAG within five calendar days. The parties agree to meet and confer in good faith to ensure the continued use of Vehicle(s) for the purposes intended.

D. Drug and Alcohol Testing

SUBRECIPIENT and its third-party contractor agrees to provide drug and alcohol testing of all its drivers as required under Federal law. SUBRECIPIENTS receiving only Section 5310 program assistance are not subject to FTA's drug and alcohol testing rules, but must comply with the Federal Motor Carrier Safety Administration (FMCSA) rule for all employees who hold commercial driver's licenses (49 CFR 382). Section 5310 recipients and subrecipients that also receive funding under one of the covered FTA programs (Section 5307, 5309, or 5311) should include any employees funded under Section 5310 projects in their testing program.

E. Equipment Management and Maintenance

SANDAG and SUBRECIPIENT agree that SUBRECIPIENT shall maintain Vehicle(s) in good operating order. If a Vehicle under this LEASE is not in good operating order for more than three working days, SUBRECIPIENT shall immediately notify SANDAG and shall not use the Vehicle for AGREEMENT purposes until repairs are installed and the Vehicle is safe and mechanically sound. SUBRECIPIENT also agrees to submit to SANDAG all maintenance records with quarterly reports.

F. Maintenance Inspections

SUBRECIPIENT shall maintain, or cause to be maintained, the Vehicle(s) at a high level of cleanliness, safety, and mechanical soundness under maintenance procedures currently in effect for any SUBRECIPIENT-owned Vehicle(s). SANDAG and the FTA shall have the right to conduct periodic maintenance inspections for the purpose of confirming the existence, condition, and proper maintenance of Vehicle(s).

G. Insurance

SUBRECIPIENT shall maintain, and cause its third-party contractors to maintain, sufficient insurance as required under the AGREEMENT to cover all casualty losses and ensure the repair or replacement of federally-funded property, including Vehicle(s). In the event Vehicle(s) is/are not replaced or repaired, SUBRECIPIENT agrees to transfer any insurance proceeds received to SANDAG for remitting the federal share to the FTA.

H. Records

SUBRECIPIENT shall maintain full and accurate copies of records of costs expended with regard to all matters covered by this LEASE. All such material and data shall be retained for five years from

date of the Vehicles' disposition, replacement or transfer at FTA's direction. If any litigation, claim, negotiation, audit, or other action involving the records has been initiated before the expiration of the retention period, the records must be maintained for the longer of three years after completion of the action and resolution of all issues that arise from it or the time remaining in the original retention period.

SUBRECIPIENT shall provide Vehicle records to SANDAG for the project files as soon as available. Records shall include but not be limited to the following information: description of Vehicle, identification number, date of acquisition, cost, federal percentage of cost, grant number, location, use and condition, useful-life, the registered owner's (SUBRECIPIENT) and lienholder's (SANDAG) names. Any disposition data in SUBRECIPIENT's possession also shall be provided for inclusion in project files. Disposition data shall include but not be limited to information on method used to determine fair market value of Vehicle(s), date of disposal, and sale price of Vehicle(s) as applicable at the end of the useful life.

I. Useful Life

SANDAG and SUBRECIPIENT agree to comply with the FTA's requirements for buses and certain other vehicles' useful life requirements as described in FTA Circular 5010.1E, Chapter IV, as amended. Useful life of rolling stock begins on the date the vehicle is placed in revenue service and continues until it is removed from service. Minimum useful life for buses and light-duty vehicles is determined by years in service or accumulation of miles, whichever comes first. FTA defines the minimum useful life as follows:

Light Duty Vehicle (Minivan)	At least 4 years or 100,000 miles
Medium-size, light-duty transit bus (approx. 25'-35')	At least 5 years or 150,000 miles
Medium-size, medium-duty transit bus (approx. 25'-35')	At least 7 years or 200,000 miles

IV. VEHICLE DISPOSITION

- A.** SUBRECIPIENT will notify SANDAG in writing within five calendar days when the Vehicle(s) is removed from service and will not dispose of, transfer, sell, exchange and/or sublease Vehicle(s) provided under this LEASE without the prior written approval of SANDAG.
- B.** At the end of the minimum useful life of the Vehicle(s) SUBRECIPIENT shall notify SANDAG. Upon receipt of the notification, SANDAG will determine the appropriate actions requested consistent with FTA guidance.
- C.** If the fair market value of the Vehicle is over \$5,000, reimbursement of the remaining federal interest in the Vehicle must be provided to FTA. SANDAG will calculate and provide to FTA as required. If the fair market value is under \$5,000, there is no continuing obligation to FTA respecting disposition of the Vehicle.
- D.** If a Vehicle is returned to SANDAG, SUBRECIPIENT is responsible for returning it in good working order with valid registrations and all parts and accessories as originally received by SUBRECIPIENT at the beginning of the term of this LEASE.
- E.** If SUBRECIPIENT seeks to return a Vehicle to SANDAG prior to the end of its useful life, SUBRECIPIENT shall request permission to do so from SANDAG. SUBRECIPIENT shall be responsible for driving the Vehicle to a location designated by SANDAG and for the expenses of storing and maintaining insurance for the Vehicle until the date of return agreed upon with SANDAG. In the event a Vehicle is returned to SANDAG prior to end of the LEASE term for any reason, whether or not it is at SUBRECIPIENT's choice, SUBRECIPIENT shall not be entitled to return any portion of its matching funds.

F. Upon disposition of the Vehicle, SUBRECIPIENT shall have no financial interest in the vehicle including any match amount previously provided.

V. INDEMNIFICATION

SUBRECIPIENT agrees to indemnify, protect, defend, and hold harmless SANDAG, its Board members, officers, employees, and agents from and against any and all damages, liabilities, losses, payments, costs, expenses, or expenditures, including, without limitation, attorney's fees and court costs (collectively "Losses") incurred thereby resulting, directly or indirectly, from the performance by SUBRECIPIENT or its third-party contractor(s) of any obligations under this LEASE, including, but not limited to any and all tort claims arising from use of Vehicle(s), provided, however, that any losses caused by the active negligence or willful misconduct of SANDAG shall be excluded from this indemnity obligation.

VI. TERM AND TERMINATION

The term of this LEASE will be consistent with the term of the AGREEMENT. SANDAG reserves the right to terminate this LEASE immediately in the event of breach or failure of performance by SUBRECIPIENT.

VII. FURTHER ASSURANCES

SANDAG and SUBRECIPIENT agree to perform such further acts and to execute and deliver such additional documents and instruments as may be reasonably required in order to carry out the provisions of this LEASE and the intentions of the parties.

VIII. ATTACHMENTS

- Vehicle Schedule

IX. SIGNATURES

The individuals executing this LEASE represent and warrant that they have the legal capacity and authority to do so on behalf of their respective legal entities. This LEASE may be executed in any number of separate counterparts, each of which shall be deemed an original but all of which when taken together shall constitute one and the same instrument. The parties hereby agree to the use of electronic signatures to create mutually binding contractual agreements.

IN WITNESS THEREOF, the authorized representatives of both parties have executed this LEASE effective on the date specified above.

SAN DIEGO ASSOCIATION OF
GOVERNMENTS

INSERT SUBRECIPIENT NAME

INSERT SIGNATORY NAME
Insert Signatory Title

INSERT SIGNATORY NAME
Insert Signatory Title

APPROVED AS TO FORM AND LEGALITY:

Insert Third-Party Contractor Name

Office of General Counsel

INSERT SIGNATORY NAME
Insert Signatory Title

VEHICLE SCHEDULE

[To be inserted at time of grant execution]

DRAFT