

NONDISCRIMINATION AGREEMENT FOR CERTIFIED LOCAL AGENCIES TITLE VI PLAN

Assurances:

In accordance with Title VI of the Civil Rights Act of 1964 and subsequent federal nondiscrimination directives such as the Federal-Aid Highway Act of 1973, the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, the Civil Rights Restoration Act of 1987, Americans with Disabilities Act of 1990 (ADA), Executive Order 12898 (Environmental Justice), and Executive Order 13166 (Limited English Proficiency), the City of Gresham, hereinafter referred to as the "Local Transportation Agency," assures that no person shall on the grounds of race, color, national origin, Limited English Proficiency, sex, income, age, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity whether it is federally funded or not. Additionally, under Executive Order 12898 and proceeding USDOT/FHWA directives, the Local Transportation Agency shall make every reasonable effort to identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of the Local Transportation Agency's programs, policies, and activities on minority populations and low-income populations.

The Local Transportation Agency further agrees to the following responsibilities with respect to its federal transportation programs and activities:


1. Designate a Title VI Coordinator who has a responsible position within the organization and access to the Transportation Director. The Local Transportation Agency shall notify ODOT's Office of Civil Rights within a reasonable time of any personnel changes in the Title VI Coordinator position. It is the responsibility of the Local Transportation Agency to ensure that any subsequent Title VI Coordinators to maintain up-to-date and accurate knowledge of this agreement, Title VI of the Civil Rights Act of 1964, and other related laws and directives.
2. Issue a policy statement signed by the City Manager, which expresses its commitment to the nondiscrimination provisions of Title VI and other related laws and directives. The policy statement shall be circulated throughout the Local Transportation Agency's organization and to the general public. Such information shall be published where appropriate in languages other than English.
3. Insert the clauses of *Appendix B* of this agreement in every contract subject to Title VI compliance.
4. Develop a complaint process and attempt to resolve complaints of discrimination against sub-recipients or contractors. Complaints against the Local Transportation Agency shall be immediately forwarded to ODOT's Office of Civil Rights. All other complaints shall be investigated and submitted to ODOT's Office of Civil Rights no later than sixty (60) calendar days after the complaint was filed with the Local Transportation Agency.
5. Participate in trainings on Title VI and other nondiscrimination authorities for the Local Transportation Agency's employees and their sub-recipients of federal highway funds.
6. Take action to correct any deficiencies found by ODOT or FHWA within a reasonable period of time, not to exceed ninety (90) calendar days.

7. For each of the following major program areas, if applicable, summarize how Title VI monitoring will be accomplished by the Local Transportation Agency:
 - a. Program Development (Planning)
 - b. Project Development (NEPA, Permitting, and Design)
 - c. Right of Way
 - d. Advertising Bid and Award
 - e. Construction
 - f. Research
 - g. Public Involvement
 - h. Compliance
8. Collect data and document activities the Local Transportation Agency performs supporting nondiscrimination, such as:
 - a. The number of public meetings, the dates held, and steps taken to notify individuals who may be affected by Local Transportation Agency actions as a result of the meeting(s);
 - b. The number and demographics of impacted and/or benefited neighborhoods;
 - c. Steps the Local Transportation Agency has taken to meet any Limited English Proficiency needs where warranted including the use of interpreters, translators, advertising, or providing printed media in languages other than English, etc.;
 - d. The number of times the Local Transportation Agency performed Limited English Proficiency activities along with documentation of the circumstances under which the activities were performed;
 - e. The date of service requests, the date of resolution, and the location where the Local Transportation Agency maintains data related to such requests.
 - f. The nature of discrimination complaints (if any) and the resolution.

Note: ODOT may, from time to time, request the aforementioned data and audit the Local Transportation Agency for compliance with this agreement. Therefore, the Local Transportation Agency's Title VI Coordinator must be able to provide such data and related information to ODOT upon request.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all federal grants, loans, contracts, properties, discounts or other federal financial assistance under all programs and activities and is binding on the Local Transportation Agency, other sub-recipients, contractors, sub-contractors, transferees, successors in interest and other participants in the Local Transportation Agency's programs. The person whose signature appears below is authorized to sign this assurance on behalf of the Local Transportation Agency.

CITY OF GRESHAM

By: 
Erik V. Kvarsten, City Manager

Dated: 10.11.11

APPENDIX A

Summary of Applicable Legal Authority

Title VI of the Civil Right Act of 1964 (42 USC 2000d to 2000-4):

Title VI of the 1964 Civil Rights Act provides that no person in the United States shall, on the grounds of race, color, or national origin (including Limited English Proficiency), be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance.

The Civil Rights Restoration Act of 1987 (Pub. L. No. 100-259):

The Civil Rights Restoration Act of 1987 broadens the scope of Title VI by expanding the definitions of terms "programs or activities" to include all programs and activities of Federal Aid recipients, sub-recipients, and contractors.

23 CFR 200 and 49 CFR 21:

23 CFR 200 and 49 CFR 21 are administrative regulation for USDOT and FHWA that specify requirements for state DOTs to implement Title VI policies and procedures at the state and local levels.

Federal Aid Highway Act of 1973 (23 USC 324):

The Federal Aid Highway Act of 1973 provides that no person, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal assistance.

Age Discrimination Act of 1975 (42 USC 6101):

The Age Discrimination Act of 1975 provides that no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal assistance.

Americans With Disabilities Act of 1990 (Pub. L. No. 101-336):

The Americans With Disabilities Act of 1990 provides that no qualified individual with a disability shall, by reason of such disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination by a department, agency, special purpose district, or other instrumentality of a state or local government.

Section 504 of the Rehabilitation Act of 1973:

Section 504 of the Rehabilitation Act of 1973 provides that no qualified handicapped person shall, solely by reason of his/her handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal assistance.

Executive Order 12898:

Executive Order 12898 regards federal actions to address Environment Justice in minority populations and low income populations.

Executive Order 13166:

Executive Order 13166 regards the improvement of access to services for persons with limited English proficiency.

APPENDIX B

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "Contractor") agrees as follows:

- (1.) **Compliance with Regulations:** The Contractor shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation (hereinafter, "USDOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Contract.
- (2.) **Nondiscrimination:** The Contractor, with regard to the work performed during the contract, shall not discriminate on the basis of race, color, national origin, Limited English Proficiency, sex, income, age, or disability, in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR 21.5 including employment practices when the contract covers a program set forth in Appendix B of said CFR.
- (3.) **Solicitations for Subcontractors, including Procurements of Materials and Equipment:** In all solicitations made by the Contractor, either by competitive bidding or negotiation for work to be performed under a subcontract, including procurements of materials or leases of equipment; each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this contract and 49 CFR 21.5 relative to nondiscrimination on the basis of race, color, national origin, Limited English Proficiency, sex, income, age, or disability.
- (4.) **Information and Reports:** The Contractor shall provide all information and reports required by 49 CFR 21.5 or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Oregon Department of Transportation (hereinafter, "ODOT"), the Federal Highway Administration (hereinafter, "FHWA"), the Federal Transit Administration (hereinafter, "FTA"), the Federal Aviation Administration (hereinafter, "FAA"), and/or the Federal Motor Carrier Safety Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information the Contractor shall so certify to ODOT, FHWA, FTA, FAA, and/or the Federal Motor Carrier Safety Administration as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5.) **Sanctions for Noncompliance:** In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, ODOT shall impose such contract sanctions as it or FHWA, FTA, FAA, and/or the Federal Motor Carrier Safety Administration may determine to be appropriate, including, but not limited to:
 - a. withholding of payments to the Contractor under the contract until the Contractor complies, and/or
 - b. cancellation, termination or suspension of the contract, in whole or in part.
- (6.) **Incorporation of Provisions:** The Contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by 49 CFR 21.5, or directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontract or procurement as ODOT, FHWA, FTA, FAA, and/or the Federal Motor Carrier Safety Administration may direct as a means of enforcing such provisions including sanctions for noncompliance.