

CITY OF GRESHAM

TITLE VI IMPLEMENTATION PLAN

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II. Introduction The City of Gresham’s (City) Title VI of the Civil Rights Act of 1964 Implementation Plan (Title VI Plan or Plan) advances the community values of equity and fairness and is intended to ensure equal opportunities for all community members to participate in the decisions and activities of government.

As the recipient of federal financial assistance, the City of Gresham must comply with various non-discrimination laws and regulations, including Title VI of the Civil Rights Act of 1964. The City of Gresham has adopted a non-discrimination policy statement. The nondiscrimination policy is in addition to the requirements of Title VI of the Civil Rights Act of 1964; however, it follows the same complaint and investigation process as Title VI complaints.

This Title VI implementation plan focuses on administering the City’s Title VI policy and complaint process. It provides a summary of required actions by staff, sub-recipients, and contractors to comply with Title VI statutes.

The City Council adopted the Title VI Plan in March 2021. The City then took action to develop administrative procedures to implement it, including procedures for:

- A complaint investigation procedural guide (completed September 2021).
- An updated limited English proficiency plan (Initiated in 2021; still in ongoing development).
- Environmental justice requirements (Initiated in 2021; still in ongoing development).

III. Legal Authority

Title VI of the 1964 Civil Rights Act and related statutes and regulations (“Title VI”) provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from

participation in, be denied the benefits of or otherwise be subjected to discrimination under any program or activity receiving federal financial assistance (42 USC 2000d) (23 CFR Part 200 and 49 CFR Part 21). Other state and federal legislation prohibits discrimination based on age, disability, sex, religion, gender, gender identity, sexual orientation, and source of income. A summary of [Legal Authority](#) can be found in Attachment B.

IV. City of Gresham non-discrimination policy

It is the City's policy that no person shall be denied benefits of or subjected to discrimination in any City program, service, or activity on the grounds of race, color, national origin, English proficiency, sex, age, disability, religion, sexual orientation, gender identity or source of income.

As outlined below, the complaint process applies to both the classes identified under Title VI and those listed in the City's non-discrimination policy.

V. Title VI plan objectives

The City's Title VI Plan objectives are to:

- Ensure the City's compliance with Title VI Civil Rights Act of 1964 and assign responsibilities for ensuring compliance.
- Ensure that individuals with limited English proficiency (LEP) are provided meaningful access to programs and activities.
- Avoid, minimize, or mitigate the disproportionate adverse environmental, social, and economic impact of City programs, services, and activities on marginalized and underserved communities, which historically are communities of color, Indigenous, and those with limited English proficiency.
- Establish procedures for filing, investigating, and resolving complaints on time and at the lowest level possible. For example, if a Title VI designee can resolve the complaint, there would be no need to escalate it to the city manager for resolution.

VI. Title VI Coordinator

The Title VI Coordinator and Transportation Title VI Coordinator will monitor and ensure the compliance of City programs and activities subject to Title VI. The City of Gresham Title VI Coordinator will implement the administrative procedures outlined in Exhibit A-1. The Transportation Division will implement the guidelines outlined in Exhibit B-1. The Transportation Title VI Coordinator will monitor and ensure compliance with the guidelines outlined in Exhibit B-2.

VII. Definitions

Adjudicate- to make an official decision about who is right in (a dispute): to settle judicially.

Americans with Disabilities Act (ADA)—The ADA requires reasonable accommodation to provide individuals with disabilities equal opportunities. Barriers to employment, transportation, public accommodations, public services, and telecommunications for persons with disabilities are prohibited.

Annual Accomplishment Report- Required annually on October 1, this report summarizes the work done by the City's Transportation Department, including engagement accomplishments, project summaries, and any Title VI violations within the Department.

Community Engagement Annual Program Report- An annual accomplishment report of the City's community engagement program, according to the City Charter (currently Section 9A). To be presented to the Mayor and Council.

Complainant- The party (person or entity) who makes a complaint qualifying under this Plan.

Disposition- The final settlement of a matter.

Discrimination- The unjust or prejudicial treatment of different categories of people.

Environmental Justice- Executive Order 12898: Federal Actions to Address Environmental Justice in Minority and Low-Income Populations. Its purpose is to focus federal attention on federal actions' environmental and human health effects on minority and low-income populations to achieve environmental protection for all communities.

Federal Highway Administration (FHWA): This agency Supports State and local governments in designing, constructing, and maintaining the nation's highway system and various federally and tribally owned lands.

Legal Authority- Any provision of law or regulation that carries the force of law, including, for example, statutes, rules and regulations, and court rulings.

Limited English Proficiency (LEP) - Refers to a person who is not fluent in English, often because it is not their native language. Executive Order 13166: The Executive Order requires Federal agencies to examine the services they provide, identify any need for services to those with limited English proficiency, and develop and implement a system to provide those services so LEP persons can have meaningful access to them.

National Environmental Policy Act (NEPA)- A United States environmental law that promotes the enhancement of the environment and established the President's Council on Environmental Quality.

Non-discrimination Contract Provisions- Language included in the City's transportation contracts that specifies that the Recipient (and their subcontractors) of the contract gives assurance that it will follow the City's non-discrimination policy, as well as comply with the additional statutory/regulatory authorities outlined in the provision.

Oregon Department of Transportation (ODOT)- A department of the state government of Oregon responsible for transportation systems. It works closely with the five-member Oregon Transportation Commission in managing the state's transportation systems.

Person: individual or private entity.

Punitive damages- Damages awarded more than compensation to the plaintiff to punish a defendant for a serious wrong.

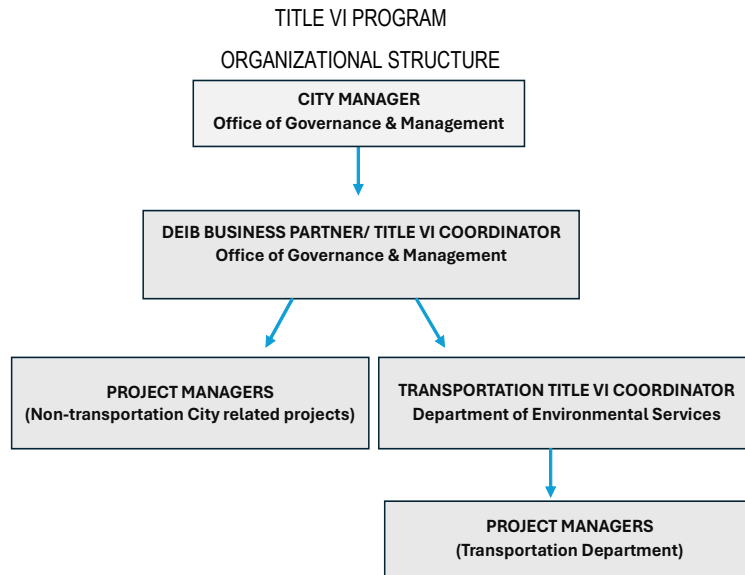
Remuneration- To pay an equivalent for service, loss, or expense.

Respondent- Individual or group identified by the complainant who allegedly committed the Title VI violation.

Subrecipients- A non-Federal Entity (or a Federal agency under an Award or Subaward to a non-Federal Entity) receiving Federal funds through a Prime Recipient (in this case, the City of Gresham) to support the performance of the Federal project or program for which the Federal funds were awarded. A Subrecipient is subject to the terms and conditions of the Federal Award to the Prime Recipient, including program compliance requirements.

VIII. Title VI organizational structure

The Title VI Coordinator must have direct access to the City Manager and have the authority and responsibility to implement the Title VI program.



The Title VI Program must be able to maintain independence, objectivity, and impartiality in the discharge of its non-discrimination responsibilities. The Title VI Coordinator will develop, issue, and enforce Citywide policies on civil rights impartially without prejudice and bias.

IX. Website

The City of Gresham’s external website ([City of Gresham Codes & Policies-Civil Rights](#)) contains public information about Title VI, the City’s program documents, and the complaint process.

X. Complaints

These procedures apply to all complaints filed under Title VI of the Civil Rights Act of 1964 relating to any program or activity administered by the City or its sub-recipients, consultants, and/or contractors. The City will also apply these procedures to classes protected under the City’s non-discrimination policy.

It is important to note that complaints may not expressly specify Title VI; however, a report of denial of services or benefits offered based on race, color, national origin, or sex under any program administered by the City as an ODOT sub-recipient will be classified as a Title VI complaint.

Any person who believes that they have been discriminated against or denied benefits of any program provided by the City based on race, color, national origin, English proficiency, sex, age, disability, religion, sexual orientation, gender identity, or source of income may file a complaint within 180 calendar

days of the alleged [discrimination](#) or when the complainant knew or should have known of the alleged discrimination.

Disability, while covered under the City's non-discrimination policy, could also concern Title II protections under the Americans with Disabilities Act (ADA). The City's Title II Coordinator will lead complaints specific to the ADA. A complete outline of the City's Title II complaint process can be found at [ADA Complaint Information](#).

These procedures do not deny the complainant's right to file formal complaints with other state or federal agencies or to seek private counsel for complaints alleging discrimination. They are part of an administrative process that does not provide for remedies, including [punitive damages](#) or [remuneration](#) for the complainant.

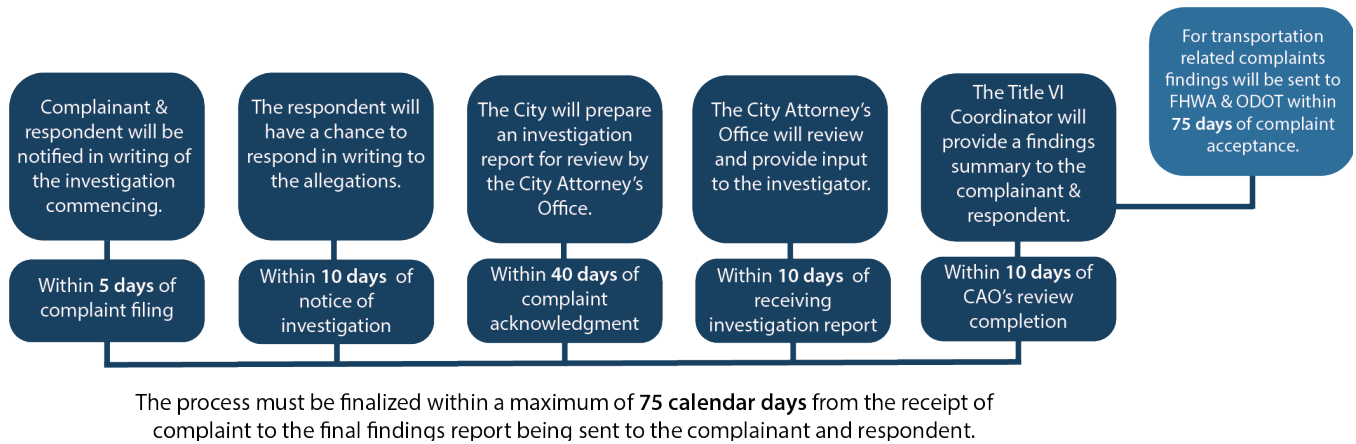
The option of informal mediation meeting(s) between the affected parties and the Title VI Coordinator may be utilized for resolution at any stage of the process. The Title VI Coordinator will make every effort to pursue a resolution to any substantiated complaint.

City complaint procedure:

1. Any person who believes they have been subjected to discrimination prohibited by Title VI non-discrimination provisions may file a written complaint with the City's Title VI Coordinator.
 - a. A formal complaint must be filed within 180 calendar days of the alleged discrimination or when the complainant knew or should have known of it.
 - b. Complaints shall be in writing and signed by the complainant(s). Complaints may be received via the City's online complaint form and must be electronically signed.
 - i. The complainant's authorized representative may complete the complaint form.
 - ii. The complainant may ask the Title VI coordinator or their designee for assistance completing the form.
 - iii. The complaint form may be emailed, printed, and mailed via the U.S. Postal Service if the complainant cannot submit it via the City's electronic form.
 - c. Complaints shall include the date of the alleged act of discrimination (date when the complainant(s) became aware of the alleged discrimination, the date on which the conduct was discontinued, or the latest instance of the conduct).
 - d. Complaints shall present a detailed description of the issues, including names and job titles of those individuals perceived as parties in the complained-of incident. Allegations received by telephone will be documented in writing and provided to the complainant for confirmation or revision before processing. This is in addition to the acknowledgment letter, which will be sent separately.
2. To be accepted, a complaint must meet the following criteria:
 - i. The complaint must be filed within 180 calendar days of the alleged discrimination or when the complainant knew or should have known of it.
 - ii. Include the date of the alleged discriminatory act(s) and whether the alleged discrimination is ongoing.
 - iii. The allegation(s) must be based on discrimination due to race, color, or national origin.

- iv. The allegation(s) must involve a City program or activity that received federal financial assistance.
 - v. Include enough information to understand what led the complainant to believe that discrimination occurred in a program or activity that received federal financial assistance.
 - vi. Include the names of specific persons and respondents (e.g., subrecipient, contractor, agencies/organizations) alleged to have discriminated.
 - vii. Provide the complainant's full name and contact information, if available, to include postal address, phone number, and email address. The complainant must provide at least one mode of contact. Complaints should include names and contact information for witnesses, including City employees or contractors.
 - a. A complaint may be dismissed for the following reasons:
 - i. The complaint is submitted anonymously.
 - ii. The complaint is untimely.
 - iii. The complaint is legally insufficient.
 - iv. The complainant requests the withdrawal of the complaint.
 - v. The complainant fails to respond to repeated requests for additional information to process the complaint.
 - vi. The complainant cannot be located after reasonable attempts.
3. Upon receipt of the complaint, the Title VI Coordinator will determine its jurisdiction, acceptability, and need for additional information, assign an investigator or investigate the merit(s) of the complaint. In cases where the complaint is against one of the City's sub-recipients of federal funds, the City will assume jurisdiction and investigate and adjudicate the case.
4. The City will refer to ODOT any complaints that it has violated Title VI in connection with federal highway administration-funded programs or activities for proper disposition according to their procedures. In special cases warranting intervention to ensure equity, ODOT or an applicable federal agency may assume jurisdiction and either complete or obtain services to review or investigate matters. Complaints investigated by ODOT or an applicable federal agency will be subject to their policies and procedures.
5. Once the City or the ODOT decides to accept the complaint for investigation, the complainant and the respondent will be notified in writing of such determination within five calendar days. The complaint will receive a case number and be logged into the City's records, identifying its basis, alleged harm, and the complainant's protected class.
6. In cases where the City assumes the investigation of the complaint, the City will provide the [respondent](#) with the opportunity to respond to the allegations in writing. The respondent will have ten (10) calendar days from the date of the City's written notification of acceptance of the complaint to provide their response to the allegations.
7. In cases where the City assumes the investigation of the complaint, within 40 calendar days of the acceptance of the complaint, the City's Investigator will prepare an investigative report for review by the City Attorney's Office. (The City's investigator can be one of the City's Title VI designees, an outside investigator, or the City's Title VI Coordinator.)
8. The investigative report and its findings will be sent to the City Attorney's Office for review. The City Attorney's Office will review the report and associated documentation and provide input to the Investigator within ten (10) calendar days.

9. Human Resources (HR) must be informed if the complaint involves a City employee. The Title VI Coordinator will notify HR once it has been determined City staff are allegedly involved and have been identified.
10. The City’s Investigator will review any comments or recommendations from the City Attorney’s Office. If someone other than the City’s Title VI Coordinator investigated the allegations, the Investigator will discuss the report and recommendations with the Title VI Coordinator within ten (10) calendar days.
11. The City’s final investigative report and a copy of the complaint will be forwarded to the [Federal Highway Administration](#) (FHWA) and ODOT within 75 calendar days of the complaint's acceptance. This step is only required for complaints directed toward federal highway administration-funded programs or activities.
12. The investigator shall inform the complainant if it cannot meet the timelines in this Plan and provide an anticipated response date.
13. The City will notify the parties of its final decision. The City has the discretion to reconsider its decision if new facts are presented that warrant it.
14. For complaints specific to the denial of services or benefits under any program administered by the City as an ODOT sub-recipient, if the complainant is not satisfied with the results of the investigation, the complainant will be advised of the right to appeal to the U.S. Department of Transportation (USDOT). The complainant has 180 calendar days after the City’s final resolution to appeal to USDOT.



XII. Contractor and subrecipient

The City’s policy requires that contractors and subrecipients acknowledge that they know federal, state, and local non-discrimination requirements. The City’s contractor and subrecipient agreements shall include non-discrimination clauses required by federal statutes and executive orders and their implementing regulations.

Contractors and subrecipients must comply with Title VI. The City does not allow and considers it a serious violation of this Plan to intimidate or retaliate, in any way, against a person because that person reported discrimination, opposed discrimination in good faith, assisted in the enforcement of this Plan, or participated or cooperated with an investigation, or testified in discrimination proceedings. Retaliation is broadly construed and may include any conduct related to the subrecipient’s or contractor’s business or not that could discourage a person from making a report of discrimination.

Suppose the City finds a contractor or subrecipient violated this policy or anti-retaliation standard. In that case, it may take appropriate corrective action, including suspending, terminating, refusing to grant, or continuing financial assistance from any source.

Exhibit A | City of Gresham Title VI Coordinator’s administrative responsibilities

Below is a non-exhaustive outline of the Title VI Coordinator’s administrative responsibilities at the City, including tasks to ensure compliance with the Title VI Plan.

Training and distribution of information

Conduct or facilitate training programs on Title VI issues and regulations for the City of Gresham employees and facilitate Title VI training for appropriate staff, contractors, and sub-recipients. A summary of training conducted will be reported in the [Annual Accomplishments Report](#) (AAR) yearly update. The Title VI coordinator will also attend Title VI training at the Federal and State levels as available.

Public participation

- Promote and raise awareness of Title VI requirements as engagement strategies are developed for City projects.
- Utilize the City’s Engagement Toolkit to analyze the level of engagement needed and identify the target audience to ensure representative voices are included in the process.
- Assess the translation needs for a project based on the neighborhood language data.
- Translate vital program or project information as needed to ensure that the [Limited English Proficiency](#) (LEP) community has access.
- Ensure [Non-discrimination Contract Provisions](#) (see Appendix B) are included in applicable project contracts.

Complaints

- Refer individuals with reports of complaints to the complaint process as outlined above.
- Coordinate and oversee the resolution of complaints.
- Maintain a list of investigations and complaints.
- Forward complaints related to the City’s Transportation Department or its sub-recipients/contractors to ODOT or appropriate federal agency, as applicable per the process outlined in the complaint procedure above.

Title VI-related programs

- Promote compliance with the City’s Limited English Proficiency (LEP) plan, [National Environmental Policy Act](#) (NEPA), and [Environmental Justice](#).
- Stay apprised of engagement best practices for reaching historically marginalized populations through the work of the Community Engagement Program.
- Align goals and best practices with the City’s Diversity, Equity, Inclusion, and Belonging (DEIB) Vision and Mission.
- Utilize the City’s Equity Lens Tool when developing Title VI-related programs.

Data collection, documentation, and reporting

- Collect Title VI-related data from the Transportation Title VI Coordinator and other non-transportation project managers, as applicable.
- Include organizational engagement efforts tracked for the annual [Community Engagement Annual Program report](#) in the Annual Accomplishments Report to ODOT.
- Timely file an annual Title VI Accomplishments Report highlighting accomplishments and any changes to the Title VI implementation plan in the preceding federal fiscal year.
- Assess the plan’s effectiveness, procedures, staffing, and available resources. The Title VI Coordinator will then oversee any necessary corrective action.

- Correct Title VI issues discovered or identified by ODOT, FHWA, other federal agencies, or CAO within 90 calendar days of the issue being identified.

Title VI Implementation Plan update

- The Title VI Coordinator will review and update the City of Gresham Title VI Implementation Plan when significant staff changes (new Administrator/Title VI Coordinator) or other information changes that alter the intent of a section of the document.
- The plan must be updated and submitted to ODOT every three years. The steps for approval include presenting the updated Plan to the CAO for review and to the Council for approval. Once approved, the plan will be submitted to ODOT's Office of Civil Rights for approval.
- The Title VI Implementation Plan is due to ODOT's Office of Civil Rights Title VI Coordinator by October 1st of each three-year cycle. Suppose the City updates a Title VI Implementation Plan for any reason during a three-year cycle before the required three-year submission date. In that case, the next three-year cycle will begin as of the following October 1st closest to the last submission of the new Title VI Implementation Plan.

Exhibit B.1 | Transportation Title VI compliance

Program & project development

- Work with Metro, the local governmental agency that serves as a forum for cooperative transportation decision-making for the Portland metropolitan area, to ensure Title VI concerns are included in the project planning phase.
- Incorporate public involvement into the project planning phase.
- For non-Metro-related projects, ensure Title VI concerns are included in the planning phase.
- Working with Community Engagement Program staff, verifying and assisting the project manager’s collection of demographic information related to the project and documenting that information as part of the NEPA process.
- Incorporate public involvement into the Program Development (Planning) phase to continue to ensure programs reflect the community’s needs.
- Utilize the City’s Equity Lens Tool when developing Title VI-related programs and projects.

Advertising, bidding, and award

- Develop ODOT bid and contract templates for federally funded projects to ensure processes comply with local, state, and federal procurement laws.

Right of Way / Consultant Contracting

- Verify that hiring consultants for right-of-way acquisition follows public contracting rules.
- Refer individuals with reports of complaints to the complaint process.

Construction

- Follow the City’s Construction Manual and comply with local, state, and federal public contracting laws.

Public Involvement – Below are some of the more frequent mechanisms City staff can use to inform the public, including Title VI protected populations, about the planning and implementation of City projects:

Opportunities for public comment

- The City and the Department of Environmental Services (DES) provide opportunities for comment on various policies, programs, and projects.
- Public comment periods are typically advertised through email notices, newsletters, web and newspaper advertisements, and social media.
- Comments can be accepted by phone, email, online submissions, mail, and in person at meetings.

Website

- [GreshamOregon.gov](https://www.greshamoregon.gov)—The City maintains a responsive website that is updated regularly and contains general information on the City’s departments and programs, calendars for public meetings and events, agendas and minutes, contact information for staff, and opportunities to engage with the City.
- [City of Gresham-Transportation Services](#) contains information about specific transportation projects and other public works, and capital improvement projects. [City of Gresham Civil Rights-Title VI](#) contains information about Title VI, including a community comment and complaint form.

Publications

- Throughout the year, the City produces many publications communicating project updates, policy changes, and program services. The public can access this information through the City website.
- “GRESHAM,” the City’s quarterly newspaper, is sent to every residence within the City and is a mechanism regularly used by staff to inform the community.

Communications

Press Releases: Staff works with the Communication Department to issue press releases to regional, local, and multicultural news outlets as applicable.

Social media: City staff work with the Communication Department to post content to the City’s official social media channels, which include Facebook, Instagram, and YouTube. Staff can also post to NextDoor through the City’s Office of Neighborhood and Community Enhancement.

Public meeting & events

- The City Council, advisory committees, and commissions' meetings are open to the public. Time for community comments is reserved at Council meetings.
- Meeting dates, times, and agendas are posted in advance on the City’s website.
- Council meetings are recorded and available at [City of Gresham Council Meeting Agendas & Videos](#).
- When feasible, based on best practices, staff will strive to select meeting locations in the community that are convenient to a project. Meeting locations aim to be close to transit service, wheelchair accessible, and have interpretation or listening devices or other [ADA](#) accommodations available when requested in advance or if the need is anticipated. See the City’s LEP plan for additional information about the City’s process and best practices around public meeting access for the LEP community.
- Events such as workshops, open houses, and forums are held as needed. Depending on the event, these events may be notified by email, postcard, newsletter, letter, newspaper advertisements, social media, and on the City’s website. Event locations should be chosen with the same considerations as meetings and look to reduce barriers to access, such as providing childcare, transportation assistance, varying event times, and other barrier-reduction best practices.

Mailings

- DES routinely uses email, brochures, letters, and/or postcards to inform the public of the City’s programs, projects, public comment periods, meetings, and publications.

Staff contact

- Staff contact information is generally provided on the city’s website, specifically on project fact sheets, brochures, postcards, and meeting agendas. The staff attends public meetings and is available to answer questions and take comments.

Exhibit B.2 | Transportation Title VI Coordinator's administrative responsibilities

Below is a non-exhaustive outline of the administrative responsibilities of the Transportation Title VI Coordinator's role in the City, including tasks to ensure compliance with the Title VI Plan.

Training and Distribution of Information

- Attend Title VI training at the Federal and State levels as available.
- Provide Title VI information and/or training to applicable transportation employees, contractors, sub-recipients, programs, City liaisons, and the general public.

Project Development: Bid, Grant, and Contract Monitoring (Transportation)

- Ensure that Title VI Non-discrimination Contract Provisions are included in applicable contracts.
- Ensure consultant & contractor selection follows local, state, and federal public contracting laws.
- Perform onsite worker wage interviews on all federally funded jobs to ensure that all employees are paid the correct prevailing wage rate.

Public Participation

- Encourage community participation, including participation of Title VI protected groups, and perform outreach throughout the project phases, including Program Development, Project Development, Right of Way, and Ad, Bid, and Award.
- Encourage the participation of Title VI protected groups to raise awareness and address physical accessibility, language issues, and other issues.

Title VI Related Programs

- Assist the Title VI Coordinator in promoting project compliance with Limited English Proficiency (LEP), NEPA, and Environmental Justice (EJ).
- Assist the Title VI Coordinator with investigating complaints against subrecipients or contractors as requested.

Data collection, documentation, and reporting

- Collect Title VI-related data from transportation project managers, as applicable.
- Manage drafting the annual Title VI Accomplishments Report highlighting accomplishments and changes to the program in the preceding federal fiscal year. Assess the program effectiveness, procedures, staffing, and resources available and provide recommendations to the City's Title VI Coordinator.

Attachment A: Assurances

The United States Department of Transportation (USDOT) Standard Title VI/Non-Discrimination

Assurances

DOT Order No. 1050.2A

The **City of Gresham** (herein referred to as the "Recipient"), **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through (*Oregon Department of Transportation (herein referred to as "ODOT") ODOT/FHWA*), is subject to and will comply with the following:

Statutory/Regulatory Authorities

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled Non-discrimination In Federally Assisted Programs Of The Department Of Transportation-Effectuation Of Title VI Of The Civil Rights Act Of 1964);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory cites hereinafter are referred to as the "Acts" and "Regulations," respectively.

General Assurances

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

*"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity, for which the Recipient receives Federal financial assistance from DOT, including the **Oregon Department of Transportation (herein referred to as "ODOT") ODOT/FHWA**.*

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these non-discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

Specific Assurances

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted *ODOT Local Agency Certification Program*:

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23(b) and 21.23(e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated, or will be (with regard to a "facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with all *ODOT Local Agency Certification Program* and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

"The City of Gresham, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
5. When the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses,

permits, or similar instruments entered into by the Recipient with other parties:

- a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
- a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
 - b. the period during which the Recipient retains ownership or possession of the property.
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, **City of Gresham** also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the **State of Oregon** access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the **State of Oregon**. You must keep records, reports, and submit the material for review upon request to **State of Oregon**, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The City of Gresham gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the *ODOT Local Agency Certification Program*. This ASSURANCE is binding on the **State of Oregon**, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the *ODOT Local Agency Certification Program*. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

Eric
Schmidt
City of Gresham City Manager

by **Eric Schmidt** Digitally signed by Eric Schmidt
Date: 2024.08.15 14:43:57
-07'00'
(Signature of Authorized Official)

DATED **08/14/24**

Attachment B: Legal Authorities

ORS 659A.030

ORS 659A.030 prohibits discrimination based on race, color, religion, sex, sexual orientation, national origin, marital status, or age in cases of employment.

ORS 659A.403

ORS 659A.403 prohibits discrimination based on race, color, religion, sex, sexual orientation, national origin, marital status, or age in places of public accommodation.

ORS 659A.421

ORS 659A.421 prohibits discrimination in transactions for the sale, lease, or renting of real property based on race, color, religion, sex, sexual orientation, national origin, marital status, familial status, or income source.

Title VI of the Civil Rights Act of 1964 (42 USC 2000d)

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 the terms "programs or activities" to include all programs and activities of Federal Aid recipients, sub-recipients, and contractors.

Civil Rights Act of 1991, 42 U.S.C. §1981

The Civil Rights Act of 1991 added two new sections that provided:

“(b) For the purposes of this section, the term ‘make and enforce contracts’ includes the making, performance, modification, and termination of contracts and the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship.”

“(c) The rights protected by this section are protected against impairment by nongovernmental discrimination and impairment under color of State law.”

23 CFR 200 and 49 CFR 21

23 CFR 200 and 49 CFR 21 are administrative regulations 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, may be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving federal assistance.

Federal-Aid Highway Act, 49 U.S.C. 306

The Federal-Aid Highway Act, 49 U.S.C. 306, outlines the responsibilities of the U.S. Department of Transportation and outlines the Secretary’s authority to decide whether a recipient has not

complied with applicable Civil Rights statutes or regulations, requires the Secretary to provide notice of the violation, and requires necessary action to ensure compliance.

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.

Uniform Relocation Assistance & Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601

This Act establishes minimum standards for federally funded programs and projects that require the acquisition of real property or displace persons from their homes, businesses, or farms. "For the fair and equitable treatment of persons displaced as direct result of programs or projects undertaken by a Federal agency or with Federal financial assistance."

Title VIII of the 1968 Civil Rights Act, 42 U.S.C. 3601

Title VIII of the 1968 Civil Rights Act provides that "(I) It shall be unlawful...to refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny a dwelling to any person because of race, color, religion or national origin." The U.S. Department of Housing and Urban Development (HUD) is the primary interest agency, but the Federal Highway Administration (FHWA) and states are responsible for preventing discrimination in the acquisition of right-of-way.

National Environmental Policy Act of 1969, 42 U.S.C. 4321

The National Environmental Policy Act requires consideration of alternatives, including the "no-build" alternative, consideration of social, environmental, and economic impacts, public involvement, and the use of a systematic interdisciplinary approach at each decision-making stage of federal-aid project development.

Executive Order 12250

Executive Order 12250 regards Department of Justice (DOJ) Leadership and Coordination of Non-discrimination Laws.

Executive Order 12259

Executive Order 12259 regards HUD Leadership and Coordination of Federal Fair Housing Programs.

Executive Order 12898

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

Executive Order 13160

Executive Order 13160 regards non-discrimination on the basis of race, sex, color, national origin, disability, religion, age, sexual orientation, and status as a parent in federally conducted education and training programs.

Executive Order 13166

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

APPENDIX A

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 (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally assisted programs of the U.S. Department of Transportation, *Oregon Department of Transportation (herein referred to as "ODOT" ODOT/FHWA)*, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
- 2. Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
- 3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non- discrimination on the grounds of race, color, or national origin.
- 4. Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the *Oregon Department of Transportation (herein referred to as "ODOT") ODOT/FHWA* to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the *Oregon Department of Transportation (herein referred to as "ODOT" ODOT/FHWA)*, as appropriate, and will set forth what efforts it has made to obtain the information.
- 5. Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non- discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the *Oregon Department of Transportation (herein referred to as "ODOT") ODOT/FHWA* may determine to be appropriate, including, but not limited to:

- a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the *Oregon Department of Transportation (herein referred to as "ODOT") ODOT/FHWA* may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

APPENDIX B

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the City of Gresham will accept title to the lands and maintain the project constructed thereon in accordance with *State of Oregon*, the Regulations for the Administration of *ODOT Local Agency Certification Program*, and the policies and procedures prescribed by the *Oregon Department of Transportation (herein referred to as "ODOT") ODOT/FHWA* of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the City of Gresham all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto **City of Gresham** and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the City of Gresham, its successors and assigns.

The **City of Gresham**, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that

(1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the City of Gresham will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended [, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re- enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest

in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

APPENDIX C

CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the City of Gresham pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:
 - 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, **City of Gresham** will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the **City of Gresham** will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the **City of Gresham** and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX D

CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by **City of Gresham** pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, **City of Gresham** will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, **City of Gresham** will thereupon revert to and vest in and become the absolute property of City of Gresham and its assigns. *

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures Non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).