



# **Title VI**

## **Non-Discrimination Plan**

**City of Eugene**  
**Public Works Engineering**

**January 31, 2018**

# Title VI Non-Discrimination Plan

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# City of Eugene Public Works Engineering

## Title VI Non-Discrimination Plan

### I. Title VI Responsibilities – General Descriptions

#### A. Introduction

The City of Eugene (City) is committed to fairness and equity in representation, opportunity and access, and dedicated to removing barriers that might hinder the quality of service provided to our customers. As the recipient of federal financial assistance, the City is required to comply with various nondiscrimination laws and regulations, including Title VI of the Civil Rights Act of 1964 and subsequent federal non-discrimination directives.

Title VI of the 1964 Civil Rights Act and its related statutes and regulations (“Title VI”) provides that no person in the United States shall, on the ground of race, color, national origin, limited English proficiency, sex, income, age or disability 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 U.S. Code 2000d to 2000-4, 23 CFR Part 200, and 49 CFR Part 21).

The Oregon Department of Transportation (ODOT) is responsible for ensuring compliance of these laws and reporting back to the Federal Highway Administration (FHWA). In order to comply with these laws and regulations, ODOT and the City of Eugene have executed a Non-Discrimination Agreement. The City adopted a *Non-Discrimination Agreement for Certified Local Agencies* and a *Non-Discrimination Policy Statement* (both hereto attached in, respectively, Appendices A and B) in August of 2009. The responsibilities and actions required by the non-discrimination agreement are summarized in this Non-Discrimination Plan.

In the *Non-Discrimination Agreement for Certified Local Agencies*, PWE (Eugene Public Works Engineering, the Local Transportation Agency) has agreed to perform the following eight **Actions Items**:

1. Designate a Title VI Coordinator.
2. Issue a policy statement that is circulated throughout PWE and to the general public.
3. Insert the clauses included in the *Non-Discrimination Agreement for Certified Local Agencies* into all contracts subject to Title VI compliance.
4. Follow the compliant process and attempt to resolve complaints of discrimination.
5. Participate in trainings on Title VI and other non-discrimination issues.
6. Take action to correct deficiencies identified by ODOT/FHWA.
7. Provide a summary of how PWE will monitor compliance with the *Non-Discrimination Agreement for Certified Local Agencies* and Title VI requirements in each of the following major program areas:
  - 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 PWE performs supporting non-discrimination.

Each of these action items is further described in the sections B through P below. The Title VI Coordinator and the Project Manager responsibilities are further detailed in section II.

## **B. Title VI Coordinator Designation (Action Item #1)**

The City's *Non-Discrimination Agreement for Certified Local Agencies* requires the designation of a Title VI Coordinator who is responsible for administering the goals and responsibilities listed in the Agreement. Per the agreement, a specific person must be identified as the Title VI Coordinator and ODOT must be informed if this contact changes. The Title VI Coordinator responsibilities of the City of Eugene are carried out by the Public Works Engineering Compliance and Reporting Analyst position. A copy of the Public Works Engineering (PWE) organizational tree is attached in Appendix D of this document.

The Title VI Coordinator shall ensure Title VI implementation within PWE. The Title VI Coordinator shall work with Public Works Engineering Principal Engineers and Project Managers to ensure compliance with Title VI regulations on all transportation projects. The position will also monitor and report on PWE compliance with the Title VI regulations. More detailed responsibilities are listed below in section II.

## **C. Policy Statement (Action Item #2)**

The City of Eugene's *Non-Discrimination Policy Statement* was signed by the City Manager in August, 2009. The statement 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 otherwise be subjected to discrimination under any program or activity, whether it is federally funded or not. The City additionally assures, under federal Executive Order 12898 and USDOT/FHWA directives, that, as the local transportation agency, the City's Public Works Engineering (PWE) 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.

These assurances apply to all programs and activities in which federal aid recipients, sub-recipients, contractors, and consultants are engaged, regardless of whether an individual program is federally assisted or not.

## **D. Contract Clauses (Action Item #3)**

Appendix B to the *Non-Discrimination Agreement for Certified Local Agencies* includes contract clauses that shall be included in all contracts subject to Title VI compliance. Those contract clauses are here attached in Appendix C. These clauses are in addition to any non-discrimination clauses that the City may already include or clauses required by other programs.

## **E. Complaint Process (Action Item #4)**

If any individual believes that he or she has been subjected to unequal treatment or discrimination based on the grounds of race, gender, marital status, familial status, age, disability, religion, color, national origin, sexual orientation, source of income or income status, ethnicity, or domestic partner status, that individual may exercise his or her right to file a complaint with the City. On federally-funded projects, discrimination complaints based on race, color, national origin, disability, age, gender, or income status are considered to be Title VI complaints and will be forwarded to ODOT.

Complaints regarding discrimination may be received in a variety of ways. Most often, such complaints are filed either with the City's Human Rights Commission, <https://www.eugene-or.gov/526/Human-Rights-Commission>, or with the City's Equity & Human Rights Office, <https://www.eugene-or.gov/525/Equity-and-Human-Rights>. Complaints might also be directed to Public Works offices or to individual staff members, or may come in through the City's ADA Transition Plan website, <https://www.eugene-or.gov/2416/ADA-Transition-Plan>. Staff is trained to document any transportation-project-related complaints and to forward those complaints on to the Title VI Coordinator.

The Title VI Coordinator will assess complaints. Non-Title-VI complaints will be forwarded on to the correct offices for resolution. Title VI complaints will be addressed by the Title VI Coordinator, who will also forward the complaint to the City's Human Rights Commission. Complaints related to a project funded by the FHWA will also be forwarded to ODOT within 60 days.

Once a Title VI complaint is made, staff will set up an information interview. The person who filed the complaint may have several courses of action available, including:

- *Advocacy.* A Human Rights Support System advocate can be assigned to assist the person who filed the complaint in exploring his or her options and to offer support as he or she pursues the complaint.
- *Mediation.* Mediation is an opportunity to work out differences face-to-face. It is often better to work out problems with the people involved rather than start a long, legal process. These discussions can take place either informally or with the assistance of trained mediators.
- *Referral.* Some problems can be resolved through other agencies.

## **F. Trainings (Action Item #5)**

The Title VI training program will be managed by the Title VI Coordinator. The Title VI Coordinator will provide trainings and circulate information to staff to keep them informed on non-discrimination issues, including requirements, documentation, resolution of complaints, and additional training opportunities. Staff will attend trainings on Title VI and other non-discrimination issues as reasonable and appropriate.

The Title VI Coordinator shall also be responsible for disseminating information to the public concerning the City's Title VI requirements and public outreach standards.

In addition to Title VI trainings, the City of Eugene offers a variety of trainings addressing social equity issues. All City staff are required to take a minimum of one two-hour course each year.

See the Title VI Coordinator and Project Manager Responsibilities section below for more information regarding trainings and outreach.

## **G. Correction of Deficiencies (Action Item #6)**

ODOT and/or the FHWA may monitor compliance with the City's *Non-Discrimination Agreement for Certified Local Agencies* by reviewing project documentation, attendance at meetings, the City's review of complaints and their resolutions, and other activities. The Title VI Coordinator will coordinate and oversee corrective actions regarding any Title VI deficiencies discovered or identified by ODOT, the FHWA, or any other federal agency. Action to correct identified deficiencies shall occur in a reasonable amount of time, not to exceed 90 days.

## **H. Program Area Monitoring - Program Development (Planning) (Action Item #7a)**

PWE has adopted transportation plans that promote inclusive and accessible transportation projects and that provide tools to staff, contractors, and community members to accomplish those projects. Staff have also adopted project review and monitoring standards that ensure compliance with non-discrimination requirements. Staff monitoring duties are a part of this planning and are described further below in the Title VI Coordinator Responsibilities section and the Project Manager Responsibilities section.

### **1. Central Lane MPO**

The Lane Council of Governments (LCOG) acts as the Metropolitan Planning Organization (MPO) for the central Lane County area that includes the Eugene-Springfield metropolitan area and Coburg. The City of Eugene belongs to the Central Lane MPO.

The Central Lane MPO works cooperatively with local governments and transit providers to set priorities for transportation needs. The Central Lane MPO was responsible for the adoption of the area's *Regional Transportation Plan* in 2007. The Central Lane MPO also partnered with the City of Eugene Transportation Planning office for preparation of the City's *Eugene 2035 Transportation System Plan*, which was adopted in February 2017. As part of this work, LCOG performs a number of different functions, including:

- Establishing an annual work program for regional transportation planning tasks to be completed;
- Performing strategic analyses and technical modeling of the transportation system;
- Establishing a fair and impartial setting for regional decision making that includes federal, state, and local agencies dealing with transportation issues;
- Prioritizing transportation projects and developing a Metropolitan Transportation Improvement Program.
- Allocating state and federal funds for both capital and operating needs;
- Preparing financial analysis and project programming;
- Ensuring compliance with state and federal standards; and
- Providing opportunities for public involvement.

The Central Lane MPO also has developed a Title VI plan. The plan was most recently updated in June of 2015. The Central Lane MPO *Title VI Plan* is available online at <http://www.thempo.org/361/Transportation-Equity>.

2. *Eugene 2035 Transportation System Plan*

The City of Eugene adopted the *Eugene 2035 Transportation System Plan* in February 2017. The plan promotes services and projects that will promote a multi-modal transportation system that is accessible to all ages, abilities, and incomes. The plan also provides a framework within which City staff may engage local residents, businesses, and other stakeholders to cooperatively develop projects that foster the community's active use and sense of ownership of public rights-of-way. Plan actions and engagement policies include:

- Be fair and equitable; ensure that transportation facilities are provided for people of all ages, races, ethnicities, abilities, and incomes, and in all neighborhoods.
- Reduce or eliminate disparities between neighborhoods in safety and access to essential destinations. Ensure that the costs and benefits of transportation improvements are equitably shared over time.
- Identify and collaborate with potentially impacted populations during and after project scoping with special attention to disadvantaged or traditionally underserved populations (e.g., lower income, minority, English language learners, and people with disabilities).
- Target public outreach before transportation spending priorities are established so that people who may be most affected by proposed projects will be involved in the discussion.

3. *Public Participation Guidelines*

The City's *Public Participation Guidelines* was adopted in July 2011 and provides best practices assistance to staff in how to think about, plan, and execute public participation activities in a culturally competent manner that is inclusive of all members of the community. The values and best practices for public engagement included in the *Public Participation Guidelines* are grounded in the principles identified by the International Association of Public Participation (IAP2) and the National Coalition for Dialogue and Deliberation.

Appendix E to the *Public Participation Guidelines* is titled, "Creating Access to City of Eugene Facilities, Programs, and Events – Guidelines for Optimizing Accessibility for Community Members." Appendix E sets clear expectations for City staff regarding accessibility and provides information about Title II accessibility requirements for public entities. Title II requires that all City facilities, programs, and services, regardless of their funding, be accessible to people with disabilities. While the Americans with Disabilities Act (ADA) concerns civil rights for people with disabilities, many of the requirements and guidelines are expanded by the City to meet the City's broader universal access goals for all community members.

Appendix E includes a program accessibility checklist to help staff members ensure they are meeting accessibility requirements and providing the best accommodations to all members of the community. Grievance guidelines are also provided. The *Public Participation Guidelines* document is posted to the City's Equity and Human Rights Accessibility webpage, <https://www.eugene-or.gov/1205/Accessibility>. The page also includes instructions for how to file a complaint.

## **I. Program Area Monitoring - Project Development (NEPA, Permitting, and Design) (Action Item #7b)**

Transportation projects are designed and planned by the Project Managers. The Title VI Coordinator may assist or provide advice regarding Title VI issues at any stage of project development. Project Managers follow the City's *Public Improvement Design Standards (PIDS) Manual*.

It is the Project Manager's responsibility to collect demographic information related to the project and document that information as part of the National Environmental Policy Act (NEPA) process. The Project Manager plans outreach materials and procedures based upon the scope of the project, its sensitivity, and any Title VI concerns.

The Title VI Coordinator will monitor project development activities for compliance with Title VI. See the public involvement section below, regarding involving the public in the design process.

Any complaints of discrimination which may come up during the project development phase will follow the complaint process. The Title VI Coordinator will track any complaints, forward Title VI complaints to ODOT, and monitor or assist in resolution of any complaints.

## **J. Program Area Monitoring - Right-of-Way (Action Item #7c)**

The hiring of consultants (e.g. appraisers) follows the City's Contracting Regulations. All contracts with consultants also include Title VI provisions. The City's public contracting rules may be found online at <https://www.eugene-or.gov/108/Purchasing>.

Notation of any disparity in treatment by a right-of-way negotiator or other parties shall be forwarded to the Title VI Coordinator.

Complaints of discrimination will follow the complaint process. The Title VI Coordinator will track any complaints, forward Title VI complaints to ODOT, and monitor or assist in the resolution of any complaints.

## **K. Program Area Monitoring - Advertising, Bid, and Award (Action Item #7d)**

The City's Contracting Regulations are based on State and Federal contracting law. Notice of advertisement will be in the Register Guard, a local newspaper publication of general circulation and regional trade. Based on Disadvantaged Business Enterprise (DBE) or other requirements, contracts may also be advertised in ethnic or minority newspapers, or other targeted publications. All contracts will include Title VI provisions.

See the Title VI Coordinator and Project Manager sections below for more detailed duties in this area. Complaints concerning the advertising, bid, or award of contracts will be addressed per the Complaint Process discussed below.



## **L. Program Area Monitoring - Construction (Action Item #7e)**

Project Managers shall oversee the construction of projects to ensure that Title VI requirements are met. The Project Managers shall also ensure that ADA accessibility and safety standards are met during any closure of the right-of-way. The Title VI Coordinator shall monitor for Title VI complaints and shall address them per the standards listed under the Complaint Process and Corrections of Deficiencies sections in this plan.

## **M. Program Area Monitoring - Research (Action Item #7f)**

Not applicable.

## **N. Program Area Monitoring - Public Involvement (Action Item #7g)**

The City makes an effort to inform and include the public, including Title VI protected populations through a variety of mediums and practices:

1. Provide information in more than one manner to increase public accessibility to the information and the ease with which the public may ask questions or comment on a project.
2. Be sure to provide staff contact information for each project, so public knows whom to contact.
3. Project staff shall attend all related public meetings, answer questions, and take comments.
4. See the Program Area Monitoring - Program Development (Planning) section above for more information on resources staff may use to assist in public involvement.
5. Additionally, the LCOG Title VI Plan, located at <http://www.lcog.org/711/Title-VI>, provides strategies for engaging Title VI protected groups on the project as well as engaging individuals of limited English proficiency.
6. Project Managers and the Title VI Coordinator may use any of the following mediums as they work to disperse information and include all groups within the neighborhood where a project is located:
  - a. Website  
The City maintains an extensive website, [www.eugene-or.gov](http://www.eugene-or.gov), which is updated regularly. The Public Works and Public Works Engineering sites may be accessed from the City site. The site contains information on the City's responsibilities, programs, meeting calendars, agendas and minutes, contact information for staff, complaint procedures and complaint form, bidding and contract information, and project information. The website is designed to be ADA compliant.
  - b. Publications  
Throughout the year, the City issues many publications, reports, and maps as part of its work program. Nearly all of this information can be accessed by the public through the City website.
  - c. Press Releases  
Press releases are routinely sent to approximately 20 media outlets which include daily and weekly newspapers, TV stations, and radio stations. Press releases include releases to Spanish-language outlets.
  - d. Meetings Open to the Public
    - Meetings and work sessions of the City Council and City boards and commissions are open to the public. Time for citizen comments is reserved at council meetings. Meeting dates, times and agendas are posted in advance on the City's website.

- Council meetings and work sessions are televised and webcast by MetroTV (<http://www.metrotv.org/>), a local public access channel. Live broadcasts and replays are available on the City website.
  - Meeting locations shall be established at City Hall or other neighborhood centers convenient to the project. Meeting locations need to be in close proximity to transit service, be wheelchair accessible, and have interpretation or listening devices or other ADA accommodations available when requested in advance or if the need is anticipated.
- e. Opportunities for Public Comment  
The City and PWE provide opportunities for comment on a range of plans, programs and projects. Public comment periods are typically advertised through e-mail notices and web and newspaper advertisements. Comments are accepted by phone, fax, e-mail, US mail, and in person at meetings.
- f. Accessible Staff  
General contact information for staff is provided on the City's web site; Project Manager and other specific contact information is provided on project fact sheets, brochures, and postcards, and on meeting agendas. Staff attends public meetings and is available to answer questions and take comments.
- g. Mailings  
PWE routinely uses e-mail, brochures, letters, and/or postcards to keep the public informed of the agency's programs, projects, public comment periods, meetings, and publications.
- h. Events  
Events such as workshops, open houses and forums are held regularly, as needed. Depending on the event, notice of these events may be made by e-mail, postcard, letter, and newspaper advertisements; notice may also be posted on the City's website. Meeting locations are chosen so they are wheelchair accessible and interpretation or listen devices can be provided when requested or when a need is anticipated.

Complaints of discrimination in the public involvement program area will follow the complaint process. The Title VI Coordinator will track any complaints, forward Title VI complaints to ODOT, and monitor or assist in resolution of any complaints.

## **O. Program Area Monitoring - Compliance (Action Item #7h)**

Staff will maintain files to track compliance with Title VI requirements. Project Managers are responsible for keeping records on Title VI compliance for each of their projects. This information is provided to the Title VI Coordinator. The Title VI Coordinator monitors for compliance and collects data for year-end reports and program development.

The Title VI Coordinator reports on Title VI data, monitoring, and compliance to ODOT as needed.

## **P. Data Collection and Documentation (Action Item #8)**

The Title VI Coordinator shall assist the Project Managers with research concerning demographics and accessibility requirements in neighborhoods where projects are planned. Research methods and resources may include:

1. Other City offices which may provide neighborhood data or which may also engage in public outreach and accessibility issues:
  - Equity and Human Rights
  - Neighborhood Services
  - Community Development – Low Income Housing
2. Coordination of programs and outreach procedures with these other City offices as needed.
3. Perform project development review of demographic data for neighborhoods where projects are proposed. Resources include:
  - City offices listed above
  - The Central Lane MPO *Title VI Plan*, <http://www.thempo.org/361/Transportation-Equity>
  - *Eugene 2035 Transportation System Plan*
  - *2011 Neighborhood Analysis, City of Eugene Neighborhood Services*, <https://www.eugene-or.gov/2062/2011-Neighborhood-Analysis>
4. Additional research and outreach as needed during course of project.

The following information shall be documented by Project Managers for each of their Title VI projects and the data forwarded to the Title VI Coordinator. The Title VI Coordinator will maintain the data and provide it to ODOT and/or the FHWA as requested.

1. The number of public meetings, the dates upon which those meetings were held, and the steps taken to notify individuals who may be affected by City (the local transportation agency) actions as a result of the meeting(s).
2. The numbers and demographics of impacted and/or benefited neighborhoods.
3. Steps the City has taken to meet any limited English proficiency needs where warranted, including the use of interpreters, translators, or the provision of advertising and/or printed media in languages other than English, etc..
4. The number of times limited English proficiency activities were performed, along with documentation of the circumstances under which the activities were performed.
5. The dates of service requests, their resolution date, and the location where the City maintains data related to such requests.
6. The nature of any discrimination complaints which may have been received, and their resolution.

## II. Title VI Coordinator and Project Manager Responsibilities

### A. Title VI Coordinator Responsibilities

The Title VI Coordinator shall implement guidelines; monitor; and ensure the compliance of PWE programs, activities, and staff with Title VI responsibilities, including *Non-Discrimination Agreement for Certified Local Agencies* Action Items 1 – 8, listed in the Introduction above. Responsibilities shall include (see Section I of this plan for more discussion about the Action Items and available resources):

#### 1. Designation of Title VI Coordinator

The Title VI Coordinator shall ensure that ODOT is informed whenever there is a change in the Title VI contact person.

- ODOT Title VI contact information, as of January 31, 2018:

Rebecca Williams  
Oregon Department of Transportation  
Office of Civil Rights, MS 31  
355 Capitol St NE  
Salem, Oregon 97301  
503-986-3870

## **2. Policy Statement**

- a. Through trainings and emails, continue to make staff aware of the City of Eugene's 2009 *Non-Discrimination Policy Statement* and its requirements.
- b. Establish and maintain a City website where the City's *City of Eugene's Non-Discrimination Policy Statement* is posted and available to the public.

## **3. Title VI Clauses in Contracts**

Ensure the insertion of Title VI clauses, per Appendix B of the *Non-Discrimination Agreement for Certified Local Agencies*, in every contract that is subject to Title VI compliance. See Appendix C to this Plan for the required Title VI contract clauses.

## **4. Complaint Process**

- a. Oversee complaint process procedures to ensure effectiveness and compliance with Title VI and City requirements.
- b. Refer persons with reports of complaints to the complaint process.
- c. Oversee resolution of formal and informal complaints against City, sub-recipients, and contractors.
- d. Maintain a list of investigations and complaints.
- e. Forward complaints against the City to ODOT's Office of Civil Rights within 60 days of the filing date.

## **5. Training and Distribution of Information**

The Title VI Coordinator's training role shall include not only personal training, but managing the Title VI training program for other City staff. The position will also provide informational materials for the public. Responsibilities include:

- a. Remain as primary contact to the public regarding the City's Title VI accessibility program.
- b. Watch training videos and attend Title VI trainings at the Federal and State level as available.
  - <http://www.oregon.gov/ODOT/LocalGov/Pages/Training.aspx>
  - <https://www.fhwa.dot.gov/federal-aidessentials/indexofvideos.cfm>
- c. Provide Title VI training to applicable City employees, contractors, sub-recipients, City liaisons, and general public groups. Trainings may include available online trainings, such as:
  - <http://www.fhwa.dot.gov/federal-aidessentials/catmod.cfm?category=civilrig>
  - <http://www.fhwa.dot.gov/federal-aidessentials/catmod.cfm?category=civilrig>
  - [http://www.fhwa.dot.gov/resourcecenter/teams/civilrights/gbi\\_practices.cfm](http://www.fhwa.dot.gov/resourcecenter/teams/civilrights/gbi_practices.cfm)
  - <http://www.fhwa.dot.gov/resourcecenter/teams/civilrights/publications.cfm>
  - [http://www.fhwa.dot.gov/resourcecenter/teams/civilrights/title\\_vi\\_etraining/index.swf](http://www.fhwa.dot.gov/resourcecenter/teams/civilrights/title_vi_etraining/index.swf)

- d. Circulate information to staff to keep them informed regarding non-discrimination issues, including requirements, documentation, resolution of complaints, and additional training opportunities.

## **6. Correction of Deficiencies**

The Title VI Coordinator will:

- a. Monitor email inboxes and call logs for Title VI complaints.
- b. Remain as public contact to the complaint and deficiency correction process.
- c. Coordinate and oversee corrective actions regarding any Title VI deficiencies discovered or identified by ODOT, the FHWA, or any other federal agency.
- d. Ensure that action to correct identified deficiencies occurs in a reasonable amount of time, not to exceed 90 days.

## **7. Compliance Monitoring**

The City's *Non-Discrimination Agreement for Certified Local Agencies* includes eight program areas to be monitored for Title VI compliance. These program areas are discussed above in section I. More specific Title VI Coordinator duties regarding these program areas are listed in this section. See the Project Manager section below for their specific duties in these program areas.

### **a. Program Development (Planning)**

The Title VI Coordinator shall:

- Participate in City and regional planning activities.
- Maintain accessibility and Title VI program connections with other staff groups working with related requirements.
- Ensure that Project Managers and City staff adhere to program requirements by the implementation of standards of procedure (SOPs).

### **b. Project Development (NEPA, Permitting, and Design)**

The Title VI Coordinator shall:

- Assist the Project Manager in the collection and review of demographic information for neighborhoods where transportation projects are planned.
- Provide guidance to Project Managers for how best to involve the public.
- Monitor project development activities for compliance with Title VI requirements.
- Assist the Project Managers in the documentation of demographic information as a part of the National Environmental Policy Act (NEPA) process.

### **c. Right-of-Way**

- Ensure that projects within the right-of-way are designed, planned, managed, and constructed to Title VI and accessibility standards.
- Address all Title VI and ADA complaints to ensure public involvement and safety of projects.

### **d. Advertising, Bid, and Award**

- Monitor Project Manager procedures to include non-discrimination contract provisions in applicable project advertising and contracts.

### **e. Construction**

- Ensure Project Managers incorporate public involvement at all phases of the project.

### **f. Research**

- Not applicable.

### **g. Public Participation**

- Ensure Project Managers promote public participation at all phases of project.

- Encourage participation of Title VI protected groups in order to create awareness and address physical accessibility, language issues, and other possible barriers to communication and involvement.

#### **h. Compliance**

- Promote compliance with limited English proficiency (LEP), NEPA, and Environmental Justice guidelines.
- Ensure Project Manager documentation for each Title VI project.
- Collect compliance data and incorporate it into year-end Accomplishments Report.
- Develop program activities, policies, and trainings to ensure compliance with all *Non-Discrimination Agreement for Certified Local Agencies* action items and program areas.
- Report on Title VI data, monitoring, and compliance to ODOT as needed.

#### **8. Documentation of City Activities Supporting Non-Discrimination**

- Develop reporting tools and report on data, monitoring, and compliance to ODOT.
- Assess the program effectiveness and the office's administrative procedures, staffing, and resources available for Title VI compliance.
- Collect Title VI related data from Project Managers.
- Maintain yearly Title VI Accomplishment Reports.
- Document and act upon any observed disparity in protected peoples' treatment.

## **B. Project Manager Responsibilities**

Project Managers shall be responsible for ensuring compliance with Title VI program area requirements, per the *Non-Discrimination Agreement for Certified Local Agencies*, during each phase of their projects. Through all phases, Project Managers shall monitor for complaints. Any complaint of discrimination will be addressed through the complaint process.

#### **1. Title VI Clauses in Contracts**

Ensure the insertion of Title VI clauses, per Appendix B of the *Non-Discrimination Agreement for Certified Local Agencies*, in every contract subject to Title VI compliance. See Appendix C for the required contract clauses.

#### **2. Program Development**

The Project Manager works with the Title VI Coordinator to achieve the goals and requirements of the Title VI program and the action items included in the City's *Non-Discrimination Agreement for Certified Local Agencies*.

#### **3. Project Development**

The Project Manager plans outreach materials and procedures based upon the scope of the project, its sensitivity, and any Title VI concerns. Additional assistance may be requested from the Title VI Coordinator and other City offices. See Section I above for project development resources.

#### **4. Complaint Process**

- Refer persons with reports of complaints to the complaint process.
- Work with the Title VI Coordinator to achieve resolutions of formal and informal complaints against City, sub-recipients, and contractors.

## **5. Training and Distribution of Information**

- a. Attend Title VI and other accessibility trainings
- b. Keep paperwork, contract materials, and emails up to date with most current Title VI information.

## **6. Correction of Deficiencies**

- a. Review project information and compliance data and make project management corrections as needed to correct any deficiencies.
- b. Work with the Title VI Coordinator, contractors, and sub-recipients to achieve resolutions of formal and informal complaints.

## **7. Compliance Monitoring**

The City's *Non-Discrimination Agreement for Certified Local Agencies* includes eight program areas to be monitored for Title VI compliance. These program areas have been discussed above, in Section I. More specific Project Manager duties regarding these program areas are listed in this section. Also see the Title VI Coordinator section for that position's specific duties in these program areas. The Title VI Coordinator oversees the Title VI compliance program and assists the Project Managers in achieving and monitoring compliance. Each Project Manager is responsible for ensuring compliance in his/her own projects.

### **a. Program Development (Planning)**

- Project Managers shall work with the Title VI Coordinator to ensure compliance with Title VI requirements.
- Adhere to SOPs and attend trainings.

### **b. Project Development (NEPA, Permitting, and Design)**

Project Managers shall:

- Assist the Title VI Coordinator in the collection and review of demographic information for transportation projects.
- Incorporate public involvement into all phases of project.
- Perform additional research and provide additional outreach as needs arise during course of project.
- Monitor project development activities for compliance with Title VI requirements.
- Document demographic information as a part of the National Environmental Policy Act (NEPA) process.

### **c. Right-of-Way**

- Design, manage, and construct projects in the right-of-way to meet Title VI and accessibility standards.
- Ensure safe access that meets ADA standards within the right-of-way during projects.
- Address all Title VI and ADA complaints to ensure public involvement and safety of projects.

### **d. Advertising, Bid, and Award**

- Ensure that projects are advertised in the appropriate forums.
- Ensure non-discrimination contract provisions are included in applicable project advertisements and contracts.

### **e. Construction**

- Manage the construction of projects to Title VI and other accessibility standards.

- Remain as primary contact to contractors and sub-contractors for Title VI issues related to the project.
  - Promote awareness of Title VI and accessibility issues to contractors to ensure smooth construction process.
- f. Research**
- Not applicable.
- g. Public Involvement**
- Promote public participation at all phases of project.
  - Think creatively, inclusively, and proactively.
  - Encourage participation of Title VI protected groups in order to create awareness and address physical accessibility, language issues, and other possible barriers.
- h. Compliance**
- Process any complaints per accepted routing and guidelines.
  - Work with the Title VI Coordinator to correct any Title VI complaints.
  - Monitor project and provide compliance data to Title VI Coordinator.
  - Review compliance data and make project management corrections as needed to correct any deficiencies.
- 8. Documentation of City Activities Supporting Non-Discrimination**
- Manage Title VI compliance data for each project.
  - Provide compliance data to Title VI Coordinator when requested and annually for inclusion in the yearly Title VI Accomplishment Reports.
  - Assess the effectiveness of the outreach and public involvement work done for each project. Report on effectiveness and possible corrections or improvements to the Title VI Coordinator.
  - Document and act upon any observed disparity in protected peoples' treatment.



## **Appendix A**

### *Non-Discrimination Agreement for Certified Local Agencies*

#### **Title VI Non-Discrimination Plan**

City of Eugene, Public Works Engineering

# NONDISCRIMINATION AGREEMENT FOR CERTIFIED LOCAL AGENCIES

## **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 Eugene Public Works Engineering Department, hereinafter referred to as the "Local 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 Local Transportation Agency's Administrator [or other head official]. 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 Administrator [or other head official], 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.

*dmw*  
*K* Dated 8/25/09

by   
Jon Ruiz, City of Eugene City Manager

## APPENDIX A

### Summary of Applicable Legal Authority

- *Title VI of the Civil Rights 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 or 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 regulations from 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 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 a 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.

## **Appendix B**

### *Non-Discrimination Policy Statement*

#### **Title VI Non-Discrimination Plan**

City of Eugene, Public Works Engineering

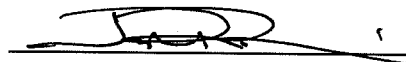
# NON-DISCRMINATION POLICY STATEMENT

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 Eugene Public Works Engineering Division, hereinafter referred to as the "Local 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. The Local Agency further assures every effort will be made to ensure nondiscrimination in all of its programs and activities, whether those programs and activities are federally funded or not. Additionally, under Executive Order 12898 (Environmental Justice) and proceeding USDOT/FHWA directives, the Local Agency shall make every effort to identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of the Local Agency's programs, policies, and activities on minority populations and low-income populations.

The Local Agency is aware that the Civil Rights Restoration Act of 1987 broadened the scope of Title VI coverage by expanding the definition of terms "programs or activities" to include all programs or activities of Federal Aid recipients, sub-recipients, and contractors/consultants, whether such programs and activities are federally assisted or not.

In the event the Local Agency distributes federal aid funds to a sub-recipient or contractor, the Local Agency will include Title VI language in all written agreements and will monitor for compliance.

The Local Agency's Title VI Coordinator, is responsible for initiating and monitoring Title VI activities, preparing requested reports within a reasonable period of time upon as requested by ODOT, and other responsibilities as required by 23 Code of Federal Regulation(CFR) 200 and 49 Code of Federal Regulation 21.

  
\_\_\_\_\_  
Signature

Jon Ruiz, City Manager  
\_\_\_\_\_  
Please print name and title

8/25/09  
\_\_\_\_\_  
Date

*jmw*  
*[Handwritten initials]*



## **Appendix C**

### Title VI Advertising and Contract Clauses

#### **Title VI Non-Discrimination Plan**

City of Eugene, Public Works Engineering

## **Title VI Advertising and Contract Clauses**

### **Advertising**

City of Eugene advertisements for construction contracts include the following Title VI statement:

*The City of Eugene in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000-4 and Title 49, Code of Federal Regulations, Department of Transportation, subtitle A, Office of the Secretary, Part 21, nondiscrimination in federally assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full 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.*

### **Contracting**

Public improvement construction contracts include the following standard clause (Clause 23) addressing non-discrimination provisions:

*Any person who believes that he/she has been excluded from participation in, denied benefits or services of any program or activity administered by the Department or its sub-recipients, consultants, and contractors on the basis of age, disability, gender, race, color, national origin, age income status and religion may bring forth a complaint of discrimination under Title VI and related statutes to the Oregon Department of Transportation, Office of Civil Rights, 800 Airport Road SE, Salem, Oregon, 97301, (503) 986-4350.*

The Contractor must submit a signed "Non-Discrimination in Subcontracting" Form with the following text:

*In accordance with the provisions of this Contract relating to non-discrimination, it is hereby certified that I/we have complied with the provisions of ORS 279A.110.*

*By signature of the authorized representative of the bidder/proposer, the bidder/proposer hereby certifies to the City of Eugene that this bidder/proposer has not discriminated against minority, women, or emerging small business enterprises in obtaining any subcontracts; and, further, that if awarded the contract for which this bid or proposal is submitted, shall not so discriminate.*

## **Appendix D**

### Public Works Engineering (PWE) Organizational Tree

#### **Title VI Non-Discrimination Plan**

City of Eugene, Public Works Engineering

# Engineering Division Organizational Chart

