

PROPOSED CITY OF PORTLAND/TRANSPORTATION TITLE VI CIVIL RIGHTS PROGRAM

April 17, 2009

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I) Policy Statement

The City of Portland, Bureau of Transportation (PBOT) 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 of its programs or activities, whether or not they are federally funded. The City has adopted a Civil Rights Code shown in Attachment D, and has adopted, by Ordinance, the Non Discrimination Policy Statement and the NON DISCRIMINATION AGREEMENT FOR CERTIFIED LOCAL AGENCIES Shown in Attachment E.

The plan's elements that protect against discrimination apply to PBOT, its sub-recipients, contractors and consultants.

II) Legal Authority

Title VI of the 1964 Civil Rights Act 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 (see 23 CFR 200.9 and 49 CFR Part 21).

Additional Authorities and Citations:

Title VI of the Civil Rights Act of 1964; the Civil Rights Restoration Act of 1987; 42 USC 2000d to 2000d-4; 42 USC 4601 to 4655; 23 USC 109(h); 23 USC 324; DOT Order 1050.2; Executive Order 12250 and 12898; 20 CFR 50.3; 28 CFR Part 42; 49 CFR Part 21; FTA Circular 4702.1; and FHWA guidelines in 23 CFR Part 200.

III) Title VI Delegation Chart

City of Portland
Sam Adams
Mayor
503-823-4120

Ken Rust
Chief Administrative Officer
Office of Management and Finance
503-823-5288

Danielle Brooks
Civil Rights Title VI Coordinator
Office of Management and Finance
503-823-2559

Susan D. Keil
Director
Bureau of Transportation
503-823-5185

Greg Jones
Group Manager
Development & Capital Program
Civil Rights Title VI Bureau Liaison
Bureau of Transportation
503-823-5639

IV) Organization and Staffing – General

The Mayor of Portland is responsible for ensuring the implementation of the City's Title VI program. The Chief Administrative Officer of the Office of Management and Finance, on behalf of the Mayor, is responsible for the

overall management of the Title VI programs. The day-to-day administration of the program lies with the Title VI Coordinator. PBOT's Development and Capital Group Manager, under supervision of the PBOT Director, will act as a Bureau Liaison between the Title VI Coordinator and PBOT for Title VI efforts and activities.

V) Administration

The Citywide Title VI Coordinator will act as the Coordinator for PBOT. The Title VI Coordinator or his/her designee is responsible for coordinating the overall administration of the Title VI program, plan and assurances. The Title VI Coordinator will work with a Title VI Bureau Liaison; PBOT's Title VI Bureau Liaison is its Development and Capital Group Manager. The Title VI Coordinator or his/her designee shall:

- A) Identify, investigate and work to eliminate discrimination that is found to exist in connection with PBOT programs including but not limited to:
 - 1) Review all operational guidelines to regions, contractors, sub-recipients, and programs to include Title VI language and provision and related requirements, where applicable.
 - 2) Gather and maintain statistical data on race, color, national origin and sex of participants in, and beneficiaries of federally funded programs.
 - 3) Disseminate Title VI Program information to City employees, sub-recipients, contractors, beneficiaries, and the general public.
 - 4) Review post-grant approval procedures to ensure compliance with Title VI requirements.
- B) Monitor PBOT's progress, implementation and compliance issues related to the requirements of PBOT's Title VI Program and the United States Department of Transportation (USDOT) Title VI requirements.
- C) Report significant Title VI issues directly to the PBOT Director.
- D) Oversee resolution of formal and informal complaints as specified in Section IV below and maintain a list of investigations and complaints.
- E) Insure that PBOT personnel attend applicable USDOT or Oregon Department of Transportation (ODOT) Title VI trainings when available.
- F) Provide Title VI information and training, at least annually, to all PBOT employees, contractors, sub-recipients, and program or bureau liaisons.
- G) Pursue the prevention of Title VI deficiencies and violations by taking corrective action to resolve Title VI issues and reduce to writing remedial actions agreed upon.
- H) Prepare and submit Annual Title VI Certifications and Assurances.
- I) Prepare and submit for review and approval a triennial Title VI Report as required by USDOT to ODOT/Federal Highway Administration (FHWA).
- J) Insure that Title VI Nondiscrimination Notices (Attachment C) are included in applicable project documents and public materials.
- K) The City's Title VI Program reviews will be overseen by the Title VI Coordinator to assess the program effectiveness and the office's

administrative procedures, staffing, and resources available for Title VI compliance.

VI) Complaints and Enforcement

- A) If any individual believes that s/he or any other program beneficiaries has been the object of unequal treatment or discrimination as to the receipts of benefits and/or services, or on the grounds of race, color, national origin, or sex, s/he has the right to file a complaint with PBOT.
- B) PBOT encourages resolution of civil rights complaints at the lowest possible level; every effort will be made to resolve complaints informally at the PBOT, sub- recipient and contractor's level.
- C) Formal complaints will be submitted, evaluated and resolved in accordance with Title VI Complaint procedures as set forth in Attachment A.

VII) Inclusive Participation

- A) City policy, per a resolution adopted by the Portland City Council on February 7, 1996, commits the City of Portland to “. . .promote and sustain an environment that creates and responds to citizen involvement.”
Among the adopted “guiding principles” for citizen involvement are:
 - Respect and encourage citizen participation by ensuring that City communications and processes are understandable.
 - Reach out to all our communities to encourage participation which reflects Portland’s rich diversity.
 - Consider and respond to citizen input in a timely manner, respecting all perspectives and insights.The complete text of the resolution is provided in Attachment B.
- B) PBOT shall continually assess its communications and public involvement strategies to insure participation of Title VI protected groups, and to address physical accessibility, language issues and other accommodations for Title VI protected groups. At a minimum, such strategies shall include:
 - 1) Providing for a variety of ways for community members to participate in public processes, including informal meetings/open house presentations and written and oral testimony;
 - 2) Insuring that meeting locations and times are convenient and accessible to all, including low income and minority communities;
 - 3) Seeking out and considering the views of minority and/or low income communities;
 - 4) Providing meeting facilities that are accessible to all and specifying in meeting notices that accommodations are available upon request;
 - 5) Ensuring equal access to City programs, services and activities by providing reasonable modifications and accommodations upon request.

- C) Any member of the public may inspect PBOT's non exempt public records, including Title VI reports, personnel rules, executive orders, resolutions and ordinances pertaining to public outreach, non- discrimination and environmental justice. Request for inspection shall be in accordance with the City of Portland's Public Records Request Policy.

VIII) Limited English Proficiency

- A) The City of Portland maintains a list of staff members who speak languages other than English. These individuals may be called upon to assist PBOT in working with community members who have limited English proficiency. As necessary; professional translation services will be made available.
- B) When issues or actions affect concentrated populations of non-English-speaking people, live notices and announcements will be placed in appropriate community media, in applicable language(s). PBOT will publish this Title VI Program on its website in the most common languages used in Portland.
- C) For published materials targeted to non-English speaking communities, PBOT will utilize professional translation services to insure accuracy.

IX) Environmental Justice

- A) PBOT shall ensure that it will avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority and low income populations.
- B) Environmental justice issues will be addressed by PBOT in association with the preparation of environmental documents as required by the National Environmental Policy Act (NEPA).
- C) Means and methods to discuss and analyze environmental justice issues will be evaluated and adopted during the NEPA document scoping process.

X) Enforcement Procedures For Grants and Contracts

- A) PBOT shall insure that all USDOT Title VI requirements are passed through to contractors and sub-grantees for USDOT-funded efforts.
- B) If a grant sub-recipient is not in compliance with Title VI, PBOT shall work with contract administrators and sub-recipient to resolve the deficiency status and implement a remedial action, if necessary.
- C) PBOT shall follow the Disadvantaged Business Enterprise (DBE) contracting goal on federally funded projects. DBE goals are set on a project-by-project basis derived from the ODOT's DBE program, which

PBOT adopts every year pending approval of a PBOT-specific DBE program.

- D) If a grant sub-recipient is found in non-compliance, the City will follow the ODOT/City specifics included with the contract documents. Failure to perform will be addressed by 5.5 Administrative Sanctions and 7.3 Contract Remedies in the ODOT DBE Program Plan.
- E) The Complaint Process in Attachment A may be utilized by any individual who believes that s/he or any other program beneficiaries have been the object of unequal treatment or discrimination as to the receipts of benefits and/or services, or on the grounds of race, color, national origin, or sex.

XI) Data Collection Procedures

Demographic and statistical data on protected groups are available through census data, demographic research centers, public opinion surveys, and self-identification on questionnaires. PBOT will access this information as needed to determine impacts and benefits of potential projects on minority and low-income neighborhoods and in developing outreach strategies.

ATTACHMENT A NONDISCRIMINATION COMPLAINT PROCEDURES

The Portland Bureau of Transportation (PBOT) is committed to a policy of non-discrimination in the conduct of its business, including its Title VI responsibilities. If you believe that you have been excluded from participation in, denied the benefits of, or subjected to discrimination based on race, color or national origin under PBOT's programs you may file a complaint with the Civil Rights Title VI Coordinator, at Room 1204, 1120 SW 5th Ave, Portland, OR 97204, or by telephone (503) 823-2559, City TDD (503) 823-6868. The Title VI Coordinator will, in effect, be the PBOT Civil Rights Title VI Coordinator for the purpose of this procedure. Complaints must be filed within 180 days of the alleged incident.

All complaints will be investigated promptly. Reasonable measures will be undertaken to preserve any information that is confidential.

Procedures

1. Any individual, group of individuals, or entity that believes they have been subjected to discrimination prohibited by Title VI nondiscrimination provisions may file a written complaint with the Title VI Coordinator. A formal complaint must be filed within 180 calendar days of the alleged occurrence or when the alleged discrimination became known to the complainant. The complaint must:
 - a. Be in writing and signed by the complainant(s).
 - b. Include the date of the alleged act of discrimination (date when the complainant(s) became aware of the alleged discrimination; or the date on which that conduct was discontinued or the latest instance of the conduct).
 - c. Present a detailed description of the issues, including names and job titles of those individuals perceived as parties in the complained-of incident.
2. Allegations received by fax or e-mail will be acknowledged and processed, once the identity(ies) of the complainant(s) and the intent to proceed with the complaint have been established. The complainant is required to mail a signed, original copy of the fax or e-mail transmittal for the Title VI Coordinator to be able to process it.
3. Allegations received by telephone/TDD will be reduced to writing and provided to complainant for confirmation or revision before processing. A complaint form will be forwarded to the complainant for him/her to complete, sign, and return to the Title VI Coordinator for processing. The complaint shall not be considered filed until the completed, signed form is received by the Title VI Coordinator.

4. Upon receipt of the complaint, the Title VI Coordinator will determine its jurisdiction, acceptability, and need for additional information, as well as investigate the merit of the complaint. In cases where the complaint is against one of PBOT's sub-recipients of federal funds, PBOT will assume jurisdiction and will investigate and adjudicate the case. The complainant may request that complaints against PBOT be referred to the Oregon Department of Transportation's ("ODOT") Office of Equal Opportunity ("OEO"), for proper disposition pursuant to their procedures. In special cases warranting intervention to ensure equity, these agencies may assume jurisdiction and either complete or obtain services to review or investigate matters.
5. In order to be accepted, a complaint must meet the following criteria:
 - a. The complaint must be filed within 180 calendar days of the alleged occurrence or when the alleged discrimination became known to the complainant.
 - b. The allegation(s) must involve a covered basis such as race, color, national origin, limited English proficiency, sex, income, age or disability.
 - c. The allegation(s) must involve a program or activity of a Federal-aid recipient, sub-recipient, or contractor.
6. A complaint may be dismissed for the following reasons:
 - a. The complainant requests the withdrawal of the complaint.
 - b. The complainant fails to respond to repeated requests for addition information needed to process the complaint.
 - c. The complainant cannot be located after reasonable attempts.
7. Once PBOT or ODOT decides to accept the complaint for investigation, the complainant and the respondent will be notified in writing of such determination within ten calendar days. The complaint will received a case number and will then be logged into the Title VI Coordinator's records identifying its basis and alleged harm, and the race, color, national origin, limited English proficiency, sex, income, age or disability status of the complainant.
8. In cases where PBOT assumes the investigation of the complaint, the Title VI Coordinator will provide: the respondent with the opportunity to respond to the allegations in writing. The respondent will have 10 calendar days from the date of the Title VI Coordinator's written notification of acceptance of the complaint to furnish his/her response to the allegations.
9. In cases where the Title VI Coordinator assumes the investigation of the complaint, within 60 calendar days of the acceptance of the complaint, the Title VI Coordinator will research the complaint, confer with and interview appropriate parties, and prepare an investigative report. The report shall include a narrative description of the incident, identification of

persons interviewed, findings, and recommendations for disposition. If a Title VI violation is found to exist, remedial steps as appropriate and necessary will be taken immediately and a description will be included in the final report.

10. The Title VI Coordinator's final investigative report and a copy of the complaint will be sent to the City Attorney, the Bureau Director, and forwarded to the ODOT, Federal Highway Administration (FHWA) or appropriate federal agency within 60 calendar days of the acceptance of the complaint. The Title VI Coordinator will notify the parties of its final decision and send a copy of the final report.
11. If complainant is not satisfied with the results of the Title VI Coordinator's investigation of the alleged discrimination and practices the complainant will be advised of the right to appeal through one of the following paths:
 - a. Appeal directly to the Bureau Director within 14 calendar days of receipt of the findings of the Title VI Coordinator's investigation. Once received, the Bureau Director has 30 calendar days to investigate, report and render his/her decision, and inform the complainant and any appropriate parties. If dissatisfied with the Director's decision, the complainant can appeal to the ODOT or U.S. Department of Transportation ("USDOT")/FHWA or,
 - b. Appeal directly to ODOT or USDOT/FHWA.

The complainant has 180 days after PBOT's final resolution to appeal to USDOT. Unless the facts not previously considered come to light, reconsideration of appeal to PBOT will not be available.

The Civil Rights Title VI Coordinator shall maintain a log of Title VI complaints received from this process which log shall include the date the complaint was filed; a summary of the allegations; the status of the complaint; and actions taken by Portland Bureau of Transportation in response to the complaint. Should PBOT receive a Title VI complaint in the form of a formal charge or lawsuit, the City Attorney shall be responsible for the investigation and maintaining a log as described herein.

ATTACHMENT B PUBLIC INVOLVEMENT POLICIES

**As adopted by Portland City Council
February 7, 1996**

Portland's commitment to public involvement is led by guiding principles to:

As elected officials and staff of the City of Portland, we believe that effective citizen involvement is essential to good governance. We believe a respectful and informed exchange of ideas between the City and citizens will result in the best policies and decisions for all of Portland. To this end, the City of Portland commits itself to promote and sustain an environment that creates and responds to citizen involvement.

We hold that the success of citizen involvement depends on:

- ❑ Mutual respect of all parties;
- ❑ Broad-based outreach to inform and involve citizens;
- ❑ Commitment and skills to effectively facilitate, receive, and respond to citizen input and involvement;
- ❑ Coordination of outreach and involvement efforts of all City bureaus.

To carry out our commitment, we adopt these guiding principles of citizen involvement:

- ❑ Value civic involvement as essential to the health of the city.
- ❑ Promote on-going dialogue with citizens by maintaining relationships with neighborhood and community groups.
- ❑ Respect and encourage citizen participation by ensuring that City communications and processes are understandable.
- ❑ Reach out to all our communities to encourage participation which reflects Portland's rich diversity.
- ❑ Think creatively and plan wisely, using citizen involvement processes and techniques to best fit the goals of the particular project.
- ❑ Seek early involvement of citizens in planning, projects, and policy development.
- ❑ Consider and respond to citizen input in a timely manner, respecting all perspectives and insights.
- ❑ Commit to coordinate City bureaus' outreach and involvement activities to make the best use of citizens' time and efforts.
- ❑ Evaluate and report on the effectiveness of City outreach efforts to achieve the quality of City/citizen collaboration critical to good governance.
- ❑ Promote education of citizens in neighborhood and community groups, and City officials and staff in community organizing, networking, and collaboration.
- ❑ Provide financial and technical support to Portland's neighborhood association network as the primary channel for citizen input and involvement.

Attachment C

Nondiscrimination Notice to the Public

The paragraph below will be inserted in publications to be distributed to the public, and published on the PBOT web site (). The version below is the preferred text. When space is limited or cost or space is an issue, the abbreviated version may be used in its place.

"The Portland Bureau of Transportation (PBOT) hereby gives public notice that it is the policy of the agency to assure full compliance with Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, Executive Order 12898 on Environmental Justice and related statutes and regulations in all programs and activities. Title VI requires that no person in the United States of America shall, on the grounds of race, color, sex, or national origin, be excluded from the participation in, be denied the benefits of or be otherwise subjected to discrimination under any program or activity for which PBOT receives federal financial assistance. Any person who believes they have been aggrieved by an unlawful discriminatory practice under Title VI has a right to file a formal complaint with PBOT. Any such complaint must be in writing and filed with PBOT's Title VI Coordinator within one hundred eighty (180) days following the date of the alleged discriminatory occurrence. Contact the Title VI Coordinator at Room 1204, 1120 SW 5th Ave, Portland, OR 97204, or by telephone (503) 823-2559, City TDD (503) 823-6868."

Abbreviated Nondiscrimination Notice to the Public

The following shorter version of the above paragraph can be used in publications where space or cost is an issue, such as on flyers, brochures and in classified newspaper advertisements or announcements.

"The Portland Bureau of Transportation PBOT fully complies with Title VI of the Civil Rights Act of 1964 and related statutes and regulations in all programs and activities. Contact the Title VI Coordinator at Room 1204, 1120 SW 5th Ave, Portland, OR 97204, or by telephone (503) 823-2559, City TDD (503) 823-6868."

Attachment D
City of Portland Code: Title 23.01 Civil Rights:
Chapter 23.01 Civil Rights

-Note

(New Title added by Ord. No. 164709, Oct. 3, 1991.)

23.01.010 Policy.

(Amended by Ordinance No. 175158, effective January 15, 2001.) It is the policy of the City of Portland to eliminate discrimination based on race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation, gender identity or source of income. Such discrimination poses a threat to the health, safety and general welfare of the citizens of Portland and menaces the institutions and foundation of our community.

23.01.020 Intent.

(Amended by Ordinance No. 175158, effective January 15, 2001.) The City Council finds that discrimination on the basis of sexual orientation, gender identity and source of income exists in the City of Portland and that state law does not clearly prohibit such discrimination. It is the intent of the Council, in the exercise of its powers for the protection of the public health, safety, and general welfare and for the maintenance of peace and good government, that every individual shall have an equal opportunity to participate fully in the life of the City and that discriminatory barriers to equal participation in employment, housing, and public accommodations be removed.

23.01.030 Definitions.

(Amended by Ordinance No. 175158, effective January 15, 2001.)

A. “Sexual Orientation” - actual or supposed male or female homosexuality, heterosexuality or bisexuality.

B. “Source of Income” - the means by which a person supports himself or herself and his or her dependents, including but not limited to money and property from any occupation, profession or activity, from any contract, settlement or agreement, from federal or state payments, court-ordered payments, gifts, bequests, annuities, life insurance policies, and compensation for illness or injury, but excluding any money or property derived in a manner made illegal or criminal by any law, statute or ordinance.

C. “Gender Identity” – a person’s actual or perceived sex, including a person’s identity, appearance, expression or behavior, whether or not that identity,

appearance, expression or behavior is different from that traditionally associated with the person's sex at birth.

D. All other terms used in this ordinance are to be defined as in Oregon Revised Statutes Chapter 659.

23.01.040 Exceptions.

(Amended by Ordinance No. 175158, effective January 15, 2001.)

A. The prohibitions in this Chapter against discriminating on the basis of sexual orientation and gender identity do not apply:

1. To the leasing or renting of a room or rooms within an individual living unit which is occupied by the lessor as his or her residence;
2. To dwellings with not more than two individual living units where one of the units is owner occupied;
3. To space within a church, temple, synagogue, religious school, or other facility used primarily for religious purposes.

B. The prohibitions in this Chapter against discriminating on the basis of source of income do not prohibit:

1. Inquiry into and verification of a source or amount of income;
2. Inquiry into, evaluation of, and decisions based on the amount, stability, security or creditworthiness of any source of income;
3. Screening prospective purchasers and tenants on bases not specifically prohibited by this chapter or state or federal law;
4. Refusal to contract with a governmental agency under 42 U.S.C. §1437f(a) "Section 8."

C. The prohibitions in this Chapter against discriminating on the basis of gender identity do not prohibit:

1. Health or athletic clubs or other entities that operate gender-specific facilities involving public nudity such as showers and locker rooms, from requiring an individual to document their gender or transitional status. Such documentation can include but is not limited to a court order, letter from a physician, birth certificate, passport, or driver's license.
2. Otherwise valid employer dress codes or policies, so long as the employer provides, on a case-by-case basis, for reasonable accommodation based on the health and safety needs of persons protected on the basis of gender identity.

3. The above exceptions do not excuse a failure to provide reasonable and appropriate accommodations permitting all persons access to restrooms consistent with their expressed gender.

23.01.050 Discrimination in Employment Prohibited.

(Amended by Ordinance No. 175158, effective January 15, 2001.)

A. It shall be unlawful to discriminate in employment on the basis of an individual's race, religion, color, sex, national origin, marital status, age if the individual is 18 years of age or older, or disability, by committing any of the acts made unlawful under the provisions of ORS 659.030 and 659.425.

B. In addition, it shall be unlawful to discriminate in employment on the basis of an individual's sexual orientation, gender identity, source of income or familial status, by committing against any such individual any of the acts already made unlawful under ORS 659.030 when committed against the categories of persons listed therein.

23.01.060 Discrimination in Selling, Renting, or Leasing Real Property Prohibited.

(Amended by Ordinance No. 175158, effective January 15, 2001.)

A. It shall be unlawful to discriminate in selling, renting, or leasing real property on the basis of an individual's race, religion, color, sex, national origin, marital status, familial status, or disability, by committing any of the acts made unlawful under the provisions of ORS 659.033 and 659.430.

B. In addition, it shall be unlawful to discriminate in selling, renting, or leasing real property on the basis of an individual's sexual orientation, gender identity, source of income, or age if the individual is 18 years of age or older except as is excluded in ORS 659.033 subsection 6 (a) and (b), by committing against any such individual any of the acts already made unlawful under ORS 659.033 when committed against the categories of persons listed therein.

23.01.070 Discrimination in Places of Public Accommodation Prohibited

(Amended by Ordinance No. 175158, effective January 15, 2001.)

A. It shall be unlawful to discriminate in public accommodations on the basis of an individual's race, religion, color, sex, national origin, marital status, age if the individual is 18 years of age or older, or disability, by committing any of the acts made unlawful under the provisions of ORS 659.037, 659.425, or ORS 30.670 to 30.685.

B. In addition, it shall be unlawful in public accommodations to discriminate on the basis of an individual's sexual orientation, gender identity, source of income or familial status, by committing against any such individual any of the acts already made unlawful under ORS 659.037 or ORS 30.670 to 30.685 when committed against the categories of persons listed therein.

23.01.080 Enforcement and Administration.

(Amended by Ord. No. 165319, Apr. 15, 1992.)

A. Enforcement of all or any part of this Chapter shall be governed by the procedures established in ORS Chapter 659. Rules adopted by the City Attorney pursuant to section 23.01.090 of this Chapter may also be used to implement enforcement and administration of this Chapter.

B. Any person claiming to be aggrieved by an unlawful employment practice under this Chapter may file a complaint with the Commissioner of the Bureau of Labor and Industries under procedures established in ORS 659.040, and any person claiming to be aggrieved by an unlawful practice under this Chapter relating to selling, renting or leasing real estate or discrimination in public accommodations, may file a complaint with the Commissioner under procedures established in ORS 659.045.

C. The Commissioner may then proceed and shall have the same enforcement powers under this Chapter, and if the complaint is found to be justified the complainant shall be entitled to the same remedies, under ORS 659.050 to 659.085 as in the case of any other complaint filed under ORS 659.040 or 659.045.

D. Any order issued by the Commissioner of the Bureau of Labor and Industries under this Chapter shall be viewed as one issued by a hearings officer employed by the City within the meaning of ORS 46.045 (3) and shall be fully enforceable by the City.

E. Any person claiming to be aggrieved by an unlawful discriminatory act under the provisions of this code shall have a cause of action in any court of competent jurisdiction for damages and such other remedies as may be appropriate. Election of remedies and other procedural issues relating to the interplay between administrative proceedings and private rights of action shall be handled as provided for in ORS 659.095 and 659.121. The court may grant such relief as it deems appropriate, including, but not limited to, such relief as is provided in ORS 659.121.

23.01.090 Authority of City Attorney to Adopt Rules.

A. The City Attorney is hereby authorized to adopt rules, procedures and forms to assist in the implementation of the provisions of this Chapter.

B. Any rule adopted pursuant to this section shall require a public review process. Not less than ten nor more than thirty days before such public review process, notice shall be given by publication in a newspaper of general circulation. Such notice shall include the place, time, and purpose of the public review process and the location at which copies of the full text of the proposed rules may be obtained.

C. During the public review, a designee of the City Attorney shall hear testimony or receive written comment concerning the proposed rules. The City Attorney shall review the recommendation of his or her designee, taking into consideration the comments received during the public review process, and shall either adopt the proposal, modify it or reject it. If a substantial modification is made, additional public review shall be conducted, but no additional notice shall be required if such additional review is announced at the hearing at which the original comments are received.

D. Unless otherwise stated, all rules shall be effective upon adoption by the City Attorney and shall be filed in the office of the City Auditor.

E. Notwithstanding paragraphs B and C of this section, an interim rule may be adopted without prior notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties. The finding shall state the specific reasons for such prejudice. Any rule adopted pursuant to this paragraph shall be effective for a period of not longer than 180 days.

23.01.100 Construction.

This Chapter shall be broadly construed, consistent with its remedial purpose.

23.01.110 Severability of Provisions.

If any part or provision of this Chapter, or application thereof to any person or circumstance, is held invalid, the remainder of this Chapter and the application of the provision or part thereof, to other persons not similarly situated or to other circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Chapter are severable.

Attachment E
ODOT Non Discrimination Policy Statement

ODOT NON-DISCRIMINATION 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 (Name of Local Agency), 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 (Name/Title of person/division), 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: _____

[Administrator or other head official]

Title: _____

Date: _____

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 (Name of Local Transportation Agency), 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.

Dated _____

by _____, Administrator [or other head official]

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 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 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

[NOTE: Make sure this is in appropriate LAG chapters – Consultant Selection & Bid & Award --- if we do keep this language]

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.