

# **Multnomah County Transportation Division's TITLE VI PROGRAM PLAN**

**March 2016**



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# **Multnomah County Transportation Division Title VI Program Plan**

## **I. Introduction**

Title IV of the Civil Rights Act of 1964 (“Title VI”) as amended, and several subsequent enactments by Congress forbid discrimination based on age, disability, race, color, sex or national origin by any agency receiving Federal Funds. Other federal statutes include but are not limited to: the Federal-Aid Highway Act of 1973, the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and the Civil Rights Restoration Act of 1987.

In addition, the National Environmental Policy Act (NEPA) was adopted in 1969. The Environmental Justice (EJ) Orders issued under NEPA, further amplify Title VI application by providing that "each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations."

All local governments that receive federal funds through the Oregon Department of Transportation (ODOT) are required to have a Title VI Program Plan for their transportation projects. A Title VI Program Plan is a system of policies and procedures designed to monitor agency and sub-recipients’ compliance, address complaints, and seek to eliminate discrimination when found to exist. Title VI issues must be considered throughout the entire project process, from the very start of the program development to closure of the project.

A local government with a population over 200,000 must submit a Title VI Program Plan for approval to ODOT. In addition, local governments with populations over 200,000 are required to prepare and submit to the ODOT Title VI Program Manager an annual Title VI Accomplishment Report. As a recipient of federal funds through ODOT, Multnomah County, Oregon (“County”) hereby establishes its Multnomah County Title VI Program Plan (hereinafter “Title VI Plan” or “Plan”).

## **II. Policy Statement, Authorities and Citations**

### **A. Policy of Nondiscrimination**

The County assures that no person shall, on the grounds of age, disability, race, color, sex or national origin, as provided by Title VI of the Civil Rights Act of 1964 and related authorities, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any County sponsored program or activity. The County further assures every effort will be made to ensure non-discrimination in all of its programs and activities, whether those programs and activities are federally funded or not.

In the event the County distributes Federal aid funds to another entity, the County will include Title VI language in all written agreements and will monitor for compliance.

Title VI compliance is a condition of receipt for Federal funds. The County Civil Rights Administrator and Transportation Division Title VI Coordinator are authorized to ensure compliance with provisions of this policy and with the law, including the requirements of 23 Code of Federal Regulation (CFR) 200 and 49 CFR 21.

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Deborah Kafoury, County Chair

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Date

**B. Authorities**

2010-2012 Equal Employment Opportunity/ Services Access/ Non-Discrimination Policy and Affirmative Action Plan, Office of Diversity and Equity, Multnomah County, Oregon; and the listing of authorities provided in Exhibit 5, attached hereto.

### III. Organization, Staffing and Structure

#### A. Organizational Chart – Multnomah County Title VI Delegation Chart:

##### Multnomah County Board Of Commissioners

##### Multnomah County Chair, Deborah Kafoury

##### Office of Diversity & Equity Department of Community Services

Director: Ben Duncan

Director: Kim Peoples

##### Civil Rights Administrator

Neisha Saxena

##### Transportation Division Director/County Engineer

Ian Cannon, PE.

##### Transportation Division Title VI Coordinator

Joanna Valencia, AICP.

#### B. Staffing and Structure

##### 1. Civil Rights Administrator

The Multnomah County Civil Rights Administrator (“Administrator”) is authorized to ensure compliance with provisions of the County’s policy of non-discrimination and with the law, including the requirements of 23 CFR Part 200 and 49 CFR Part 21. The County’s grants compliance function and Title VI coordination shall be performed under the authority of the Administrator.

##### 2. Title VI Coordinator for Transportation Division

The County has created a position of Transportation Division Title VI Coordinator (“Title VI Coordinator”) to ensure implementation of the County’s Title VI Federally Funded Transportation Program. The Title VI Coordinator has other duties and responsibilities in addition to Title VI compliance.

#### IV. Title VI Plan Implementation and Program Administration, Title VI Coordinator’s Responsibilities

As authorized by the Administrator, the Title VI Coordinator is responsible for initiating, monitoring, and ensuring the County’s compliance with Title VI requirements for the County’s Transportation Division as follows:

##### A. Program Administration. Administer the Title VI program and coordinate

implementation of the Plan. Ensure compliance with the assurances, policy, and program objectives. Perform Title VI program reviews to assess administrative procedures, staffing, and resources; provide recommendations as required to the Administrator.

**B. Complaints.** Work with the Administrator to coordinate review of Title VI complaints received by the County relating to the Transportation Division, in compliance with the adopted procedural guidelines (see Section VI – Complaint Procedures). Work with the Administrator to ensure every effort is made to resolve complaints informally at the local or regional level.

**C. Data Collection.** Review the statistical data gathering process performed by Transportation Division staff periodically to ensure sufficiency of data for meeting the requirements of Title VI Program Administration. (See Section VII - Special Emphasis Program Areas).

**D. Environmental Impact Statements.** Ensure that available and applicable U.S. Census data are included as a part of all Environmental Impact Statements/Assessments (EIS/EIA) conducted by the Transportation Division for projects receiving Federal Highway Administration or other Federal assistance.

**E. Training Programs.** Conduct or facilitate training programs on Title VI issues and regulations for Transportation Division employees; and facilitate Title VI training for contractors and sub-recipients. A summary of training conducted will be reported in the annual update.

**F. Title VI Plan Update.** Review and update the Plan as needed or required. Present updated Plan to the Administrator for approval; submit amended Plan to ODOT.

**G. Annual Accomplishment Report.** Prepare an annual report of Title VI accomplishments and changes to the program in the preceding Federal fiscal year; identify goals and objectives for the upcoming year as required; and submit to ODOT as required.

**H. Public Dissemination.** Work with Transportation Division to develop and disseminate Title VI program information to County employees, contractors, subcontractors, consultants, and sub-consultants and beneficiaries, as well as the general public. Public dissemination may include postings of official statements, inclusion of Title VI language in contracts or other agreements, website postings, and annual publication of the County's Title VI Policy Statement in newspaper(s) having a general circulation, and informational brochures. Ensure public service announcements or notices are posted of proposed projects, hearings, meetings, or formation of public advisory boards, in newspapers or other media reaching the affected community. Ensure the utilization of available minority publications or media; and, where appropriate, provide written or

verbal information in languages other than English.

**I. Elimination of Discrimination.** Work with the Office of Diversity and Equity (ODE) and other applicable County offices and/or departments to establish procedures for promptly resolving deficiencies, as needed. Recommend procedures to identify and eliminate discrimination that may be discovered in any County processes.

**J. Maintain Legislative and Procedural Information.** Federal laws, rules and regulations, ODOT guidelines, the current Title VI Plan, County Accomplishment Reports, and other resource information pertaining to the implementation and administration of the County's Title VI program will be maintained and updated by the Coordinator. Information will be made available to other County departments or the public as requested or required.

#### **V. Education and Title VI Training**

In keeping with the adopted County policy of nondiscrimination, departmental procedures will be established or followed for employees to have equal access to applicable educational and training opportunities. Transportation Division staff will maintain program administration documentation and data necessary for preparation of annual Title VI reports and will routinely supply the necessary data to the Title VI Coordinator.

The Title VI Coordinator is responsible for County Transportation Division Title VI related training and staff development for Title VI Specialists and other Transportation Division employees. The Coordinator will organize or conduct a minimum of one internal Title VI training session annually for the Transportation Division. The Coordinator will organize and facilitate the provision of Title VI training sessions for consultants, contractors, and subcontractors periodically. ODOT's Office of Equal Opportunity Internal and External Civil Rights Branch and the Contract Compliance Office may be asked to provide applicable training.

#### **VI. Complaint Procedures – Allegations of Discrimination in Federally Assisted Programs or Activities**

##### **A. Overview**

These procedures cover all complaints filed under Title VI of the Civil Rights Act of 1964 as amended, Section 504 of the Rehabilitation Act of 1973, Civil Rights Restoration Act of 1987, and the Americans with Disabilities Act of 1990 (ADA) as amended, relating to any program or activity administered by Multnomah County, as well as to consultants, and contractors. Intimidation or retaliation of any kind is prohibited by law.

The procedures do not deny the right of the complainant to file formal complaints with other state or Federal agencies or to seek private counsel for complaints alleging discrimination. Every effort will be made to resolve complaints informally at the County and contractor level. The option of informal mediation meeting(s) between the affected parties and a designated mediator may be utilized for resolution.

## **B. Procedures**

### **1. Explanation of the Complaint (Grievance) Procedures.**

The County has implemented a complaint procedure in compliance with the ADA and Title VI and related Federal enactments. Under the County's procedure the complaint will be identified and referred to as the "grievance."

Any person who believes she or he has been the subject of unequal treatment or discrimination on the basis of age, disability, race, color, sex, or national origin, may file a grievance with the Civil Rights Administrator for the County. This grievance procedure applies to grievances arising from any program, service, activity, or benefit of the County or its sub-recipients. The County's Personnel Policy governs employment-related complaints of discrimination.

This grievance procedure is an administrative process that does not provide for compensatory or punitive damages. This procedure is not a confidential process; there is no expectation of confidentiality or privacy in any written or oral communication resulting from, created, or exchanged during this process. All grievances will be resolved informally at the lowest possible level, or be referred to an outside investigator for investigation.

The County's grievance procedure under the Plan is not exclusive. A person filing a grievance with the County (the "Grievant") may also file a complaint with other state or federal agencies or the courts. Other agencies have time limits for filing complaints. This process does not protect or extend those time limits. In general, federal agencies require ADA or Title VI complaints to be filed within 180 days of the date of the alleged discrimination.

This grievance procedure does not cover discrimination complaints based on protections afforded under other civil rights statutes, such as religion, sexual orientation, gender identity, marital status or source of income. If a grievance is filed alleging such discrimination, the Grievant will be notified that it cannot be processed as a grievance under the Plan. The Civil Rights Administrator will assist the Grievant in navigating the process of resolution of such complaint with the appropriate Department or Division within the County.

### **2. Filing a Grievance.**

2.1 To be accepted, a Grievance must:

- a) Involve discrimination on the basis of age, disability, race, color, sex, or national origin;

- b) Allege that the discrimination was committed by the County, a County employee or a sub-recipient of federal funds from the County; and
- c) Be filed within 180 days of the alleged discrimination, or of when the Grievant knew, or should have known, of the alleged discrimination.

## 2.2 Specifics of Filing a Grievance:

- a) Grievances under this Procedure must be filed with the Civil Rights Administrator in ODE.
- b) Grievances must be in writing and signed by the Grievant. If the Grievant needs assistance reducing the complaint to writing or signing it, the Grievant may request assistance from the Civil Rights Administrator or may have another person write and acknowledge the complaint on the Grievant's behalf. A sample grievance form is provided as Exhibit 7.

## 2.3 A Grievance must include:

- a) The name and contact information, such as address, email address, and phone number of the person who experienced the discriminatory action;
- b) The date(s) of the alleged act(s) of discrimination, or the date(s) when the Grievant(s) became aware of the alleged discrimination;
- c) A brief but specific description of the discriminatory practice(s) or action(s) and any relevant facts; and
- d) The names and contact information of any witnesses, including County employees or contractors.

2.4 Grievances may be mailed, delivered, faxed, or emailed; and will be processed once the identity of the Grievant and intent to proceed with the grievance have been established.

2.5 The grievance form must be signed or acknowledged, and returned to the Civil Rights Administrator for processing by the one of the methods identified in Section 2.4 to:

Neisha Saxena  
Civil Rights Administrator  
501 SE Hawthorne Blvd, Suite 600  
Portland, Oregon 97214  
(503) 988-4867  
[neisha.saxena@multco.us](mailto:neisha.saxena@multco.us)

2.6 Allegations received by telephone will be reduced to writing and provided to the Grievant for confirmation or revision before processing. Any such grievance not signed by the Grievant

within 60 days, shall be deemed legally insufficient as provided under Section VI, Subsection 4.1(e) and dismissed.

### **3. Processing a Civil Rights Grievance:**

3.1 Upon receipt of the grievance, the Civil Rights Administrator will determine:

- a) If the grievance is complete;
- b) If additional information is needed;
- c) If the County has jurisdiction; and
- d) If the grievance is timely.

3.2 The Civil Rights Administrator will notify the Grievant in writing within 5 working days either that the grievance is accepted or not accepted. If the grievance is not accepted, the Civil Rights Administrator will state why; and if additional information is needed, the Grievant will be notified what information is needed.

3.3 If the grievance is accepted, the County will review the merits and attempt to resolve it informally at the lowest level possible. If the grievance cannot be resolved informally, it will be referred for outside investigation as further provided in this Subsection.

a) For grievances brought by County employees that are not resolved informally, the County will refer the matter for outside investigation pursuant to applicable County procedures.

b) For grievances brought by County sub-recipients or against County sub-recipients relating to the County's Transportation Division, if not resolved informally, any such grievance will be referred to ODOT for further investigation or review.

c) For grievances brought by County sub-recipients or against County sub-recipients relating to non-Transportation Division matters, if not resolved informally, any such grievances will be referred for outside investigation by the Administrator pursuant to the procedures of the County ODE.

d) In some instances, the County may have a legal obligation to notify a State or Federal agency of a Civil Rights violation, and in such instances, the grievance may be investigated by other State or Federal agencies.

e) The Civil Rights Administrator also reserves the right at any time to refer the Grievant to a State or Federal agency for investigation or resolution of the allegations.

3.4 The option of informal mediation meetings may be used at any stage during the process.

#### **4. Dismissal:**

4.1 Multnomah County may dismiss a grievance for any of the following reasons:

- a) The Grievant withdraws the grievance;
- b) The Grievant fails to respond to repeated requests for additional information needed to process the grievance;
- c) The grievance is untimely;
- d) The Grievant cannot be located; or
- e) The grievance is determined to be legally insufficient.

#### **5. Coordination with ODOT:**

For all grievances accepted by the County and relating to the County Transportation Division, a copy of the grievance complaint and investigative report, if any, prepared in response to the complaint, will be forwarded to ODOT's Office of Civil Rights at the completion of the review by the Administrator.

#### **6. Appeal, Review, Annual Log:**

6.1 For all grievances accepted by the County and relating to the County Transportation Division, if the Grievant is not satisfied with the County's final decision, the Grievant shall be advised of the Grievant's rights to appeal said decision to ODOT, the U.S. Department of Transportation, or U.S. Department of Justice. The Grievant has 180 calendar days after the County's final decision to appeal under this subsection; however, reconsideration of the final county decision will only be available if new facts not previously considered come to light.

6.2 For all grievances accepted by the County not relating to the County's Transportation Division, if the Grievant is not satisfied with the County's final decision, any further review of said decision shall be in compliance with applicable County administrative procedures.

6.3 The Civil Rights Administrator shall maintain an annual log of complaints received under the Plan in which the log shall include: the name and address of the person filing the complaint, the date the complaint was filed, the basis of the complaint, disposition of the complaint, and the status of the complaint.

#### **VII. Program Review and Remedial Action Procedures**

The Coordinator will assist ODOT to periodically conduct Title VI compliance reviews of the County's sub-recipients. The review of select recipients of Federal-aid highway or other Federal funds will be conducted to ensure adherence to Title VI requirements. The County will work cooperatively to periodically confirm operational guidelines have been provided to consultants and contractors, including Title VI language, provisions, and related requirements, as

applicable.

Sub-recipients placed in a deficiency status will be given a reasonable amount of time, not to exceed 90 days after receipt of the deficiency letter, to voluntarily correct deficiencies. When a contractor fails or refuses to voluntarily comply with requirements within the allotted time frame, the County will submit to ODOT and FHWA copies of the case file and a recommendation that the sub-recipient be found in noncompliance.

A follow-up review will be conducted within 180 days of the initial review to ascertain if the sub-recipient has complied with the Title VI Program requirements in correcting deficiencies previously identified. If the sub-recipient refuses to comply, the County and ODOT may, with FHWA's concurrence, initiate sanctions per 49 CFR 21.

## **VIII. Title VI Implementation Activities**

### **A. Planning**

#### Public Involvement in Planning Activities & Title VI

1. County Transportation will invite participation of the populace of Multnomah County, including all social, economic, and ethnic groups, in the planning process, by disseminating written program information to minority media and ethnic organizations, and providing public service announcements for all local media, when forming citizen advisory committees or planning boards, and requesting involvement.
2. County Transportation staff will obtain demographic statistics at applicable community meetings and public hearings involving transportation planning sessions. Data will be gathered through use of a voluntary self-reporting form that includes race, gender, and national origin. Copies of the completed forms will be provided to the Title VI Coordinator after each meeting.
3. To ensure access to public meetings, evening meetings will be conducted in a variety of community buildings throughout the County that are served by County Transportation right of way and infrastructure, including those along transit routes; ensure translation services are available, if anticipated; and ensure sufficient public meetings are held in predominantly minority communities when County Transportation projects will specifically impact those communities.

### **B. Design & Engineering / Environmental Activities**

1. The County Transportation Division is responsible for transportation improvement projects and environmental permitting for projects. Studies are performed to assess various environmental factors evaluating demographic data.

2. Authorities. Title 23, USC 109(d), 14(a), 217, 315, and 402(a); 23 CFR 1204.4; 23 CFR 771; EO 12898; 49 CFR 1.48(b)(33) and 1.48(c)(2); National Environmental Policy Act of 1969, 42 USC 4321; 40 CFR Part 1500; 49 CFR Part 622.
3. Design/Environmental Review Process and Title VI
  - a) Depending on the scope, complexity, and impacts of a project, a National Environmental Policy Act (NEPA) Categorical Exclusion, NEPA Environmental Assessment, State Environmental Policy Act (SEPA) checklist, SEPA Determination of Non Significance, or NEPA and/or SEPA Environmental Impact Statement will be completed.
  - b) Monitor compliance with Title VI requirements in all aspects of conducting Environmental Impact Statements or Assessments. Provide a comprehensive summary of the demographic and environmental data elements to be considered by the EIS/EIA process to the Coordinator, including updated summary lists as applicable. Incorporate into the review process adequate time for the Coordinator to review and comment, as applicable, on the draft EIS/EIA to ensure there are no violations of the Federal Civil Rights Act, as amended, as a result of the County's Federal-aid highway activities.
  - c) In order to ensure dissemination of information and foster participation from affected populations, County Transportation staff will place public notices in applicable general and minority media; select accessible locations and times for public hearings or meetings; and arrange for translation services as needed, particularly in projects impacting predominantly minority communities. Ensure the public has information pertaining to their rights to call or write the department to view plans and discuss environmental problems.
  - d) County Transportation staff will obtain demographic data at community meetings and public hearings pertaining to the transportation design phase. Data will be gathered through use of a voluntary sign-up form that includes race, gender, and national origin. Copies of the voluntary self-reporting forms will be provided to the Coordinator after each meeting.
  - e) The County Transportation staff shall provide a copy of the Capital Improvement Plan and Program to the Title VI Coordinator in or around April of each year. The Coordinator shall work with the County Transportation Division to generate a map of the Federally funded transportation projects to include demographic data of the neighborhoods affected by the projects.

#### **D. Right-of-way Activities**

1. Ensure equal opportunity in all aspects of procuring real estate service contracting and

appraisal agreements. Follow adopted Multnomah County vendor procurement policies in the acquisition of contracted services.

2. Maintain data on awards to minority and female appraisers, and provide data to the Title VI Coordinator on a quarterly basis.
3. Follow guidelines for property acquisition as well as applicable laws and regulations, including Title VI and Section 504.
4. Adhere to departmental policy of appraising affected property owners, tenants, and others involved in right-of-way acquisition of their rights and options regarding negotiation, relocation, condemnation, and other aspects of the acquisition process. Provide copies of required moving and relocation assistance literature.
5. Incorporate Title VI language and assurance statements in all surveys of property owners and tenants after the conclusion of all business. Coordinate the preparation of deeds, permits, and leases to ensure the inclusion of the appropriate clauses, including Title VI Assurances.
6. Ensure that appraised values and communications associated with the appraisal and negotiation operations result in equitable treatment.
7. Ensure comparable replacement dwellings are available and assistance is given to all displaced persons and entities by the property acquisition process.
8. Maintain statistical data including race, color, national origin, and sex on all relocated individuals affected by Federally funded projects, and provide detailed demographic data quarterly to the Title VI Coordinator.

#### **E. Construction and Maintenance Activities**

1. **Construction Management.** The Transportation Division is responsible for administration of all new public right of way construction contracts under County jurisdiction. The Division is also responsible for oversight and the administration of transportation construction projects under County jurisdiction, as set forth by policy decisions and supervision of the Multnomah County Engineer. Authorities: County's Design and Construction Manual; County Road Rules; ODOT Standard Specifications for Road, Bridge, and Municipal Construction.
2. **Maintenance.** The Transportation Division is responsible for managing an efficient program for maintaining Multnomah County roads and bridges, by economically utilizing the resources of contractors, equipment, and materials. Authorities: County's Design and Construction Manual; County Road Rules; ODOT Standard Specifications for Road, Bridge, and Municipal Construction.

3. Construction and Maintenance Activities and Title VI:

- a) Review all Federally funded projects for application of Disadvantaged Business Enterprise (DBE) goals. As appropriate, include DBE provisions in those projects with designated goals. Include Title VI language in bid announcements and applicable construction documents, as stipulated in the County's Title VI Policy Statement and Assurances herein.
- b) Award construction contracts on the basis of lowest responsive bidder or other appropriate methods allowed by Oregon law, as well as meeting DBE requirements. Include Title VI language in prime contract award letters to encourage utilization of DBE subcontracts and vendors.
- c) Ensure that prime contractors with DBE requirements award contracted work to qualified DBEs that perform commercially useful functions.
- d) Monitor all maintenance and construction operations to ensure nondiscrimination throughout all operations.
- e) Coordinate the gathering of maintenance and construction information regarding DBE participation for the Annual Title VI Report; and provide to the Coordinator.

**IX. EXHIBITS TO MULTNOMAH COUNTY'S TITLE VI PROGRAM PLAN**

**Exhibit 1:** Multnomah County Title VI Notice to the Public

**Exhibit 2:** Multnomah County Title VI Assurances

**Exhibit 2A:** Assurances For Consultants, Contractors, Subcontractors, Suppliers and Manufacturers

**Exhibit 2B:** Granting and Habendum Clauses

**Exhibit 2C:** Lease/Deed Provisions

**Exhibit 3:** Demographic Profile

**Exhibit 4:** Public Involvement Policies

**Exhibit 5:** Summary of Applicable Legal Authority

**Exhibit 6:** Organization Charts

**Exhibit 7:** Grievance Form

## **Exhibit 1: Multnomah County Transportation Division Title VI Notice to the Public**

Multnomah County (County) hereby gives public notice that it is the County's policy to assure full compliance with Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, and related statutes and regulations in all programs and activities. Title VI requires that no person shall, on the grounds of age, disability, 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 Federal-Aid Highway program or other activity for which the County 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 the County. Any such complaint must be in writing and filed with the County's Title VI Coordinator within one hundred, eighty (180) days following the date of the alleged discriminatory occurrence, unless there is good cause for delay as determined by the Civil Rights Administrator. Title VI Discrimination Complaint Forms may be obtained from the Multnomah County Transportation Division Office at no cost to the complainant by calling (503) 988-5050.

## Exhibit 2: Multnomah County Title VI Assurances

Multnomah County, Oregon, (hereinafter referred to as the “Recipient”), HEREBY AGREES THAT, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation, it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 2000d to 2000d--4 (hereinafter referred to as the Act), and all requirements imposed by or pursuant to 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—Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the Regulations), and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, no person in the United States shall, on the grounds of age, disability, race, color, sex, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance through the Oregon Department of Transportation, including the U.S. Department of Transportation and Federal Highway Administration; and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement. This Assurance is required by Subsection 21.7(a) (1) of the Regulations.

More specifically and without limiting the above general assurance, the Recipient hereby gives the following specific assurances to its Federal-Aid Highway Program:

1. That the Recipient agrees that each “program” and each “facility” as defined in Subsections 21.23(e) and 21.23(b) of the Regulations, will be (with regard to a “program”) conducted, or will be (with regard to a “facility”) operated, in compliance with all requirements imposed by, or pursuant to, the Regulations.

2. That the Recipient shall insert the following notification in all solicitations for bids for work or material subject to the Regulations made in connection with the Federal-Aid Highway Program and in adapted form in all proposals for negotiated agreements:

Multnomah County, in accordance with Title VI of the Civil Rights Act of 1964 and 78 Stat. 252, 42 USC 2000d to 2000d--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 ensure that in any contract entered into pursuant to this advertisement, minority 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 age, disability, race, color, sex, or national origin in consideration for an award.

3. That the Recipient shall insert the clauses of Exhibit 2A of this Assurance in every contract subject to the Act and the Regulations.

4. That the Recipient shall insert the clauses of Exhibit 2B of this Assurance, as a covenant running with the land, in any deed from the United States effecting a transfer of real property, structures, or improvements thereon, or interest therein.

5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance shall extend to the entire facility and facilities operated in connection therewith.

6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of, real property, or an interest in real property, the Assurance shall extend rights to space on, over, or under such property.

7. That the Recipient shall include the appropriate clauses set forth in Exhibit 3A of this Assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Recipient with other parties: (a) for the subsequent transfer of real property acquired or improved under the Federal-Aid Highway Program; and (b) for the construction or use of or access to space on, over or under real property acquired, or improved under the Federal-Aid Highway Program.

8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program; or is in the form of, personal property, or real property or interest therein or structures or improvements thereon, in which case the Assurance obligates the Recipient or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which the Recipient retains ownership or possession of the property.

9. The Recipient shall provide for such methods of administration for the program as are found by the Secretary of Transportation, or the official to whom s/he delegates specific authority to give reasonable guarantee that it, other recipients, sub-grantees, contractors, subcontractors, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations, and this Assurance.

10. The Recipient agrees that the United States has a right to seek judicial endorsement with regard to any matter arising under the Act, the Regulations, and this Assurance.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts, or other Federal financial assistance extended after the date hereof to the Recipient by the U.S. Department of Transportation under the Federal-Aid Highway Program; and is binding on it, other recipients, sub-grantees, contractors, subcontractors, transferees, successors in interest and other participants in the Federal-Aid Highway Program. The person whose signature appears below is authorized to sign this Assurance on behalf of the Recipient.

\_\_\_\_\_, \_\_\_\_\_  
Multnomah County Administrator      Date

**Exhibit 2A: Title VI Assurances for Consultants, Contractors, Subcontractors, Suppliers, and Manufacturers**

Multnomah County will insert or add the following clauses into every contract subject to the Act and Regulations associated with the receipt of Federal financial assistance:

During the performance of this contract, the contractor, for itself, and 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 DOT), 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 grounds of age, disability, race, color, sex, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

**3. Solicitations for Subcontracts, including Procurement of Materials and Equipment.**

In all solicitations either by competitive bidding or negotiations made by the contractor for work to be performed under a subcontract, including procurement 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 the Regulations relative to nondiscrimination on the ground of age, disability, race, color, sex or national origin.

**4. Information and Reports.**

The contractor shall provide all information and reports required by the Regulations 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 Multnomah County or the Oregon Department of Transportation 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 Multnomah County, or the Oregon Department of Transportation 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, Multnomah County and the Oregon Department of Transportation shall impose such contract sanctions as it, or the Federal Highway 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 procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontractor or procurement as Multnomah County or the U.S. Department of Transportation, Federal Highway Administration, may direct as a means of enforcing such provisions including sanctions for noncompliance.

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request Multnomah County enter into such litigation to protect the interests of the County and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

**Exhibit 2B: Granting and Habendum Clauses**

**When Multnomah County is the recipient of real property, structures, or improvements thereon, or interest therein from the United States, the following clauses shall be included in any and all deeds affecting or recording the transfer of property:**

**GRANTING CLAUSE**

NOW, THEREFORE, Multnomah County, as authorized by law, will accept title to the lands and maintain the project constructed thereon, in accordance with Title 23, United States Code, the Regulations for the Administration of Federal Aid for Highways and the policies and procedures prescribed by the Federal Highway Administration of the Department of Transportation and, also in accordance with and in compliance with all requirements imposed by or pursuant to 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 (hereinafter referred to as the Regulations) pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252:42 USC 2000d to 2000d--4).

\_\_\_\_\_ does hereby remise, release, quitclaim, and convey unto Multnomah County all the right, title, and interest of the Department of Transportation in and to said land described in Exhibit A attached hereto and made a part thereof.

## **HABENDUM CLAUSE**

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

Multnomah County, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, and its successors and assigns, that (1) no person shall on the grounds of age, disability, race, color, sex, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed, and (2) that Multnomah County, shall use the lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, part 21, Nondiscrimination of Federally assisted programs of the Department of Transportation -- Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended, and (3) that in the event of breach of any of the above mentioned nondiscrimination conditions, the County shall have a right to reenter said lands and facilities on said lands, and the above described lands and facilities shall thereon revert to and vest in and become the absolute property of the Department of Transportation and its assigns as such interest existed prior to this instruction.

## **Exhibit 2C: LEASE/DEED PROVISIONS**

**Upon receipt of Federal financial assistance to construct a facility or part of a facility, the Recipient agrees to include these clauses in all applicable future deeds, licenses, leases, permits, or similar instruments entered into by Multnomah County pursuant to the provisions of Title VI Assurances, item 7:**

The LESSEE, for himself or herself, his or her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land, that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this lease, for a purpose for which a U.S. Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the LESSEE shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, part 21, Nondiscrimination in Federally assisted programs of the U.S. Department of Transportation -- Effectuation of Title VI of the Civil Rights Act of 1964, as said Regulations may be amended.

That in the event of breach of any of the above non-discrimination covenants, the County shall have the right to terminate the lease, and to reenter and repossess said land and the facilities thereon, and hold the same as if said lease had never been made or issued.

**The following shall be included in all applicable deeds, licenses, leases, permits, or similar agreements entered into by Multnomah County pursuant to the provisions of Title VI Assurances, item 7:**

The LESSEE, for himself or herself, his or her personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (1) no person, on the grounds of race, color, sex, or national origin shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and furnishing of services thereon, no person on the grounds of age, disability, race, color, sex, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the LESSEE shall use the premises in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, part 21, Nondiscrimination in Federally assisted programs of the U.S. Department of Transportation ---Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

That in the event of breach of any of the above nondiscrimination covenants, Multnomah County shall have the right to terminate the lease, and to re-enter and repossess said land and the facilities thereon, and hold the same as if said lease had never been made or issued.<sup>1</sup>

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<sup>1</sup> Reverter Clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of Civil Rights Act of 1964.

**Exhibit 3: Demographic Profile Multnomah County, Oregon as of 2010**

	Multnomah County 2000				Multnomah County 2010			
	Under 18 years		18 years and over		Under 18 years		18 years and over	
<b>Total Pop.</b>	147,250		513,236		150,683		584,651	
<b>Race</b>	Number	Percent	Number	Percent	Number	Percent	Number	Percent
One race	135,509	92.0%	498,113	97.1%	135,680	90.0%	565,811	96.8%
White	102,734	69.8%	420,091	81.9%	96,258	63.9%	466,163	79.7%
Black or African American	11,804	8.0%	25,630	5.0%	11,655	7.7%	29,746	5.1%
American Indian/Alaska Native	1,761	1.2%	5,024	1.0%	1,930	1.3%	5,895	1.0%
Asian	9,329	6.3%	28,309	5.5%	10,426	6.9%	37,524	6.4%
Native Hawaiian and Other Pacific Islander	738	0.5%	1,582	0.3%	1,319	0.9%	2,710	0.5%
Some Other Race	9,143	6.2%	17,477	3.4%	14,092	9.4%	23,773	4.1%
Two or More Races	11,741	8.0%	15,123	2.9%	15,003	10.0%	18,840	3.2%
<b>Hispanic or Latino</b>								
Hispanic or Latino (of any race)	17,548	11.9%	32,059	6.2%	30,230	20.1%	49,908	8.5%
Not Hispanic or Latino	129,702	88.1%	481,177	93.8%	120,453	79.9%	534,743	91.5%

#### **Exhibit 4: Public Involvement Policies**

The County makes an effort to inform and include the public, including Title VI protected populations, through a variety of different media.

**Website-** The County maintains an extensive website, which is updated regularly. The Transportation Program sites may be accessed from the County site. The site contains information on the County's responsibilities, programs, meeting calendars, agendas, and minutes; contact information for staff; complaint procedures and complaint forms; bidding and contract information; and project information. The website is designed to be ADA compliant.

**Press Releases-** Press releases are routinely sent to different media- daily and weekly newspapers, TV stations, and radio stations, including Non-English language outlets.

**Meetings open to the public-** Meetings and work sessions of the County Board and commissions are open to the public. Time for citizen comments is reserved at Board meetings. Meeting dates, times, and agendas are posted in advance on the County's website. Board meetings are televised and webcast by local public access channels. Live broadcasts and replays are available on the County website.

**Opportunities for Public Comment-** The County and the Transportation Program provide opportunities for comment on a range of plans, programs, and projects. Public comment periods are typically advertised through email notices, and web and newspaper advertisements. Comments are accepted by phone, fax, email, U.S. mail, and in person at meetings.

**Staff Contact-** Staff is accessible and contact information for staff is generally provided on the County's website and specifically provided on project fact sheets, brochures, and postcards, as well as on meeting agendas. Staff attends public meetings and is available to answer questions and take comments.

**Events-** Events such as workshops, open houses, and forums are held regularly, as needed. Depending on the event, notices of these events may be made by email, postcard, letter, newspaper advertisements, and on the County's website. Meeting locations are ADA accessible and interpretation or listening devices can be provided by request.

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

## Exhibit 5: Summary of Applicable Legal Authority

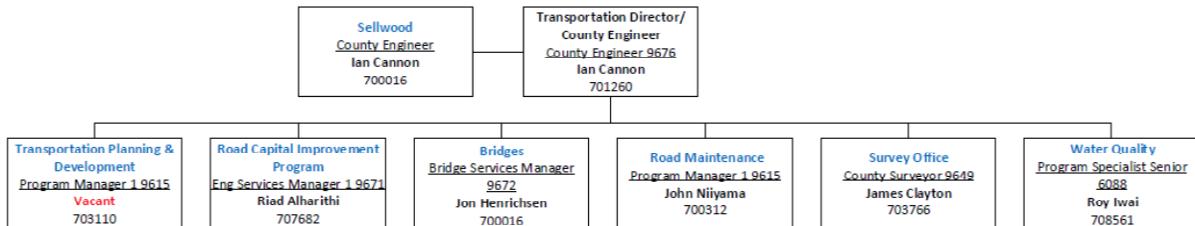
The following contains a compilation of the legal regulations, statutes, or orders that together create the legal requirements for non-discrimination by the Multnomah County Transportation Division or subrecipients:

- *Title VI of the Civil Rights Act of 1964*; 42 USC 2000d to 2000d-4; 42 USC 4601 to 4655; 23 USC 109(h); 23 USC 324; DOT Order 1050.2; EO 12250; EO 12898; 28 CFR 50.3
- *The Civil Rights Restoration Act of 1987, (Pub. L. No. 100-259)*:
  - o 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, and contractors.
- *23 CFR Part 200 and 49 CFR 21*:
  - o 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)*:
  - o 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)*:
  - o 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)*:
  - o 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 instrument of a state or a local government.
- *Section 504 of the Rehabilitation Act of 1973*:
  - o 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*:
  - o Executive Order 12898 regards federal actions to address Environment Justice in minority populations and low income populations.
- *Executive Order 13166*:
  - o Executive Order 13166 regards the improvement of access to services for persons with limited English proficiency.

## Exhibit 6- Organization Chart

### Department of Community Services Transportation Division

Phone: 503.988.5050



For Internal Use Only

Building #455 1600 SE 190<sup>th</sup> Ave, Portland, OR 97233

Updated: 9/3/2015

## Exhibit 7: Grievance Form

### ADA/Title VI Grievance Form

The purpose of this form is to assist you in filing a grievance under the Americans With Disabilities Act (ADA), The Rehabilitation Act, or Title VI of the Civil Rights Act of 1964 (Title VI). The ADA and the Rehabilitation Act prohibit discrimination based on disability. Title VI prohibits discrimination based on age, disability, race, color, sex or national origin. Other laws prohibit discrimination based on sexual orientation, gender identity, religion, and source of income. You may file a grievance against the County, a County contractor, a subcontractor on a County transportation project, or any other County sub-recipient of federal funds. All grievances must be filed within 180 days of the occurrence of the alleged act unless there is good cause for delay as determined by the Civil Rights Administrator.

Send All Grievances To:

Neisha Saxena  
Civil Rights Administrator  
501 SE Hawthorne Blvd, Suite 600  
Portland, Oregon 97214  
(503) 988-4867  
[neisha.saxena@multco.us](mailto:neisha.saxena@multco.us)

This is an administrative process that does not provide for compensatory or punitive damages. This is not a confidential process; there is no expectation of confidentiality or privacy in any written or oral communication resulting from, created, or exchanged during this process. \Best efforts will be made to resolve all grievances informally at the lowest possible level; if not successful, the grievance may be referred to an outside investigator for investigation.

The County's process is not exclusive. A person filing a grievance with the County may also file a complaint with other state or federal agencies or the courts. Other agencies will have time limits for filing complaints. Generally, federal agencies require ADA and Title VI complaints to be filed within 180 days of the date of the discrimination. This process does not protect or extend those time limits.

#### 1. Name and Address

Name:

Address:

City:

State:

Zip Code:

Home Phone:

Work Phone:

Cell Phone:

Email:

Today's Date:

2. Person(s) Discriminated Against, if Different from Above

Name:

Address:

City:

State:

Zip Code:

Home Phone:

Work Phone:

Cell Phone:

Email:

3. County Department, Contractor or Sub-recipient Involved in Alleged Discrimination:

Name:

Address:

City:

State:

Zip Code:

Home Phone:

Work Phone:

Cell Phone:

Email:

4. Indicate the Reasons you Believe the Discriminatory Action(s) Occurred.

Race/Color    National Origin    Disability    Sex    Age    Other  
\_\_\_\_\_ (please specify)

5. When and where did the incident(s) occur?

6. Please explain as clearly as possible what occurred, who was involved, why you believe it occurred, and how you (or another) were discriminated against. (Please use additional sheets of paper, if necessary, and attach a copy of any written materials pertinent to your claim.)

7. Sign and date the Grievance Form

Print Name:

Signature:

Date:

If you are unable to sign, please type or have another acknowledge for you.

Name of Person Acknowledging on Behalf of Grievant: