

Title VI Plan for LPAs with Populations over 75,000
CITY OF FEDERAL WAY PUBLIC WORKS DEPARTMENT

Beginning date of Plan: April 1, 2022

Jim Ferrell, Mayor
Agency Administrator/Signatory Authority

EJ Walsh, P.E., Public Works Director
Public Works Director

Prepared by: Kia McGlone, Diversity Equity Inclusion Analyst/Title VI Coordinator

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Title VI Policy Statement

It is the policy of Washington State Department of Transportation that no person shall on the grounds of race, color, and national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in any operation of City of Federal Way as provided by Title VI of the Civil Rights Act of 1964 and related statutes.

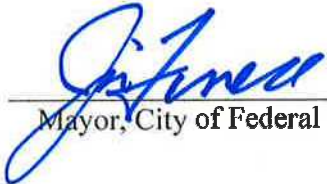
This policy applies to all operations of City of Federal Way, including its contractors and anyone who acts on behalf of City of Federal Way. This policy also applies to the operations of any department or agency to which City of Federal Way extends federal financial assistance. Federal financial assistance includes grants, training, equipment usage, donations of surplus property, and other assistance.

Prohibited discrimination may be intentional or unintentional. Seemingly, neutral acts that have disparate impacts on individuals of a protected group and lack a substantial legitimate justification are a form of prohibited discrimination. Harassment and retaliation are also prohibited forms of discrimination.

Examples of prohibited types of discrimination based on race, color, or national origin include: Denial to an individual any service, financial aid, or other benefit; Distinctions in the quality, quantity, or manner in which a benefit is provided; Segregation or separate treatment; Restriction in the enjoyment of any advantages, privileges, or other benefits provided; Discrimination in any activities related to highway and infrastructure or facility built or repaired; and Discrimination in employment.

Title VI compliance is a condition of receipt of federal funds. The Title VI Coordinator is authorized to ensure compliance with this policy, Title VI of the Civil Rights Act of 1964, 42 USC § 2000d and related statutes, 42 USC 4601 to 4655; 23 USC 109(h); 23 USC 324; DOT Order 1050.2; EO 12250; EO 12898; 28 CFR 50.3 and 49 CFR part 21.

Signed: _____


Mayor, City of Federal Way

April 25, 2022
Date

II. Organization, Staffing, and Structure

The Mayor of City of Federal Way is ultimately responsible for assuring full compliance with the provisions of Title VI of the Civil Rights Act of 1964 and related statutes and has directed that non-discrimination is required of all LPA employees, contractors, and agents pursuant to 49 CFR Part 21.

The Diversity, Equity, and Inclusion (DEI) Analyst of City of Federal Way performs the duties of the Title VI Coordinator and ensures implementation of their Title VI program. The position of DEI Analyst is located within the Community Development Department of the City.

The Title VI Coordinator is responsible for:

- Submitting a Title VI plan and annual reports on the agency's behalf;
- Developing procedures for the prompt processing and disposition of complaints;
- Investigating complaints, compiling a complaint log, and reporting to WSDOT;
- Developing procedures for the collection and analysis of statistical data;
- Developing a program to conduct Title VI reviews of program areas;
- Conducting annual Title VI assessments of pertinent program areas;
- Developing Title VI information for dissemination; and
- Establishing procedures for resolving deficiency status and reducing to writing the remedial action agreed to be necessary.

Additionally, City of Federal Way has designated Deputy Public Work Director, Capital Engineering

Manager and City Traffic Engineer as Title VI specialists within the City's Public Works Department to assist the Title VI Coordinator with the implementation of City's Title VI Program.

An Organization chart is included in the Exhibit "A."

III. Primary Program Area Descriptions & Review Procedures

Title VI Coordinator's Responsibilities and Program Administration – As authorized by the Agency Administrator, the Title VI Coordinator is responsible for initiating, monitoring, and ensuring City of Federal Way's compliance with Title VI requirements as follows:

PW – Training – Deputy PW Director – Ensure all staff are trained upon starting in department on Title VI Plan. Provide annual training as needed for specific items such as: use of translation services and public outreach.

PW – Maintenance – Deputy PW Director – Ensure fair and equitable access to streets maintenance functions. Inform adjacent property owners of major maintenance. Provide notices in alternate forms/languages as needed. Oversee contract solicitation and agreements.

PW – Capital – Engineering Manager: Inform adjacent property owners of capital construction projects. Oversee right-of-way acquisition and environmental compliance as related to capital projects. Provide notices in alternate forms/languages. Oversee contract solicitation and agreements.

PW – Transportation Planning – City Traffic Engineer: Provide equal opportunity for input and feedback in developing transportation plans. Oversee Transportation Improvement Program (TIP), Transportation element of City Comprehensive Plan and Neighborhood Traffic Safety program. Oversee solicitation and agreements. Provide notices in alternate forms/languages.

IV. Review Procedures

A. Title VI Review of Sub-recipients of Federal Aid Highway Funds: Title VI Specialists and/or the Coordinator will assist WSDOT to periodically conduct Title VI compliance reviews. The City of Federal Way recognizes that all transportation related projects and programs are subject to the Title VI, regardless of funding source. The City of Federal Way will review all sub-recipients for the Title VI compliance as described below for Federal Fund sub-recipients. The City of Federal Way staff will review select recipients to ensure adherence to Title VI requirements. The Title VI Coordinator and/or Specialists will work cooperatively to periodically confirm operational guidelines provided to consultants, contractors, and sub-recipients, including Title VI language, provisions, and related requirements, as applicable.

B. Post-Grant Reviews: The Coordinator will collaborate with the City of Federal Way Public Works staff to conduct periodic post grant reviews of select recipients of Federal highway funds or other Federal funds, for roads, sidewalks, bridges, municipal construction, etc. to ensure adherence to Title VI requirements. Appropriate staff will periodically confirm that operational guidelines provided to consultants, contractors and sub-recipients include Title VI language and provisions and related requirements, where applicable.

C. Remedial Action: When irregularities occur in the administration of Federal-aid highway programs at either the Agency or sub-recipient levels, corrective action will be taken to resolve identified Title VI issues. The City of Federal Way Public Works will seek the cooperation of the consultant, contractor or other sub-recipient in correcting deficiencies found during periodic reviews. Agency will provide

technical assistance and guidance, upon request, to support voluntarily compliance by the sub-recipient. When conducting Title VI compliance reviews, the Agency will reduce to writing any recommended remedial action agreed upon by the Agency and sub-recipient, and provide a copy of the letter within a period not to exceed 45 days.

Sub-recipients placed in a deficiency status will be given a reasonable time, not to exceed 90 days after receipt of the deficiency letter, to voluntarily correct deficiencies. When a sub-recipient fails or refuses to voluntarily comply with requirements within the allotted time frame, Agency will submit to WSDOT 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, City of Federal Way Public Works and WSDOT may, with FHWA's concurrence, initiate sanctions per 49 CFR 21.

V. Data Collection/Reporting/Analysis

The City of Federal Way 's process for collecting and analyzing data on race, color or national origin, of participants and beneficiaries of various programs areas are discussed below:

Program Area	Type of Data Collected & Process for Collecting	Intended Outcome of Data Analysis (i.e. Title VI Purpose for Collecting the Data)
Maintenance	Race/Ethnicity and Primary Language; Census data per census tract	Ensure notices of maintenance work are provided in alternate languages / forms to make sure services offered aren't disproportionate based on income level, race, color or national origin. Track public involvement at hearings/meetings related to the services to see that participation is proportionate to the service area, then adjusting meetings to encourage proportionate participation at the hearings/meetings.
Capital (Design, right-of-way, construction)	Race/Ethnicity and Primary Language; Census data per census tract in project areas. Request race/ethnicity data at public outreach.	Ensure notices of capital project are provided in alternate languages / forms to make sure projects offered aren't disproportionate based on income level, race, color or national origin. Track public involvement at hearings/meetings related to the services to see that participation is proportionate to the service area, then adjusting meetings to encourage proportionate participation at the hearings/meetings.
Planning	Race/Ethnicity and Primary Language;	Ensure notices of planning documents/programs are provided in alternate languages / forms to make sure projects offered aren't disproportionate based on

	Census data per census tract in project areas. Request race/ethnicity data at public outreach.	income level, race, color or national origin. Track public involvement at hearings/meetings related to the services to see that participation is proportionate to the service area, then adjusting meetings to encourage proportionate participation at the hearings/meetings.
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VI. Title VI Training

In keeping with adopted City of Federal Way policy of nondiscrimination, departmental procedures will be established or followed for Public Works employees to have equal access to applicable educational and training opportunities. Public Works 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 overall Title VI related training and staff development for Title VI Specialists and other employees. The Coordinator will organize or conduct a minimum of one internal Title VI training session annually. The Coordinator will organize and facilitate the provision of Title VI training sessions for consultants, contractors, and subcontractors periodically. WSDOT’s Office of Equal Opportunity may be asked to provide applicable training.

VII. Title VI Complaint Procedures

The City of Federal Way will post Title VI Complaint Procedure on the City of Federal Way’s web page. The Title VI Complaint Form in English and other languages are included in Exhibit “B.” The discrimination complaint procedure for the City of Federal Way is shown below:

Discrimination Complaint Procedure for City of Federal Way

Federal law prohibits discrimination on the basis of race, color, or national origin in any City of Federal Way program, service, or activity. This prohibition applies to all branches of City of Federal Way, its contractors, consultants, and anyone else who acts on behalf of City of Federal Way.

Title VI Complaint Investigations

Any person or group who believes they were discriminated against based on race, color, or national origin in programs, services, or activities where there is federal assistance may file a Title VI complaint.

Complaints related to the federal-aid highway program may be filed with an LPA/MPO, WSDOT, FHWA Division Office, the FHWA Headquarters Office of Civil Rights (HCR), the USDOT Departmental Office of Civil Rights, or the United States Department of Justice. According to USDOT regulations, 49 CFR §21.11(b), a complaint must be filed no later than 180 days after the date of the last instance of alleged discrimination, unless the time for filing is extended by the processing agency.

Complaints should be in writing, signed, and filed by mail, fax, in person, or e-mail.

If a complainant phones a sub-recipient with allegations, they shall transcribe the allegations of the complaint as provided by phone and then send a written complaint to the complainant for

correction and signature.

A complaint must contain the following information:

- The complainant's contact information, including: full name, mailing address, phone number (and best time to call), email address (if available);
- The basis of the complaint (e.g., race, color, national origin);
- The names of person(s) and/or agency/organization alleged to have discriminated;
- A description of the alleged discriminatory actions (include sufficient information to understand the facts that led the complainant to believe that discrimination occurred in a program or activity that receives federal financial assistance); and,
- The date(s) of the alleged discriminatory act(s) and whether the alleged discrimination is ongoing.

(Sub)recipients must maintain a log of Title VI complaints and their disposition (including the results of any investigations). The record must be included in their Title VI Annual Accomplishments and Goals Report. Form 140-562LA contains a "sample" complaint log. (Sub)recipients should develop their own complaint log, inclusive of the information contained on WSDOT's log.

Retain records related to the complaint as long as the issue is open. Destroy records four years after the end of fiscal year in which the case is closed.

All Title VI complaints related to transportation-related programs and services must be forwarded to WSDOT-OEO for processing by FHWA.

Washington State Department of Transportation Office of Equal Opportunity, Title VI
Box 47314 Olympia, WA98466

WSDOT investigates complaints only if delegated by FHWA after acceptance of a complaint. FHWA is responsible for all determinations regarding whether to accept, dismiss, or transfer the complaint and finding no violation or failure to comply.

Complainants have the right to file a complaint directly with the federal funding agency. The following is the address where Title VI complaints may be filed directly with FHWA:

Federal Highway Administration
U.S. Department of Transportation Office of Civil Rights 1200 New Jersey Avenue, SE
8th Floor E81-105 Washington, DC 20590
CivilRights.FHWA@dot.gov

FHWA will render final decisions in all cases including those investigated by WSDOT. There are no administrative appeal forums in Title VI complaints. Once FHWA issues its final agency decision, the complaint is closed.

There is no prohibition against a complainant filing a Title VI complaint simultaneously with an LPA, WSDOT, and FHWA.

VIII. Title VI Complaint Form

The City of Federal Way Complaint Form in English and other languages are included in the

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Appendix “**D**”.

Access to Title Complaint forms (and translations) are posted on City of Federal Way’s website in two locations. 1. Human Resource Tab and 2. Public Works

Complaint form translations are available in Spanish, Korean, Russian, Urdu, Somali, Amharic, Chinese, Punjabi, Tagalog and Vietnamese.

IX. Public Participation

Describe your LPA's processes for conducting public outreach. Your description should include answers to the following:

- ***How does your LPA identify minority populations for outreach? (e.g., demographic data, use of community liaisons, etc.)***

When planning outreach activities, city staff use demographic and health disparities data (e.g., Washington Tracking Network, EPA EJScreen, Federal Way Public School District, and Census data) to determine who lives in an area that could be affected by a project. After the initial screening, if it's determined that there will be significant impacts, Public Works staff follow up with local organizations, schools, and trusted community members to learn preferred communication pathways, and languages that might not have been detected with evaluation tools, and the presence of underrepresented communities not defined in the census data.

If there are potential impacts to tribal or indigenous people or their resources, the city will include those groups in the engagement work and incorporate their needs and approaches.

- ***How does your LPA communicate with and conduct outreach to minority populations? (e.g., website, newsletters, public meetings, etc.)***

City staff will research and connect with non-governmental organizations (NGOs) and trusted community members, who will on behalf of the city share project information. The city continues to experiment with ways to build and sustain relationships with minority populations to build capacity (e.g., provide timely information, inexpensive/easy access to documents, and the use of Plain Talk/Plain Language) for better public participation.

- ***How does your LPA communicate with and conduct outreach to Limited English Proficient individuals?***

The city advertises project information in culturally and linguistically appropriate newspapers/radio stations, Federal Way local newspaper (The Federal Way Mirror), the City website, Google Translate, ZOOM platform, community briefings and mailings. These languages have been identified by 2020 census data as languages spoken by more than 5% or 1,000 people over the age of 5 that speak English "less than very well".

- ***Explain how your LPA considers input from minority populations for decision making within its pertinent program areas.***

The city meets regularly with several NGO's that represent minority groups (the Federal Way Korean American Association and the Federal Way Black Collective) to gather input and build relationships that foster decision-making. The Latino and Slavic communities have also been contacted for input on city documents (e.g., Surface Water Management Plan update). The city will continue to reach out to the Vietnamese community to learn how to encourage and empower them to participate in decision making and to get their input on policies and programs.

X. Limited English Proficiency

Describe how the LPA implements LEP requirements. How does the LPA determine which records are vital, which are translated, and into which language(s). Explain procedures for determining which staff is trained and frequency of training on the use of language services. Outline the process used by the LPA to determine which languages are needed for notices related to construction notices, right of way letters, planning, etc.

City employees are encouraged to seek resources and trainings to enhance their outreach skills for marginalized populations.

A vital record or document is considered to be mailed or emailed to Federal Way's residents, specifically to LEP persons to ensure meaningful access to the city's major activities and programs. Whether or not a document is "vital" is based on whether the information is necessary to ensure a community member has access to a primary city function. For example, a road closure or notice of emergency evacuation routes would be considered vital documents, where the cleaning out of a storm drain would not be considered one.

The city uses the Census Bureau to get specific data about which languages are spoken at home for the Federal Way population, 5 years and older. The city has adopted EPA's threshold, which is if 1,000 individuals prefer a specific non-English language, then interpretation or translation is likely appropriate. The identified languages are: Spanish, Korean, Vietnamese, and Russian.

XI. Environmental Justice

Describe LPA policy/procedures to prevent, mitigate, and correct the possible high and adverse disproportionate burdens or environmental effects of an agency's programs, policies, and activities on minority and/or low-income populations. Federal statutes and policies require state and local governments that receive federal assistance to establish EJ procedures.

Public Works is examining it's use of resources and will develop measurable goals to address inequities in the City of Federal Way. This will lead to improvements in health and the environment, and ultimately a more resilient city.

XII. Notice of Title VI Rights

Notice of Title VI Rights is posted online on the City's Human Resources Web page. The City's Human Resource webpage has links to view translated Title VI Rights in Spanish, Korean, Russian and Vietnamese Languages. The notice in English is as shown below:

Your Rights against Discrimination under Title VI of the Civil Rights Act of 1964

The City of Federal Way hereby gives public notice that it is the Agency's policy to assure full compliance with Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration

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Act of 1987, and related statutes and regulations in all programs and activities. Title VI requires that no person shall, on the grounds of race, color, 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 Agency 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 City of Federal Way. Any such complaint filed with the City of Federal Way Human Resource Manager within 180 days following the date of the alleged discriminatory occurrence. Title VI discrimination Complaint Forms may be obtained from the City of Federal Way Human Resources office or on City's website at no cost to the complainant.

To file a Title VI discrimination complaint, contact:

Vanessa Audett, HR Manager
City of Federal Way
33325 8th Avenue S,
Federal Way, WA 98003-6325
Phone: (253) 835-2532
Email: Vanessa.Audett@cityoffederalway.com

Washington Department of Transportation
Office of Equal Opportunity – Title VI
Box 47314
Olympia, WA 98504-7314
TitleVI@wsdot.wa.gov
Phone: (800) 259-9143

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

Assurances

DOT Order No. 1050.2A

The City of Federal Way (herein referred to as the "Recipient"), HEREBY AGREES THAT, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through Washington State Department of Transportation (WSDOT), is subject to and will comply with the following:

Statutory/Regulatory Authorities

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

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

General Assurances

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

"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity, for which the Recipient receives Federal financial assistance from DOT, including the Washington State Department of Transportation.

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

Specific Assurances

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted program:

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23(b) and 21.23(e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated, or will be (with regard

to a "facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.

2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with all Federal-Aid Highway Programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

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


3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
 - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:

- a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
 - b. the period during which the Recipient retains ownership or possession of the property.
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

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

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

Jim Ferrell, Mayor
City of Federal Way
(Name of Recipient)

By 
(Signature of Authorized Official)

DATED April 25, 2022

APPENDIX A

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

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

unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the Washington State Department of Transportation may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

APPENDIX B

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

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

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the City of Federal Way 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 Washington State Department of Transportation, and the policies and procedures prescribed by the Federal Highway Administration of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the City of Federal Way all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

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

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

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

APPENDIX C

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

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

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

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

APPENDIX D

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

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

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

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

APPENDIX E

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

Pertinent Non-Discrimination Authorities:

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