

Title VI Plan

**Southwest Washington Regional Transportation Council
Federally Funded Transportation Program
TITLE VI PLAN**

March 7, 2006

**Dean Lookingbill
Transportation Director**

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 **Americans with Disabilities Act (ADA) Information**

Materials can be provided in alternative formats by contacting the Southwest Washington Regional Transportation Council at (360) 397-6067 or info@rtc.wa.gov.

Title VI Compliance

The Southwest Washington Regional Transportation Council (RTC) assures that no person shall, on the grounds of race, color, national origin, or sex as provided by Title VI of the Civil Rights Act of 1964 and the Civil Rights Restoration Act of 1987 (P.L. 100.259), be excluded from participation in be, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity. Please contact RTC's Title VI Coordinator at (360) 397-6067 or info@rtc.wa.gov if you have questions.

Title VI Plan

I. Policy Statement, Authorities and Citations

A. Policy of Nondiscrimination

The Southwest Washington Regional Transportation Council (RTC) assures that no person shall on the grounds of race, color, national origin, or sex as provided by Title VI of the Civil Rights Act of 1964, and the Civil Rights Restoration Act of 1987 (P.L. 100.259) be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any RTC sponsored program or activity. RTC further assures every effort will be made to ensure nondiscrimination in all of its programs and activities, whether those programs and activities are federally funded or not.

In the event RTC distributes Federal aid funds to another entity, RTC 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. Assurance of compliance, therefore, falls under the proper authority of the RTC Board of Directors pursuant to its budgetary authority and responsibility. The Transportation Director and 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.

Dean Lookingbill
Transportation Director

Date

B. Authorities

Title VI of the 1964 Civil Rights Act provides that no person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance.

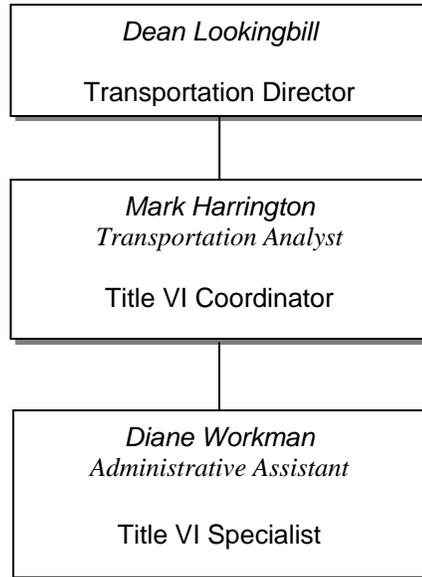
The Civil Rights Restoration Act of 1987 broadened the scope of Title VI coverage by expanding the definition of terms "programs or activities" to include all programs or activities of Federal Aid recipients, sub-recipients, and contractors, whether such programs and activities are Federally assisted or not (Public Law 100-259 [S. 557] March 22, 1988).

C. Additional Citations

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

II. Organization, Staffing and Structure

A. Organizational Chart – Reporting Relationships



B. Staffing and Structure

Transportation Director

The Transportation Director is authorized to ensure compliance with provisions of RTC's policy of non-discrimination and with the law, including the requirements of 23 CFR Part 200 and 49 CFR Part 21. RTC's grants compliance function and Title VI coordination shall be performed under the authority of the Transportation Director.

Title VI Coordinator

RTC has assigned the Transportation Analyst to perform the duties of the Title VI Coordinator and ensure implementation of the Agency's Title VI Federally Funded Transportation Program. The Transportation Analyst has other duties and responsibilities in addition to Title VI. This position has a direct reporting relationship and access to the Transportation Director.

Title VI Specialist

Additionally, RTC has designated the Administrative Assistant as a Title VI Specialist. The Specialist shall work in concert with the Title VI Coordinator. RTC's programs are subject to receiving Federal assistance through grants or other types of transportation related funding and are responsible for implementing RTC's directives and policies to ensure civil rights compliance and equal opportunity. The Specialist will work with the Coordinator to ensure that all programs comply with Title VI regulations and assurances, meet the objectives of the Title VI Plan, meet Federal and state reporting requirements, and provide adequate training opportunities for applicable staff.

The Title VI Specialist will work with the Coordinator to ascertain Title VI compliance by contractors, subcontractors, consultants, suppliers and other sub-recipients under Federally funded projects or programs. The Specialist will ensure applicable Title VI provisions and requirements are included in contractual agreements to prime contractors

and sub-recipients. The Specialist will work with the Coordinator to obtain statistical data on race, color, national origin, handicap/disability, and sex of participants in, and beneficiaries of Federally funded RTC transportation programs. The Specialist will maintain data relative to RTC's program. The Coordinator shall use the data to complete annual Title VI reports and for other administrative needs.

III. Title VI Plan Implementation and Program Administration

Title VI Coordinator's Responsibilities and Program Administration

As authorized by the Transportation Director, the Title VI Coordinator is responsible for initiating, monitoring, and ensuring RTC's compliance with Title VI requirements 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 Transportation Director.

B. Complaints. Review written Title VI complaints that may be received by RTC following the adopted procedural guidelines (see Section V – Complaint Procedures). Ensure every effort is made to resolve complaints informally at the local or regional level.

C. Data Collection. Review the statistical data gathering process 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 census data are included as a part of all Environmental Impact Statements/Assessments (EIS/EIA) conducted 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 Agency employees; and facilitate Title VI training for appropriate staff, 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 Southwest Washington Regional Transportation Council Title VI Plan as needed or required. Present updated plan to the RTC Board of Directors for approval; submit amended Plan to WSDOT.

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 by one calendar year from previous approved Plan.

H. Public Dissemination. Work with RTC staff to develop and disseminate Title VI program information to RTC employees and sub-recipients, including 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 Agency'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 full 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 other RTC jurisdiction offices to establish procedures for promptly resolving deficiencies, as needed. Recommend procedures to identify and eliminate discrimination that may be discovered in any RTC processes.

J. Maintain Legislative and Procedural Information. Federal laws, rules and regulations, WSDOT guidelines, the current Southwest Washington Regional Transportation Council Title VI Plan, Annual Accomplishment Reports, and other resource information pertaining to the implementation and administration of RTC's Title VI program will

be maintained and updated by the Coordinator. Information will be made available to other RTC jurisdictions or the public as requested or required.

IV. NHI Education and Title VI Training

In keeping with adopted RTC policy of nondiscrimination, procedures will be established or followed for employees to have equal access to applicable educational and training opportunities. 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.

A. National Highway Institute (NHI) Education

The Coordinator will be notified when training for the National Highway Institute courses or workshops become available to RTC employees. The Transportation Director will establish policy for the selection of participants interested in taking part in the National Highway Institute Training workshops to ensure that no one is denied participation or subjected to discrimination on the basis of race, color, national origin or sex. A report will be completed and forwarded to the Coordinator upon completion of each educational seminar or course throughout the course of the year, which shall include the name of each participant, their title, division, sex and ethnicity for use in completing the annual Title VI accomplishment report.

B. Title VI Training

The Coordinator is responsible for overall Title VI related training and staff development for the Title VI Specialist and other RTC 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 Internal and External Civil Rights Branch and the Contract Compliance Office may be asked to provide applicable training.

C. Selection of Instructors

The Coordinator will collaborate with RTC's Accountant to ensure RTC policy is followed in the selection of instructors for RTC training courses/ workshops, and ensure equal opportunity in the selection process for all training contracts. Per adopted policy, RTC will provide accessibility to Minority/Women/Disadvantage Business Enterprise consulting and training firms to compete for training contracts.

V. 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, relating to any program or activity administered by RTC, as well as to sub-recipients, 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 RTC and sub-recipient level. The option of informal mediation meeting(s) between the affected parties and a designated mediator may be utilized for resolution.

B. Procedures

1. Any individual, group of individuals, or entity that believes they have been subjected to discrimination prohibited by nondiscrimination requirements may file a written complaint with the RTC Director. A formal complaint must be filed within 180 calendar days of the alleged occurrence. RTC will not officially act or respond to complaints made verbally.

2. Upon receiving the written complaint, RTC will determine its jurisdiction, acceptability, need for additional information, and the investigative merit of the complaint. In some situations, RTC may request the Washington State Department of Transportation (WSDOT) Office of Equal Opportunity conduct the investigation. In the event

WSDOT handles the investigation, they will follow their adopted procedures for investigating discrimination complaints, per their current State Title VI Plan.

3. If the complaint is against a sub-recipient, consultant, or contractor, under contract with RTC, the appropriate division and/or agency shall be notified of the complaint, within 15 calendar days.

4. Once RTC decides its course of action, the complainant and the respondent will be notified in writing of such determination within five (5) calendar days. The complaint will be logged into the records of the Title VI Coordinator, and the basis for the allegation identified including race, color, national origin, handicap/disability, age or sex.

5. In cases where RTC assumes investigation of the complaint, they will provide the respondent with the opportunity to respond to the allegations in writing. The respondent will have ten (10) calendar days upon receipt, to furnish RTC with his/her response to the allegations.

6. Within 60 days of receipt of the complaint, the Coordinator or WSDOT investigator will prepare a written investigative report for the Transportation Director. The report shall include a narrative description of the incident, identification of persons interviewed, findings and recommendations for disposition.

7. The recommendation shall be reviewed by RTC's legal counsel. They may discuss the report and recommendations with the Transportation Director, the Coordinator, and other appropriate staff. The report will be modified as needed and made final for its release to the parties.

8. Once the investigative report becomes final, briefings will be scheduled with each party within 15 days. Both the complainant and the respondent shall receive a copy of the investigative report during the briefings and will be notified of their respective appeal rights.

9. A copy of the complaint and RTC's investigative report will be issued to WSDOT's External Civil Rights Branch (or the appropriate oversight agency) within 60 calendar days of the receipt of the complaint.

10. If the complainant or respondent is not satisfied with the results of the investigation of the alleged discriminatory practice(s) he or she shall be advised of their rights to appeal the agency's decision to WSDOT, U.S. Department of Transportation or U.S. Department of Justice. The complainant has 180 calendar days after the appropriate agency's final resolution to appeal to USDOT. Unless new facts not previously considered come to light, reconsideration of the final determination by the investigating agency will not be available.

11. An annual Log of Complaints must be maintained by each agency. The Log of Complaints must contain the following information for each complaint filed:

- The name and address of the person filing the complaint
- The date of the complaint
- The basis of the complaint
- The disposition of the complaint
- The status of the complaint

Only qualified, well-trained investigators should conduct these investigations. No agency is allowed to investigate a complaint against itself.

VI. Sub-Recipient Review and Remedial Action Procedures

A. Title VI Review of Sub-recipients of Federal-Aid Highway Funds. The Specialist and Coordinator will assist WSDOT to periodically conduct Title VI compliance reviews. RTC staff will review select recipients of Federal-aid highway or other Federal funds, to ensure adherence to Title VI requirements (see Section VII). Staff 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 RTC staff to conduct periodic post grant reviews of select recipients of Federal highway funds or other Federal funds to ensure adherence to Title VI requirements (see

Section VII). Appropriate staff will periodically confirm that guidelines provided to consultants 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 RTC or sub-recipient levels, corrective action will be taken to resolve identified Title VI issues. RTC will seek the cooperation of the consultant or other sub-recipient in correcting deficiencies found during periodic reviews. RTC will provide technical assistance and guidance, upon request, to support voluntarily compliance by the sub-recipient. When conducting Title VI compliance reviews, RTC will reduce to writing any recommended remedial action agreed upon by RTC 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, RTC 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, RTC and WSDOT may, with FHWA's concurrence, initiate sanctions per 49 CFR 21.

VII. Title VI Implementation Activities in Special Emphasis Program Areas

A. Planning & Location Activities

1. Planning Process. RTC has responsibility for providing long-range planning, program development, and capital programming necessary to provide efficient transportation services to Clark, Skamania, and Klickitat County citizens. RTC annually updates and coordinates the three-year Metropolitan Transportation Improvement Program as the Clark County MPO. The update also informs other Clark County jurisdictions of the current planning direction for transportation needs. Projects included in the update are the result of evaluation and prioritization of needs in various transportation areas. The evaluation process includes input from local jurisdictions and organizations, citizen groups, and private individuals. All three-year plans must be consistent with the adopted Comprehensive Plan approved under the State's Growth Management Act.

2. Authorities. RTC Interlocal Agreement; 23 CFR 450 (MPO); RCW 35.77; RCW 36; RCW 47.06 Statewide Transportation Planning; RCW 47.80 Regional Transportation Planning Organization (RTPO)

3. Public Involvement in Planning Activities & Title VI

- a) Invite participation of a cross section of the populace from 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 board, and requesting involvement.
- b) RTC staff will obtain demographic statistics at applicable community meetings and public meetings involving transportation planning sessions. Data will be gathered through use of a voluntary self-reporting form, which includes race, gender, and national origin. Copies of the completed forms will be provided to Title VI Coordinator after each meeting.
- c) To ensure access to public meetings, evening meetings will be conducted in a variety of community buildings throughout the region, including those along transit routes, ensure translation services are available if anticipated, and ensure public meetings are held in predominantly minority communities when transportation projects will specifically impact those communities.

B. Consultant Contracts Activities

1. Consultant Contracts Administration. RTC is responsible for selection, negotiation, and administration of its consultant contracts. RTC operates under its internal contract procedures and all relevant federal and state laws.

2. Authorities. WSDOT Local Agency Guidelines; 48 CFR 31; 23 CFR 172

3. Title VI Assurances and Provisions. Include Title VI assurance and provision language in all Federally funded consultant contracts. Periodically review documents and language to ensure compliance with current laws and regulations. Provide a copy of the form of the contract to the Coordinator, and any amendments or updates that may occur over time. RTC will maintain updated demographic data on the utilization of women-and minority-owned consulting firms. As they occur, a copy of the award letter will be provided to the Coordinator for use in preparing the Annual Update Accomplishment Report.

C. Design & Engineering / Environmental Activities

RTC does not serve as lead agency in project design, engineering and environmental review processes.

D. Right-of-way Activities

RTC does not own right-of-way, nor does it participate in the right-of-way acquisition process.

E. Construction and Maintenance Activities

RTC does not undertake any transportation construction or maintenance activities.

Exhibit 1 - RTC Title VI Notice to the Public

RTC hereby gives public notice that it is the Southwest Washington Regional Transportation Council'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 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 RTC 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 RTC. Any such complaint must be in writing and filed with the RTC Transportation Director within one hundred eighty (180) days following the date of the alleged discriminatory occurrence. Title VI Discrimination Complaint Forms may be obtained from RTC at no cost to the complainant by calling 360-397-6067.

Exhibit 2 - RTC Title VI Assurances

The Southwest Washington Regional Transportation Council in the State of Washington, (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 will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 2000d--42 USC 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 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 Washington State 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:

The Southwest Washington Regional Transportation Council in accordance with Title VI of the Civil Rights Act of 1964 and 78 Stat. 252, 42 USC 2000d--42 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 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 race, color, sex, or national origin in consideration for an award.

3. That the Recipient shall insert the clauses of Appendix 1 of this Assurance in every contract subject to the Act and the Regulations.

4. That the Recipient shall insert the clauses of Appendix 2 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 Appendix 3 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 there on, 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.

Dean Lookingbill
Transportation Director

Date

Appendix 1 – Title VI Assurances For Consultants, Contractors, Subcontractors, Suppliers, and Manufacturers

RTC 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, 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 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 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 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 the Southwest Washington Regional Transportation Council or the Washington State 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 the Southwest Washington Regional Transportation Council, or the Washington State 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, the Southwest Washington Regional Transportation Council and the Washington State 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 the Southwest Washington Regional Transportation Council 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 the Southwest Washington Regional Transportation Council enter into such litigation to protect the interests of the Southwest Washington

Regional Transportation Council, and in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Appendix 2 - Granting and Habendum Clauses

When RTC 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, RTC, 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 RTC 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 RTC, 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 RTC, its successors, and assigns.

RTC, 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 shall on the grounds of 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 conveyed¹, (2) that RTC, 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 Agency shall have a right to reenter said lands and facilities on said land, and the above described land 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.

Appendix 3 - Lease/Deed Provisions

Upon receipt of Federal financial assistance to construct a facility or part of a facility, the Recipient agrees to included these clauses in all future deeds, licenses, leases, permits, or similar instruments entered into by RTC 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 US 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 Agency 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 deeds, licenses, leases, permits, or similar agreements entered into by RTC 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 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, the Agency 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.

¹ *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.*