

**TITLE VI NON-DISCRIMINATION AGREEMENT between  
The Wisconsin Department of Transportation (WisDOT) and  
Southeastern Wisconsin Regional Planning Commission, a WisDOT Sub-  
Recipient**

**Sub-Recipient Title VI Coordinator:**

**Name:** Elizabeth Larsen

**Title:** Business Manager

**Mailing Address:** PO Box 1607

W239 N1812 Rockwood Drive

Waukesha, WI 53187

**Phone:** 262-547-6721

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**I. Policy Statement**

The above identified Sub-Recipient of WisDOT federal aid funds, hereinafter referred to as the "Sub-Recipient," 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 program or activity. The Sub-Recipient 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.

The Civil Rights Restoration Act of 1987 broadened the scope of Title VI coverage by expanding the definition of terms "programs or activities" to include all programs or activities of Federal Aid recipients, sub-recipients, and contractors/consultants, whether such programs and activities are federally assisted or not (Public Law 100259 [S.557] March 22, 1988.)

In the event the Sub-Recipient distributes federal aid funds to an additional sub-recipient, the Sub-Recipient will include Title VI language in all written agreements and will monitor the additional sub-recipient for compliance.

The Sub-Recipient has authorized and charged the above identified Title VI Coordinator with the authority and responsibility for initiating and monitoring Sub-Recipient Title VI activities, preparing reports and other responsibilities as required by 23 Code of Federal Regulation (CFR) 200 and 49 Code of Federal Regulation 21.

## **II. Title VI Program**

### **Organization and Staffing**

- A. Pursuant to 23 CFR 200, the Sub-Recipient has appointed, or will appoint within thirty days, the above identified Title VI Coordinator who is responsible for implementing the Sub-Recipient's Title VI Program. Within twenty days after the signing of this agreement the Sub-Recipient will provide WisDOT with a copy of the Sub-Recipient's organization's chart illustrating the level and placement of the Title VI Coordinator.
- B. The Sub-Recipient will notify WisDOT in writing of any changes to the Sub-Recipient's organization chart, Title VI Coordinator, or Title VI Coordinator contact information.
- C. The sub-Recipient appoints their Title VI Coordinator as the designated representative for issues and actions pertaining to this agreement.

## **III. Assurances**

Consistent with 49 CFR Part 21.7 the Sub-Recipient hereby gives assurances:

1. That no person shall on the grounds of race, color, national origin, and sex, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity conducted by the Sub-Recipient regardless of whether those programs and activities are Federally funded or not.
2. That it will promptly take any measures necessary to effectuate this agreement.
3. That each program, activity, and facility as defined at 49 CFR 21.23(b) and (e), and the Civil Rights Restoration Act of 1987 will be (with regard to a program or activity) conducted, or will be (with regard to a facility) operated in compliance with the nondiscriminatory requirements imposed by, or pursuant to, this agreement.
4. That these assurances are 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 Sub-Recipient by the Wisconsin Department of Transportation (WisDOT) under a Federally-Funded Program and is binding on it, other additional sub-recipients, subgrantees, contractors, sub-contractors, transferees, successors in interest and other participants. The person or persons whose signatures appear below are authorized to sign these assurances on behalf of the Sub-Recipient.
5. That the Sub-Recipient shall insert the following notification in all solicitations for bids for work or material subject to the Regulations and made in connection with all Federally-Funded programs and, in adapted form all proposals for negotiated agreements.

*The Sub-Recipient, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 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, disadvantaged business enterprises as defined at 49 CFR Part 23 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, national origin, or sex in consideration for an award.*

6. That the Sub-Recipient shall insert the clauses of Appendix 1 of this Agreement in every contract subject to the Act and the Regulations.
7. That the Sub-Recipient shall insert the clauses of Appendix 2 of this Agreement, 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.
8. That the Sub-Recipient shall include the appropriate clauses set forth in Appendix 3 of this Agreement, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Sub-Recipient with other parties: (a) for the subsequent transfer of real property acquired or improved under a Federal Aid Program; and (b) for the construction or use of or access to space on, over or under real property acquired, or improved under a Federal Aid Program.
9. The Sub-Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and this agreement.

#### **IV. Implementation Procedures**

- A. This agreement shall serve as the Sub-Recipient's Title VI plan pursuant to 23 CFR 200 and 49 CFR 21.
- B. For the purpose of this agreement, "Federal Assistance" shall include:
  1. grants and loans of Federal funds,
  2. the grant or donation of Federal property and interest in property,
  3. the detail of Federal personnel,
  4. the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the Sub-Recipient, or in recognition of the public interest to be served by such sale or lease to the Sub-Recipient, and
  5. any Federal agreement, arrangement, or other contract which has as one of its purposes, the provision of assistance.

C. The Sub-Recipient shall:

1. Issue a policy statement, signed by the head of the Sub-Recipient, which expresses its commitment to the nondiscrimination provisions of Title VI. The policy statement shall be circulated throughout the Sub-Recipient's organization and to the general public. Such information shall be published where appropriate in languages other than English.
2. Take affirmative action to correct any deficiencies found by WisDOT or the United States Department of Transportation (USDOT) within a reasonable time period, not to exceed 90 days, in order to implement Title VI compliance in accordance with this agreement. The head of the Sub-Recipient shall be held responsible for implementing Title VI requirements.
3. Establish a civil rights unit and designate a manager who has a responsible position in the organization and easy access to the head of the Sub-Recipient. This unit shall contain a Title VI Coordinator, who shall be responsible for initiating and monitoring Title VI activities and preparing required reports.
4. Adequately staff the civil rights unit to effectively implement the civil rights requirements.
5. Process complaints of discrimination consistent with the provisions contained in this agreement. Investigations shall be conducted by civil rights personnel trained in discrimination complaint investigation. Identify each complainant by race, color, national origin or sex, the nature of the complaint, the date the complaint was filed, the date the investigation was completed, the disposition, the date of the disposition, and other pertinent information. A copy of the complaint, together with a copy of the Sub-Recipient's report of investigation, will be forwarded to WisDOT's Civil Rights and Compliance Section (CRCS) within 10 days of the date the complaint was received by the Sub-Recipient.
6. Collect statistical data (race, color, national origin, sex) of participants in, and beneficiaries of the programs and activities conducted by the Sub-Recipient.
7. Conduct Title VI reviews of the Sub-Recipient program areas and activities, and of additional Sub-Recipient contractor or consultant program areas and activities. Revise where applicable, policies, procedures and directives to include Title VI requirements.
8. Conduct training programs on Title VI and related statutes.
9. Prepare a yearly report of Title VI accomplishments for the last year and goals for the next year.

a) Annual Work Plan

Outline Title VI monitoring and review activities planned for the coming year; state by which each activity will be accomplished and target date for completion.

b) Accomplishment Report

List major accomplishments made regarding Title VI activities. Include instances where Title VI issues were identified and discrimination was prevented. Indicate activities and efforts the Title VI Specialist and program area personnel have undertaken in monitoring Title VI. Include a description of the scope and conclusions of any special reviews (internal or external) conducted by the Title VI Specialist. List any major problem(s) identified and corrective action

taken. Include a summary and status report on any Title VI complaints filed with the Sub-Recipient.

## V. Discrimination Complaint Procedures

- A. The Sub-Recipient adopts the following discrimination complaint procedures:
1. Any person who believes that he or she, individually, as a member of any specific class, or in connection with any disadvantaged business enterprise, has been subjected to discrimination prohibited by Title VI of the Civil Rights Act of 1964, the American with Disabilities Act of 1990, Section 504 of the Vocational Rehabilitation Act of 1973 and the Civil Rights Restoration Act of 1987, as amended, may file a complaint with the Sub-Recipient. A complaint may also be filed by a representative on behalf of such a person. All complaints will be referred to the Sub-Recipient's Title VI Coordinator for review and action.
  2. In order to have the complaint consideration under this procedure, the complainant must file the complaint no later than 180 days after:
    - a) The date of alleged act of discrimination; or
    - b) Where there has been a continuing course of conduct, the date on which that conduct was discontinued.

In either case, the Sub-Recipient or his/her designee may extend the time for filing or waive the time limit in the interest of justice, specifying in writing the reason for so doing.

3. Complaints shall be in writing and shall be signed by the complainant and/or the complainant's representative. Complaints shall set forth as fully as possible the facts and circumstances surrounding the claimed discrimination. In the event that a person makes a verbal complaint of discrimination to an officer or employee of the Sub-Recipient, the person shall be interviewed by the Title VI Coordinator. If necessary, the Title VI Coordinator will assist the person in reducing the complaint to writing and submit the written version of the complaint to the person for signature. The complaint shall then be handled according to the Sub-Recipient's investigative procedures.
4. Within 10 days, the Title VI Coordinator will acknowledge receipt of the allegation, inform the complainant of action taken or proposed action to process the allegation, and advise the complainant of other avenues of redress available, such as WisDOT and USDOT.
5. The Sub-Recipient will advise WisDOT CRCS within 10 days of receipt of the allegations. Generally, the following information will be included in every notification to WISDOT:
  - a) Name, address, and phone number of the complainant.
  - b) Name(s) and address(es) of alleged discriminating official(s).
  - c) Basis of complaint (i.e., race, color, national origin or sex)
  - d) Date of alleged discriminatory act(s).
  - e) Date of complaint received by the Sub-Recipient.
  - f) A statement of the complaint.
  - g) Other agencies (state, local or Federal) where the complaint has been filed.

- h) An explanation of the actions the Sub-Recipient has taken or proposed to resolve the issue raised in the complaint.
- 6. Within 60 days, the Title VI Coordinator will conduct an investigation of the allegation and based on the information obtained, will render a recommendation for action in a report of findings to the head of the Sub-Recipient. The complaint should be resolved by informal means whenever possible. Such informal attempts and their results will be summarized in the report of findings.
- 7. Within 90 days of receipt of the complaint, the head of the Sub-Recipient will notify the complainant in writing of the final decision reached, including the proposed disposition of the matter. The notification will advise the complainant of his/her appeal rights with WisDOT, or USDOT, if they are dissatisfied with the final decision rendered by the Sub-Recipient. The Title VI Coordinator will also provide WisDOT CRCS with a copy of this decision and summary of findings upon completion of the investigation.

B. WisDOT contact information is as follows:

Wisconsin Department of Transportation  
Bureau of Equity and Environmental Compliance  
Civil Rights and Compliance Section, Title VI Coordinator  
P. O. Box 7965  
Madison, Wisconsin 53707-7965  
Phone: (608) 264-7701 Fax: (608) 267-3641

## **VI. Sanctions**

In the event the Sub-Recipient fails or refuses to comply with the terms of this agreement, WisDOT may take any or all of the following actions:

1. Cancel, terminate, or suspend this agreement in whole or in part;
2. Refrain from extending any further assistance to the Sub-Recipient under the program from which the failure or refusal occurred, or any other program, until sufficient evidence of past correction of noncompliance and/or satisfactory assurance of future compliance has been received from the Sub-Recipient.
3. Take such other action that may be deemed appropriate under the circumstances, until compliance or remedial action has been accomplished by the Sub-Recipient.
4. Refer the case to the U.S. Department of Justice for appropriate legal proceedings.

## VII. Signatures

Wisconsin Department of Transportation:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**Sub-Recipient:**

  
\_\_\_\_\_  
Signature

Executive Director

\_\_\_\_\_  
Title

8-19-10  
\_\_\_\_\_  
Date

## Appendix 1

During the performance of this contract, the contractor/consultant, 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 non-discrimination in federally assisted programs of United States Department of Transportation (USDOT), Title 49, Code of Federal Regulations, part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

### **2. Non-discrimination**

The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-contractors, 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 Sub-contracts, 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 sub-contract, including procurement of materials or leases of equipment, each potential sub-contractor or supplier shall be notified by the contractor of the contractor’s obligations under this contract and the Regulations relative to non-discrimination on the grounds 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 contracting agency or the appropriate federal agency 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 WISDOT or the USDOT as appropriate, and shall set forth what efforts it has made to obtain the information.

### **5. Sanctions for Non-compliance**

In the event of the contractor’s non-compliance with the non-discrimination provisions of this contract, the contracting agency shall impose such contract sanctions as it or the USDOT may determine to be appropriate, including, but not limited to:

- Withholding of payments to the contractor under the contract until the contractor complies, and/or;
- 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 (5) in every sub-contract, 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 sub-contractor or procurement as the contracting agency or USDOT may direct as a means of enforcing such provisions including sanctions for non-compliance.

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

## Appendix 2

The following clauses shall be included in any and all deeds affecting or recording the transfer of real property, structures or improvements thereon, or interest therein from the United States.

### GRANTING CLAUSE

NOW THEREFORE, Department of Transportation, as authorized by law, and upon the condition that the State of Wisconsin 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 United States Department of Transportation and, also in accordance with an in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, the Department of Transportation WISDOT (hereafter 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 the State of Wisconsin 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 the State of Wisconsin 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 provisions of similar services or benefits and shall be binding on the State of Wisconsin, its successors, and assigns.

The State of Wisconsin, 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 subject to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed (,)(and)\* (2) that the state of Wisconsin, 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, Non-discrimination 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 non-discrimination conditions, the department 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.<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 purpose of Title VI of the Civil Rights Act of 1964.

### **Appendix 3**

The following clauses shall be included in all deeds, licenses, leases, permits, or similar instruments entered into by Sub-Recipient pursuant to the provisions, of Assurance 8.

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 of which a 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, Department of Transportation, Subtitle A, Office of the Secretary, part 21, Non-discrimination in federally assisted programs of the 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 STATE 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 has never been made or issued.

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by the Wisconsin State Department of Transportation pursuant to the provisions of Assurance 8.

The LESSEE, or 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, and 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, Department of Transportation, Subtitle A, Office of the Secretary, part 21, Non-discrimination in 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.

That in the event of breach of any of the above non-discrimination covenants, the STATE 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.

