FHWA-SUBRECIPIENT
TITLE VI/NONDISCRIMINATION AGREEMENT & ASSURANCES
FFY 2019

This signed ***FHWA- Subrecipient Title VI/Nondiscrimination Agreement and Assurances FFY 2019***, herein referred to as "***Agreement and Assurances,***" is a requirement of all of WisDOT's FHWA subrecipients. This ***Agreement and Assurances*** and the annual ***WisDOT Title VI/Nondiscrimination Subrecipient Survey*** are REQUIRED by ALL FHWA Subrecipients to meet the FHWA requirements for a ***Title VI Annual Implementation Plan*** and a ***Title VI Annual Accomplishments Report***. Subrecipients of Federal Transit Administration (FTA) funds must submit a separate Title VI Plan to the WisDOT, Bureau of Planning and Economic Development (BOPED) for review.

Instructions:

1. Fill-in all blanks with the appropriate information (search for the word "Click")
2. Obtain the signature of the Executive Director or other responsible official on Page No. 11
3. Submit an organizational chart showing the position of your Title VI Coordinator
4. Submit Title VI goals for FFY 2019 (scan or attach to email when returning this signed ***Agreement***)
5. Submit an outline or Table as described in VI.13.b below (scan or attach to email when returning this signed ***Agreement***)

This ***Agreement and Assurances*** is between the Wisconsin Department of Transportation (WisDOT) and Bay-Lake Regional Planning Commission, a WisDOT Subrecipient of Federal Highway Administration (FHWA) funds.

Subrecipient Title VI Coordinator (STSC) for FHWA Activities and Monitoring:

Name: Jeffrey C. Agee-Aguayo Title: Transportation Planner

Employing Organization: Bay-Lake Regional Planning Commission

Mailing Address: 425 S. Adams Street, Suite 201, Green Bay, WI 54301

Email Address: jagee@baylakerpc.org

Phone: (920) 448-2820, Ext. 103 Fax : (920) 448-2823

Name of the Signatory of this document (see p.10): Cindy J. Wojtczak

Does your organization require the approval of a Board or Commission to execute this *Agreement and Assurances (click on box to insert "X")*? Yes ☐ No ☒

If yes, provide date of expected Board or Commission approval: NA

I. Introduction

The Wisconsin Department of Transportation (WisDOT) is a recipient of Federal Highway Administration (FHWA) financial assistance. All entities that receive FHWA funding through WisDOT are termed "Subrecipients" of FHWA funds. WisDOT is responsible for annual monitoring and reporting on Title VI/Nondiscrimination compliance and the activities of all FHWA

Subrecipients. Subrecipients are required to comply with various nondiscrimination laws and regulations, including the Title VI Civil Rights Act of 1964, to be eligible to continue receiving FHWA financial assistance. This ***FHWA-Subrecipient Title VI/ Nondiscrimination Agreement and Assurances FFY 2019*** (hereinafter referred to as ***Agreement and Assurances)*** is a binding legal agreement between WisDOT and the Subrecipient that provides a framework and the required assurances for the Subrecipient to obtain FHWA Title VI compliance.

Additionally, this ***Agreement and Assurances***, in conjunction with the annual ***WisDOT Title VI/Nondiscrimination Subrecipient Survey*** serves as the above Subrecipients' FHWA ***Title VI/Nondiscrimination Implementation Plan***. Each Subrecipient entering into this ***Agreement and Assurances*** is responsible for knowing, understanding and executing all policies, procedures and expectations contained herein.

II. Policy Statement

The Bay-Lake Regional Planning Commission , a WisDOT Subrecipient of Federal Highway Administration (FHWA) funds, (hereinafter referred to as the "Subrecipient") assures that no person shall, on the grounds of race, color, national origin, sex, age, disability, low income or Limited English Proficiency (LEP), as provided by 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 Subrecipient further assures every effort will be made to ensure non-discrimination in all its programs and activities whether those programs and activities are federally-funded or not.

In the event the Subrecipient distributes federal aid funds to additional subrecipients such as: contractors, consultants, sub-grantees, subcontractors, transferees, successors in interest and other participants (hereinafter referred to as "contractors/consultants"), the Subrecipient will include Title VI language in all written agreements and will monitor all contractors/consultants for compliance (see Appendices 1-3).

The Subrecipient's Responsible Official has authorized and charged the above identified Subrecipient Title VI Coordinator (STSC) with the authority and responsibility for initiating and monitoring the Title VI activities of itself and its subcontractors, for preparing reports, and for other responsibilities as required by 23 Code of Federal Regulations (CFR) 200, and 49 CFR 21.

III. Authorities

The above Title VI Policy Statement and the following *Assurances* are provided under a range of authorities, including federal laws, regulations and Executive Orders (see 23 CFR 200.5(p)). Those authorities (hereinafter referred to as "Acts and Regulations") include, but are not limited to:

A. Nondiscrimination Statutes

- **Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, provides:** No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
- **Section 504 of the Rehabilitation Act of 1973, 42 U.S.C. 794, et seq., provides:** No qualified handicapped person shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, be subjected to discrimination under any program or activity that receives or benefits from Federal financial assistance.
- **Age Discrimination Act of 1975, 42 U.S.C. 6101, provides:** No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

- **Federal Aid Highway Act of 1973, 23 U.S.C. 324, provides:** No person shall, on the ground of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance under this Title or carried on under this Title.
- **The Civil Rights Restoration Act of 1987, P.L. 100-209, provides:** Clarification of the original intent of Congress in Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973. The Act restores the broad, institution-wide scope and coverage of the nondiscrimination statutes to include all programs and activities of Federal-aid recipients, sub-recipients, and contractors, whether such programs and activities are federally assisted or not.
- **Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. 12131, et seq., provides:** No qualified individual with a disability shall, by reason of such disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination by a department, agency, special purpose district, or other instrumentality of a State or local government.
- **Title II of the Americans with Disabilities Act of 1990,** 42 U.S.C. 12131, et seq., provides: No qualified individual with a disability shall, by reason of such disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination by a department, agency, special purpose district, or other instrumentality of a State or local government.

B. Regulations

- 23 Code of Federal Regulations (CFR) 1.36, Compliance with Federal Laws and Regulations
- 23 CFR 200, Title VI Program and Related Statutes-Implementation and Review Procedures
- 28 CFR 35, Nondiscrimination on the Basis of Disability in State and Local Government Services
- 28 CFR 36, Nondiscrimination on the Basis of Disability in Public Accommodations and in Commercial Facilities
- 28 CFR 42, Subpart C, Implementing Title VI of the Civil Rights Act of 1964
- 28 CFR 50.3, USDOJ's Guidelines Enforcement of Title VI of the Civil Rights Act of 1964
- 49 CFR 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964
- 49 CFR 27, Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance
- 49 CFR 28, Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation (DOT)

C. Executive Orders (E.O.)

- E.O. 12250, Leadership and Coordination of Nondiscrimination Laws
- E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
- E.O. 13166, Improving Access to Services for Persons with Limited English Proficiency

IV. Title VI Program

A. Organization and Staffing

1. Bay-Lake Regional Planning Commission has a civil rights unit and a designated manager who has a responsible position in the organization and easy access to the head of the Subrecipient organization. This unit shall contain a Subrecipient Title VI Coordinator (STSC).

2. The Subrecipient has appointed or will appoint, within thirty days of signing this ***Agreement and Assurances***, the above identified (see Page No. 1) Subrecipient Title VI Coordinator (STSC) as the designated representative for responsibilities and actions pertaining to this ***Agreement and Assurances*** and who is responsible for implementing the Subrecipients' Title VI Program.

V. Assurances

A. The Subrecipient, Bay-Lake Regional Planning Commission , hereby gives the following assurances consistent with 49 CFR Part 21.7:

1. That no person shall on the grounds of race, color, national origin, sex, age, disability, low income or Limited English Proficiency (LEP) be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity conducted by the Subrecipient whether those programs and activities are federally funded or not.

2. That the Subrecipient will promptly take any measures necessary to effectuate this ***Agreement and Assurances***.

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 conducted (with regard to a program or activity), or will be operated (with regard to a facility) in compliance with the nondiscriminatory requirements imposed by, or pursuant to, this ***Agreement and Assurances***.

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 Subrecipient by the Wisconsin Department of Transportation (WisDOT) under a federally-funded program. These Assurances are binding on it, additional subrecipients, sub-grantees, contractors, consultants, subcontractors, transferees, successors in interest and other participants.

5. That the person or persons whose signature(s) appear below are authorized to sign this ***Agreement and Assurances*** on behalf of the Subrecipient.

6. That the Subrecipient shall insert the following notification in all solicitations for bids for work or material subject to the Acts and Regulations and made in connection with all federally funded programs and, in adapted form, in all proposals for negotiated agreements.

   The Subrecipient, 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.

7. That the Subrecipient shall insert the clauses of Appendix 1 of this ***Agreement and Assurances*** in every contract subject to the Act and the Regulations.

8. That the Subrecipient shall insert the clauses of Appendix 2 of this ***Agreement and Assurances***, as a covenant running with the land, in any deed from the United States or the Wisconsin Department of Transportation effecting a transfer of real property, structures, or improvements thereon, or interest therein.

9. That the Subrecipient shall include the appropriate clauses set forth in Appendix 3 of this ***Agreement and Assurances***, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Subrecipient with other parties: (a) for the subsequent transfer of real property acquired or improved under an FHWA 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 FHWA aid program.

10. That the Subrecipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts and Regulations, and this ***Agreement and Assurances***.

VI. Implementation Procedures

A. For the purpose of this *Agreement and Assurances*, "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 Subrecipient, or in recognition of the public interest to be served by such sale or lease to the Subrecipient, and

5. Any Federal agreement, arrangement, or other contract which, has as one of its purposes, the provision of assistance.

B. The Subrecipient shall:

1. Issue a policy statement, signed by the head of the Subrecipient, which expresses its commitment to the nondiscrimination provisions of the Title VI Acts and Regulations set out in Part III of this document.

2. Circulate the Title VI Policy Statement throughout the Subrecipient's organization and to the general public. Such information shall be published where appropriate in languages other than English.

3. 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 and Assurances*** and the Acts and Regulations. The head of the Subrecipient shall be held responsible for implementing Title VI requirements.

4. Designate a Subrecipient Title VI Coordinator (STSC) annually. The STSC shall be responsible for initiating and monitoring Title VI activities, preparing required reports and other activities as appropriate to the Subrecipient's Title VI Program, the Acts and Regulations and this ***Agreement and Assurances***.

5. Attach to this ***Agreement and Assurances***, or otherwise provide WisDOT with a copy of the Subrecipient's organizational chart illustrating the level and placement of the STSC within thirty days of the signing of this ***Agreement and Assurances***.

6. Immediately notify WisDOT in writing of any changes to the Subrecipients' organizational chart, STSC, or STSC contact information.

7. Process complaints of discrimination consistent with the provisions contained in this ***Agreement and Assurances*** (especially Section VII).

8. Collect statistical data (race, color, national origin, sex, age, disability, low income, and limited English proficiency) of participants in, and beneficiaries of the programs and activities conducted by the Subrecipient.

9. Conduct Title VI reviews of the Subrecipient program areas and activities, and reviews of contractor/consultant program areas and activities. Revise where applicable, policies, procedures and directives to include Title VI requirements.

10. Complete training programs on Title VI and related statutes, regulations and procedures.

11. Annually submit the following information to comply with the FHWA requirement for a ***Title VI Annual Accomplishments Report*** for the coming FFY [as required under 23 CFR 200.9(11)] to WisDOT. Fully responding to the ***WisDOT Title VI/Nondiscrimination Subrecipient Survey*** will fulfill this requirement:

    a) A description of FHWA Title VI issues that were identified

    b) A description of discrimination that was prevented

    c) A description of activities and efforts undertaken by the STSC, Program Area personnel, or others to monitor FHWA Title VI activities

    d) A description of any corrective action taken on any discrimination issues

    e) A description of the scope and conclusions of any special reviews (internal or external) conducted by the STSC or others within the Subrecipient Organization

    f) A summary and status report on all Title VI complaints filed with the Subrecipient.

    g) A description of major accomplishments regarding Title VI activities.

    h) Any clarifying comments, descriptions of procedures, and any additional major goals for the following year

12. Annually submit the following information to WisDOT, Title VI Office to comply with the FHWA requirements for a ***Title VI Annual Implementation Plan*** for the coming FFY [as required under 23 CFR 200.9(11)]. This information should be submitted as an attachment to this ***Agreement and Assurances***:

    a) Title VI/nondiscrimination goals for the following year

    b) An outline or Table showing planned Title VI monitoring and review activities for the coming year to include:
        i. the name and title of who will be completing each Title VI Work Plan activity, and
        ii. the target date for completion of Title VI Work Plan activities planned for the coming year.

VII. Discrimination Complaint Procedures

A. The Subrecipient 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 (DBE), has been subjected to discrimination (based on race, color, national origin/low English proficiency, sex, age, disability or low income) by the Subrecipient or sub-grantees, contractors, consultants, subcontractors, transferees, successors in interest and other participants as prohibited by **Title VI of the Civil Rights Act of 1964**, or the **Civil Rights Restoration Act of 1987 as amended, Section 504 of the Rehabilitation Act of 1973** or the **Americans with Disabilities Act of 1990**), the **Age Discrimination Act of 1975**, or the **Federal Aid Highway Act of 1973,** may file a complaint with the Subrecipient STSC, the Wisconsin Department of Transportation, Office of Business Opportunity and Equity Compliance (WisDOT, OBOEC) Title VI Office, or to the Federal Highway Administration (see contact information on Page No. 9). A complaint may also be filed by a representative on behalf of such a person.

2. In the event that a verbal complaint is made by a Complainant (hereinafter referred to as a "Verbal Complainant") of discrimination to an officer or employee of the Subrecipient, the Verbal Complainant shall be referred to the Subrecipient Title Six Coordinator (STSC) and will be asked to provide their name and contact information. The STSC will immediately refer the Verbal Complainant to the WisDOT, Title VI Coordinator or the WisDOT, Title VI Coordinator will be referred to the Verbal Complainant. If necessary, the WisDOT Title VI Coordinator will assist the Verbal Complainant with putting the complaint into writing and will provide the written version of the complaint to the Verbal Complainant for signature. The complaint shall then be forwarded to the FHWA, Wisconsin Division Office.

3. In order to have a complaint considered under this procedure, the Complainant (including Verbal Complaints, see 2. above) 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 last encountered.

    In either case, WisDOT or FHWA may extend the time for filing or waive the time limit in the interest of justice, specifying in writing the reason for so doing.

4. 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. The following information should be included in the complaint:

    a) Name, address, and phone number of the Complainant.

    b) Name(s) and address(es) of alleged discriminating party or parties.

    c) Basis and nature of the complaint (i.e., race, color, national origin, sex, age, disability, low income or LEP).

    d) Date of alleged discriminatory act(s).

    e) Date complaint originally received by the Subrecipient or WisDOT.

    f) A statement or description of the complaint as provided by the Complainant.

    g) Other agencies (state, local or Federal) where the complaint has been filed, if known.

    h) An explanation of the actions the Subrecipient recommends to resolve the issue raised in the complaint.

5. Upon receiving a Title VI/Nondiscrimination complaint the STSC shall:

    a) Forward all Title VI/nondiscrimination complaints to the WisDOT, OBOEC, Title VI Office (see contact information below).

    b) Inform the Complainant that the complaint has been received and forwarded to the WisDOT, OBOEC, Title VI Office.

WisDOT will then forward complaints to the FHWA, Wisconsin Division Office, where it will be forwarded on to the FHWA Headquarters, Office of Civil Rights (HCR) for review and action.

Send Complaints Regarding Subrecipient Services, Facilities or Employee(s) to:

Wisconsin Department of Transportation
OBOEC, Title VI Office
Attn: Mary Robb, Title VI Coordinator
4822 Madison Yards Way, 5th Floor South
PO Box 7986
Madison, Wisconsin 53707-7986
Phone (608) 267-4489 Fax: (608) 267-3641
mary.robb@dot.wi.gov

Send Complaints Regarding WisDOT Services, Facilities or Employee(s) at any location to:

Federal Highway Administration
U.S. Department of Transportation
Office of Civil Rights
1200 New Jersey Avenue, SE
8th Floor E81-105
Washington, DC 20590
Phone: 202-366-0693
Fax: 202-366-1599
CivilRights.FHWA@dot.gov

Complaints Regarding Transit May be Sent to:

U.S. Federal Transit Administration
Office of Civil Rights
Attention: Title VI Program Coordinator
East Building, 5th Floor-TCR,
1200 New Jersey Ave., SE
Washington, DC 20590

6. Within 10 days of receiving a complaint the WisDOT, Title VI Coordinator shall:

   a) Inform the Complainant that the allegation has been received

   b) Forward all Title VI/nondiscrimination complaints against the Subrecipient organization to the FHWA, Wisconsin Division Office.

   c) Forward all Title VI/nondiscrimination complaints regarding transit or transit systems to the WisDOT, Bureau of Transit and Local Roads or the Federal Transit Association (see FTA contact information above).

   d) Forward all complaints against the Wisconsin Department of Transportation (WisDOT) or regarding its projects or activities, to the Federal Highway Administration, (FHWA) Wisconsin

e) Division Office (see FHWA contact information on Page No. 9). Complaints concerning transit will be forwarded to the or to the Federal Transit Administration (see contact information above)

f) Inform the STSC and the Complainant that the complaint has been received and forwarded to the FHWA, Wisconsin Division Office.

7. FHWA HCR will undertake the final disposition of all Title VI complaints through (1) informal resolution or (2) issuance of a Letter of Finding of compliance or noncompliance with Title VI. A copy of the Letter of Finding will be sent to the FHWA, Wisconsin Division Office, WisDOT and the Subrecipient organization.

VIII. Sanctions

In the event the Bay-Lake Regional Planning Commission fails or refuses to comply with the terms of this ***Agreement and Assurances***, WisDOT may take any or all of the following actions:

A. Refrain from extending any further assistance to the Subrecipient 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 Subrecipient.

B. Take such other action that may be deemed appropriate under the circumstances, until compliance or remedial action has been accomplished by the Subrecipient.

C. Refer the case to the U.S. Department of Justice for appropriate legal proceedings.

(continued on next page)

IX. Signatures

By signing this ***Agreement and Assurances***, the Bay-Lake Regional Planning Commission 's responsible official (named below) agrees and is guaranteeing responsibility for the execution and implementation of this ***Agreement and Assurances*** and agrees that Bay-Lake Regional Planning Commission is performing the stated tasks and procedures or is seeking assistance from the Wisconsin Department of Transportation to perform all aspects of the Agreement and Assurances herein.

Wisconsin Department of Transportation

Mary F. Robl Title VI Coordinator

Signature/Title

Wisconsin Department of Transportation/OBOEC/Title VI Office

Agency/Office

11/12/18

Date

Subrecipient Responsible Official:

Cindy J. Wojtezak

Responsible Official Signature

Executive Director

Title

Bay-Lake Regional Planning Commission

Subrecipient Agency/Organization

11/1/18

Date

Appendix 1

During the performance of this contract, the contractor/consultant, for itself, its assignees and successors in interest, 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/consultant, 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 subcontractors/sub-consultants, including procurement of materials and leases of equipment. The contractor/consultant 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/consultant 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/consultant of the contractor's/consultant'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/consultant 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 agency that engages or hires the contractor/consultant or the appropriate federal agency to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor/consultant is in the exclusive possession of another who fails or refuses to furnish this information, the contractor/consultant 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/consultant's non-compliance with the non-discrimination provisions of this contract, the agency that engages or hires the contractor/consult 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/consultant under the contract until the contractor/consultant complies, and/or;
   - Cancellation, termination, or suspension of the contract, in whole or in part

Appendix 1 (continued)

6. Incorporation of Provisions

The contractor/consultant 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/consultant shall take such action with respect to any sub-contractor or procurement as the agency that engages or hires the contractor/consultant or USDOT may direct as a means of enforcing such provisions including sanctions for non-compliance.

Provided, however, that in the event a contractor/consultant becomes involved in, or is threatened with, litigation with a sub-contractor or supplier as a result of such direction, the contractor/consultant may request WISDOT enter into such litigation to protect the interests of the State of Wisconsin and, in addition, the contractor/consultant 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, the U.S. Department of Transportation, as authorized by law, and upon the condition that the _____ (Subrecipient Name), 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 and in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A (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 the _____ (Subrecipient Name) all the right, title, and interest of the U.S. 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 _____ (Subrecipient Name), 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 _____ (Subrecipient Name), its successors, and assigns.

The _____ (Subrecipient Name), 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_____ (Subrecipient Name), 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 U.S. Department of Transportation 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 U.S. Department of Transportation and its assigns as such interest existed prior to this instruction.[1]

[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 purpose of the 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 the Subrecipient pursuant to the provisions of Assurance 9.

The ___(GRANTEE/LICENSEE/LESSEE/PERMITEE)___(select appropriate term), 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 ____(deed/license/lease/permit/other)____ (select appropriate term), 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 __(GRANTEE/LICENSEE/LESSEE/PERMITEE)__(select appropriate term), 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 Wisconsin Department of Transportation or the U.S. Department of Transportation shall have the right to terminate the ___(deed/license/lease/permit/other) ___ (select appropriate term), and to reenter and repossess said land and the facilities thereon, and hold the same as if said __(deed/license/lease/permit/other)___, (select appropriate term) had never been made or issued.