



City of Harrisonburg Public Works Department
TITLE VI PROGRAM PLAN

Agency Administrator/Title VI Coordinator
Thomas Hartman, PE, PMP, LEED AP
Director of Public Works

Prepared by:
Ashley Shiflet
Public Works Project Coordinator

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TITLE VI STATEMENT OF COMMITMENT

The City of Harrisonburg Public Works Department, hereinafter also referred to as the “LPA”, will effectuate the provisions of Title VI of the Civil Rights Act of 1964, 49 Code of Federal Regulation (CFR) Part 21, 23 CFR Part 200 and other applicable directives. These authorities provide that no person in the United States shall, on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which LPA receives federal assistance.

Further, as a recipient of federal-aid funding, the City of Harrisonburg Public Works Department strives to achieve nondiscrimination in all its programs and activities whether or not those programs and activities are federally funded. These efforts to prevent discrimination will address, but not be limited to, a program’s impact upon access, benefits, participation, treatment, services, contracting opportunities, training opportunities, investigation of complaints, allocation of funds, prioritization of projects, and the functions of right-of-way, research, planning, design, construction, and project development. The City of Harrisonburg Public Works Department will ensure that every manager, supervisor, employee, and sub-recipient of federal-aid funds administered by the LPA is aware of and applies the intent and spirit of Title VI of the Civil Rights Act of 1964 and other nondiscrimination authorities in performing assigned duties.

Every employee and representative of the City of Harrisonburg Public Works Department shall perform all official duties and actions in full accord with Title VI of the Civil Rights Act of 1964, applicable statutes, executive orders, regulations, and policies enunciated there under.

The Director of Public Works has been designated as the LPA’s Title VI Coordinator and is responsible for ensuring that all matters relating to nondiscrimination are administered effectively. Employees of the LPA, contractors or applicants with questions, problems or complaints regarding this statement, and the implementation of the stated provisions, should contact the Director of Public Works, at 540-434-5928.

Thomas Hartman, PE, PMP, LEED AP
Agency Administrator

Date

I. ORGANIZATION AND STAFF RESPONSIBILITIES

A. Relationship of Civil Rights Unit/Staff to Head of City of Harrisonburg

Agency Administrator – The Agency Administrator is authorized to ensure compliance with provisions of the Agency’s policy of nondiscrimination and with the law, including the requirements of 23 CFR Part 200 and 49 CFR Part 21. The Agency’s grants compliance function and Title VI coordination shall be performed under the authority of the Agency Administrator.

Title VI Coordinator – The Director of Public Works will perform the duties of the Title VI Coordinator and ensure implementation of the Agency’s Title VI Federally Funded Transportation Program.

B. Statement of Responsibility and Authority of Title VI Coordinator

As authorized by the City of Harrisonburg Administrator, the Title VI Coordinator is responsible for initiating, monitoring, and ensuring LPA compliance with Title VI requirements as follows:

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 City of Harrisonburg Administrator

Complaints

- Review written Title VI complaints that may be received by the City of Harrisonburg following the adopted procedural guidelines.

Data Collection.

- Review the statistical data gathering process periodically to ensure sufficiency of data for meeting the requirements of Title VI program administration.

Training Programs

- Conduct or facilitate training programs on Title VI issues and regulations for the agency’s employees; and facilitate Title VI training for appropriate staff, contractors, and sub-recipients. A log or summary of training conducted shall be kept.

Title VI Plan Update

- Review and update the Agency's Title VI Implementation Plan as needed or required
- Present updated plan to VDOT for approval.
- Publish/post the Title VI Implementation Plan.

Annual Accomplishment Report

- Prepare an annual report of Title VI accomplishments and changes to the program in the preceding Federal fiscal year
- Identify goals and objectives for the upcoming year as required; and submit to VDOT.

Public Dissemination

- Work with Public Works staff to develop and disseminate Title VI program information to employees and sub-recipients, including contractors, subcontractors, consultants, and sub-consultants and beneficiaries, as well as the general public.
- 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
- Ensure written or verbal information in languages other than English is being provided, where appropriate.

Elimination of Discrimination

- Work with Agency's program areas to establish procedures for promptly resolving deficiencies, as needed
- Recommend procedures to identify and eliminate discrimination that may be discovered in any of the Agency's processes

Maintain Legislative and Procedural Information.

- Keep informed about Federal laws, rules, and regulations, FHWA or VDOT guidelines that may affect the current Agency Title VI Plan and administration of the Agency's Title VI Program.
- Ensure information is made available to the public as requested or required.

C. Program Administration

Multidisciplinary Approach

The City of Harrisonburg Public Works Department shall adopt a multidisciplinary approach to ensure nondiscrimination in all programs and activities as related to Title VI and federally funded projects and programs. These staff members will be designated as Title VI Specialist. They will work closely with the Title VI Coordinator to ensure their departments and programs comply with Title VI.

Title VI Specialists – The Agency has designated Title VI Specialists in special emphasis program areas. The Specialists shall work in concert with the Title VI Coordinator. These key programs areas are subject to receiving federal assistance through grants or other types of transportation related funding. The Title VI Specialists will work with the Coordinator to ensure their respective departments and programs comply with Title VI regulations and assurances, meet the Title VI Method of Administration as laid out on this Title VI Plan, meet federal and state reporting requirements, and provide adequate training opportunities for applicable staff.

Title VI Specialists will also work with the Coordinator to ascertain Title VI compliance by contractors, subcontractors, consultants, suppliers and other sub-recipients under federally funded projects or programs. Specialists will ensure applicable Title VI provisions and requirements are included in contractual agreements to prime contractors and sub-recipients. Title VI Specialists will work with the Coordinator to obtain statistical data on race, color, national origin, handicap/disability, age and sex of participants in, and beneficiaries of the Agency’s federally funded transportation programs. Each of the Specialists will maintain data relative to their respective special emphasis program area, designated below. The Coordinator shall use the data to complete annual Title VI reports and for other administrative needs.

TITLE VI SPECIALISTS DESIGNEES

<u>Program Area</u>	<u>Official Job Title</u>
Planning Division	Planning Manager / Transportation Planner
Public Involvement / Public Hearing	Director / Planning Manager
Right of Way Division	ROW Agent
Design/Project Development	Capital Projects Manager / Director / Assistant Director / Planning Manager

Environmental Services	Director / Planning Manager
Consultants	Capital Projects Manager / Director / Assistant Director / Planning Manager
Construction Division	Capital Projects Manager / Project Coordinator

D. Organizational Chart

See Appendix D.

II. TITLE VI PROGRAM IMPLEMENTATION

A. Program Areas – Review and Monitoring Procedures

The Title VI Specialist has the primary responsibility for monitoring Title VI implementation, activities, ensuring compliance, and preparing required reports.

The Title VI Accomplishment Report will be done annually and will include major accomplishments regarding Title VI activities, as well as Title VI issues and instances where discrimination was prevented; includes a summary and status report of any Title VI complaints filed with the City of Harrisonburg Public Works Department.

Each of the following areas has a Title VI Specialist appointed for monitoring and review:

Planning Division

Planning Process

The planning division is responsible for the development of long-range and short-range planning documents that provide safe and efficient transportation for the citizens of Harrisonburg.

Planners will assist in the preparation and implementation of public involvement plans and programs aimed at improving attendance and participation of all population groups. Demographic profiles will be developed using Census information. These profiles will help identify potential civil rights, Title VI, and Limited English Proficiency (LEP) issues early in the process.

Title VI Responsibilities:

- Ensure that all population groups are adequately informed of planning activities to participate in the planning process.
- Ensure that reasonable accommodations for persons with disabilities are provided and meaningful access for citizens who are LEP.
- Ensure Title VI requirements are incorporated into all planning division contracts and grants and have procedures to effect compliance with Title VI.
- Develop measures that ensure compliance in the event of a noncompliance finding.
- Collect data on minority and low-income persons involved in the planning process.
- Collect, maintain, and analyze data on race, national origin and income level to adequately assess impacts and mitigation options.
- Complete information for the Annual Title VI Accomplishment Report.
- Ensure opportunity is provided to Disadvantaged Business Enterprises (DBE) to participate in or conduct planning studies.

Public Involvement / Public Hearings

Every effort shall be made to ensure that the public are involved in the planning and design process.

Title VI Responsibilities:

- Ensure minorities, disabled and persons with LEP are aware of public meetings.
- The following should be used to notify the public of meetings: newspaper ads, press release, social media posts, city website, email lists, project specific mailings/outreach, other organizational newsletters.
- Provide materials in languages other than English.
- Maintain documentation on hearings and meetings.
- Provide accommodations for special needs and translation / interpreting services for LEP persons.
- Advertisements shall comply with Title VI requirements and include accommodations for translation / interpreter services and the disabled; advertisements shall include the following statement:

The City of Harrisonburg, in accordance with Title VI of the Civil Rights Act of 1964 and the Regulations, shall not excluded from participation in, deny the benefits of, or otherwise discriminate against any person because of race, color, sex, national origin, age, or disability that wishes to participate in any program or activity. The City encourages participation in all public meetings.

- Public Hearings / Meetings shall be held in a location that is ADA compliant, provides bus service to, and is conducive for public involvement. Meetings and hearing shall be held during days and times to allow public participation.
- Demographic Surveys will be dispersed to participants at public meetings and available online during the public comment phase. Information from those surveys will be placed into a data base.
- Complete information for the Annual Title VI Accomplishment Report.

Design/Project Development Division

Design and Environmental Review Process

Economic, social, topographic, and environmental impacts of proposed projects are key factors weighed in the location consideration. Studies and other processes are used to evaluate all necessary environmental aspects of proposed projects. Depending on the scope, complexity and impacts of a project, a National Environmental Policy Act (NEPA), Categorical Exclusion (CE), NEPA Environmental Assessment (EA), or Environmental Impact Statement will be completed. Federal, state, local and departmental policies require public hearings and/or information meetings be held to give all persons, including minorities and persons with LEP, an opportunity to obtain information and express their opinions on proposed project locations.

Title VI Responsibilities:

- Ensure public hearings / meetings are conducted per the City of Harrisonburg Public Works Title VI Program Plan.
- Provide opportunities for DBEs and other small businesses to participate in procurement activities.
- Provide translation services to Contractors with LEP to the greatest extent possible.
- Ensure consultants' compliance with State and Federal requirement guidelines.
- Develop mechanisms to identify affected minority and/or low-income populations.
- Conduct studies of potential project sites for effects on such issues as cultural resources, community life, EJ and land use patterns.
- Ensure nondiscrimination in the procurement process.
- Monitor compliance with Title VI requirements in all aspects of the processes.
- Ensure Title VI compliance in all Environmental Impact Statements.
- Provide information for the Annual Title VI Accomplishment Report.

Right of Way Division

Right of Way Process

All aspects of the City's acquisition program shall be non-discriminatory and conducted without regard to race, color, national origin, sex, age, disability or low-income. The right of way acquisition process entails appraisal of property, negotiation of terms and conditions for acquisition, and assistance in the relocation or displaced individuals, businesses, and nonprofit organizations, as well as property management. Once the appraisal process is completed, the ROW staff will present the offer to the landowner for acquisition. Acquisitions not conducted by the ROW Agent will be performed by consultants.

Title VI Responsibilities:

- Ensure the utilization of DBE firms in the selection of consultants and other resources.
- Provide translators in instances where affected landowners have LEP.
- Provide reasonable accommodations for property owners with disabilities, when requested.
- Provide replacement housing listings to persons displaced without regard to race, color, national origin, sex, age, disability or low-income. If any instance of discrimination is confirmed, the listing agency shall be notified and the listing will no longer be used.
- Require independent contractors employed by the displacee for moving personal property, or to perform any other services related to the relocation, to observe nondiscrimination statutes and policies.

- Apprise affected property owners, tenants, and others involved of their rights and options regarding negotiations, relocations, condemnation and other aspects of the acquisition process.
- Incorporate the following Title VI language and assurance statements in all surveys of property owners and tenants:

The City of Harrisonburg, in accordance with Title VI of the Civil Rights Act of 1964 and the Regulations, shall not discriminate against any person because of race, color, sex, national origin, age, disability, or low-income.

- Incorporate Title VI language into all acquisition, negotiation, property management communication and contracts. *See Appendices A, E.*
- Ensure values and communications associated with appraisals are conducted in an equitable fashion.
- Ensure deeds, permits, and leases contain Title VI compliance clauses. *See Appendices C, D.*
- Collect statistical data on demographics of relocations.
- Ensure comparable replacement dwellings are available and assistance is given to all displaced persons and entities by the property acquisition process.
- Complete information for the Annual Title VI Accomplishment Report.

Construction Division

The construction division provides structural expertise, policies, guidelines, standards, and information to its contractors, customers and stakeholders. The division utilizes an effective program for the advertisement, award, and administration of contracts for the construction, improvement, and maintenance of City facilities.

Title VI Responsibilities:

- Ensure free and open competition and Title VI nondiscrimination assurances without regard to race, color, national origin, sex, age, disability or low-income through uniformity in prequalification, preparation of construction proposals, solicitation of bids/advertisement, receipt of bids, bid analysis and award of construction contracts, project administration/monitoring, and the utilization of consultants.

The City of Harrisonburg, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will

not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

- Review all proposal documents for required nondiscrimination provisions. Included in the proposal are the nondiscrimination provisions listed in Title VI assurances.
- Ensure DBEs have the maximum opportunity to compete for and perform work on contracts.
- Advertise in newspapers having a wide circulation and online.
- Award contracts to the lowest responsive and responsible bidder without discrimination against any bidder because of race, color, sex, national origin, age, disability or low-income and any other basis prohibited by Title VI and other nondiscrimination authorities.
- Ensure that Title VI regulations are enforced through project inspectors.
- Include DBE special provisions in those projects with assigned goals.
- Review all projects for application of DBE program requirements.
- Ensure through reviews that prime contractors with DBE requirements award previously committed work to proper DBE firms. Award of construction contracts shall be granted on the lowest responsive bidder including DBE requirements.
- Ensure through reviews that DBEs actually perform a commercially useful function (CUF) on contracts.
- Provide information for the Annual Title VI Accomplishment Report.

Education/Training

Education/ Training Section

To provide community outreach and public education to contractors, beneficiaries, and potential participants of their rights under Title VI. Regular and comprehensive outreach and education provide members of the public with information necessary to pursue and protect their rights under Title VI and remind them of their obligations. To provide training to City staff on Title VI requirements as needed.

Title VI Responsibilities:

- Make available, and where appropriate, the Title VI regulations, guidelines, policies and procedures, including implementation plan to employees, contractors, beneficiaries and other interested parties.
- Post the City's nondiscrimination policy and compliance with Title VI, along with procedures for filing complaints on the city website.
- Use other forms of public distribution such as pamphlets, handbooks, manuals, and other media.
- Outreaching to persons with LEP.
- Use reasonable measures to disseminate written materials in appropriate languages.

Consultant Contracts Administration & Procurement

This section provides guidance in managing, monitoring, and standardizing the professional procurement process for consultant services and coordinates all aspects of procurement timeline, as well as establishes the procurement schedule.

The Consultant Selection Process shall be conducted by the Evaluation Committee (selected by the Director). Each member will complete a proposal evaluation form for each proposal received. Once the proposals are evaluated, a composite proposal rating will be developed which indicates the group's collective ranking of written proposals in a descending order. Proposals determined to not meet one or more material RFP requirements may be excluded.

When proposals have been reviewed and ranked, interviews will be conducted with the top offerors, which the City deems to be fully qualified, responsible, and suitable on the basis of initial responses with emphasis on professional competence, to provide the required services. The City may engage in repetitive informal interviews with the Offerors. At the discussion stage, the City may also discuss nonbinding estimates of price for services. Once ranked for negotiation, the Offerors shall be required to provide the City to list any exceptions to proposed contractual terms and conditions.

Negotiations shall then be conducted. If a contract satisfactory and advantageous to the City can be negotiated at a price considered fair and reasonable and pursuant to contractual terms and conditions acceptable to City, the award shall be made to that offeror. The City reserves the right to award a contract(s) to as many Offeror(s) as deemed necessary to fulfill the anticipated requirements of the City of Harrisonburg.

Title VI Responsibilities:

- Ensure compliance with Title VI and other related nondiscrimination authorities.
- Ensure Title VI language is included in consultant procurement documents.
- Ensure that Requests for Proposal (RFP) are advertised in all segments of the community.
- Provide information for the Annual Title VI Accomplishment Report.

B. Sub-recipients - Reviews and Monitoring Procedures

The City of Harrisonburg Public Works Department will conduct Title VI compliance reviews and monitoring of its sub-recipients of Federal-aid highway or other Federal funds, to ensure adherence to Title VI requirements. The Public Works staff will periodically review operational guidelines provided to consultants, contractors, and sub-recipients, including Title VI language, provisions, and related requirements, as applicable.

The City of Harrisonburg Public Works Department will also conduct periodic post grant reviews of select recipients of Federal highway funds or other Federal funds, for roads, sidewalks, bridges, municipal construction, etc. to ensure adherence to Title VI requirements.

When irregularities occur in the administration of Federal-aid highway programs at sub-recipient levels, corrective action will be taken to resolve identified Title VI issues. The City of Harrisonburg Public Works Department will seek the cooperation of the consultant, contractor or other sub-recipient in correcting deficiencies found during periodic reviews. The City of Harrisonburg Public Works Department will provide technical assistance and guidance, upon request, to support voluntary compliance by the sub-recipient.

When a sub-recipient fails or refuses to voluntarily comply with requirements, the City of Harrisonburg will submit to VDOT's Civil Rights Administrator -Title VI Coordinator copies of the case file and a recommendation that the sub-recipient be found in noncompliance.

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

Consultants and sub-consultants Reviews

To monitor compliance, consultants and sub-consultants are required to submit a Title VI Evaluation Form. This requirement is applicable for all consultants.

The Title VI Evaluation Form provides documentation that a consultant has procedures in place to prevent discrimination in programs and services base on Title VI.

For new consultants that do not have a current Title VI Evaluation Form on file with the City, the Director will request one within ten (10) days of notification of selection. The form should be submitted to the Title VI Coordinator for review. A pre-award approval letter will be issued within fifteen (15) days of receiving documentation, if no revisions are needed. Revisions to the procedures and/or additional information may be requested prior to the approval, or an on-site review may be requested within the same time frame to confirm information provided in the form.

If the form is approved, a letter is sent out with an expiration date for one year from the date of the approval letter. The letter will remain on file with the City for one year. An

updated report is required annually for consultants who continue to perform under a contract with the City.

Failure to comply with the nondiscrimination provisions may result in cessation of negotiations, withholding of payments, cancellation, termination, or suspension of the contract in whole or in part. Possible sanctions assessed to a consultant or contractor found in noncompliance with Title VI include withholding payment until compliance is corrected or cancellation, termination, and possible suspension of the contract in whole or in part..

C. Data Collection – Reporting – Analysis

The City of Harrisonburg Public Works Department is required to collect statistical data (race, color, national origin, sex, disability, and age) of participants and beneficiaries of programs and activities conducted. Data collection is key to ensuring that transportation programs, services, facilities, and projects effectively meet the needs of “all persons” without discrimination, i.e., disproportionately benefitting or harming one group over another is a violation of Title VI.

Statistical data including race, national origin, sex, age, or disability (where known) of participants in, and beneficiaries of City programs will be collected, analyzed, and maintained by the City to determine transportation investment benefits and burdens to the eligible population, including minority, low-income and LEP populations

Based on Title VI implementing regulations, each division is required to:

- Provide for the collection of Data and information to permit effective enforcement of Title VI.
- Collect data about beneficiaries.
- Analyze the data and information collected.
- Eliminate discrimination when it is found.
- Take affirmative measures to ensure nondiscrimination.

Types of analysis to address compliance with Title VI:

- Percent of benefits allocated to persons below poverty line vs. person above poverty line.
- Distribution of benefits by groups and communities.
- Impact of investments on income, race, gender disability and age groups.
- Allocation of funds by mode.
- Projected population increase versus planned facilities and types of facilities.
- Language needs assessment.

Types of performance indicators:

- Mobility – ease of movement of people and goods.

- Accessibility – access to opportunities (jobs, medical care, emergency services, family, shopping, entertainment).
- Environment – sustainable development and preservation of the existing system and the environment.
- Cost-effectiveness – maximized return on investment, direct as well as indirect costs associated with air pollution, congestion delay for individuals/businesses.
- Reliability – system reliability (probability of arriving at destination or even making the trip).
- Safety – physical design and operation of system (measured in accidents per persona mile) also includes security related to criminal activities on highways as well as transit systems.
- Equity – transportation investments and benefits are invested in a manner that meets the needs of all persons.
- Customer Satisfaction – increased ability to make trips, improved travel time, safety and security, improved access to system.
- Livable Communities – enhancement of living conditions for communities through transportation policies that provide multi-modal options including non-motorized modes.

Resources for collecting data:

- Census Data
- School Districts
- Transit Ridership Surveys
- Management Systems
- Land Use Plans
- Geographic Information Systems
- Transportation Models
- Metropolitan Planning Organization Committees

The following data should be collected:

- Race
- National Origin
- Does the person speak a language other than English at home?
- Sex
- Disability
- Age

In addition, the U.S. Department of Justice regulations offer the examples below for determining compliance with Title VI:

- The manner in which services are or will be provided and the related data necessary for determining whether any persons are or will be denied such services on the basis of prohibited discrimination.
- The population eligible to be served by race, color, national origin, sex, disability, and age.

- Data regarding, covered employment, including use of planned use of bilingual public contact employees servicing beneficiaries of the program where necessary to permit effective participation by beneficiaries unable to speak or understand English.
- The location of existing or proposed facilities connected with the program and related information adequate for determining whether the location has or will have the effect or unnecessarily denying access to any persons on the basis of prohibited discrimination.
- The present or proposed membership, by race, color, national origin, sex, disability, and age, in any planning or advisory body which is an integral part of the program.
- Where location is involved, the requirements and steps used or proposed to guard against unnecessary impact on persons on the basis of race, color, national origin, sex, disability, or age.

Additional data, such as demographic maps, the racial composition of affected neighborhoods or census data, may be necessary or appropriate for understanding information requirements listed above. This type of data is required to the extent that the data is available.

The Title VI Coordinator must be promptly notified of any complaint filed against any program alleging discrimination on the basis of race, color, national origin, sex, disability, or age.

D. Title VI Training

The City of Harrisonburg Public Works Title VI Coordinator and Title VI Specialist will attend trainings provided by the Virginia Department of Transportation (VDOT) when they become available. In addition, attendees of the Local Programs Workshops will attend Title VI sessions, if available, and those who have been certified via the Qualification Program will take the necessary steps to keep that certification current. The Title VI Coordinator and Title VI Specialist will be required to review this plan annually and submit updates.

E. Dissemination of Title VI Information

Community Outreach and Public Education

The City of Harrisonburg Public Works Department will conduct various methods of community outreach and public education as necessary. The primary purpose is to apprise contractors, beneficiaries, and potential participants of their rights under Title VI. Regular and comprehensive outreach and education provide members of the public with information necessary to pursue and protect their rights under Title VI and remind them of their obligations. Some of these efforts include:

- Making available, and where appropriate, distributing Title VI regulations, guidelines, policy, and procedures, including the implementation plan to City employees, contractors, beneficiaries, and other interested persons.
- Posting the City's nondiscrimination policy and compliance with Title VI, and a brief explanation of procedures for filing complaints on the website.
- Using other forms of public distribution such as pamphlets, handbooks, manuals, and the use of print and broadcast media.
- Outreaching to people with LEP.
- Using reasonable measure to disseminate written materials in appropriate languages.

Outreach activities include:

- Title VI Informational Poster – provides information about the Public Works Title VI program and is intended to educate city employees about the program.
- Title VI Pamphlet – contains information that is intended to educate the public about the Title VI Act and the Title VI Program and shall be made available to all persons.
- Public Works Website – an electronic resource for educating the public on Title VI. Includes the process of lodging complaints in relation to Title VI.
- Public Hearings – Public Works staff will attend all public hearings and make available to participants Title VI information as well as a survey to collect demographic information.
- Other activities include meetings and dissemination of information at:
 - National Night Out
 - Schools
 - Elected Officials
 - University Student Groups
 - Rotary/Professional Organizations/Chamber
 - Community Associations

Public Involvement Plan

The City of Harrisonburg Public Works Department's participation process includes information to engage, inform and receive the input of the public, including Title VI protected persons. The following explains the process in which citizens can participate and influence programs and activities before the final approval of the project.

During the division processes, various methods will be used to engage, inform and illicit input from citizens on the proposed project. The methods used will be determined based on the neighborhood needs. Information will be translated as needed or requested for the target community. Contact information will be included on all information provided along with Title VI information. The following methods include, but are not limited to:

- Yard signs
- Flyers
- Door-to-door

- Direct mailings
- Press releases – local and minority newspaper
- Social media posts
- Other organizations
- Website

Meetings will be held in ADA compliant facilities that offer bus transportation. Translation/interpreting services will be available to persons with LEP. Demographic Surveys will be distributed to participants along with Title VI information both in person at meetings and made available online.

Information gathered at meetings or from other public involvement opportunities shall be entered into a database and analyzed.

Issues and concerns raised by citizens will be reviewed by the Director and the project team and be mitigated, if possible, during the design process.

The City of Harrisonburg Public Works Department is committed to document and analyze the impacts of transportation projects on minority and low-income populations as a normal part of analysis efforts. A key aspect of the analysis is to ensure the involvement of affected communities in the project development process. The City of Harrisonburg Public Works Department has developed Guidelines to provide Environmental, Planning, Right of Way, Location and Design, Civil Rights and any other applicable with a consistent framework for developing an effective public involvement strategy. They contain only principles and general procedures, which means that the specific approach must be tailored to the unique circumstances of each project and those communities affected by it. If the procedures do not seem appropriate for a particular project, then the team will develop a more suitable approach.

F. Limited English Proficiency

The City of Harrisonburg Public Works Department will effectuate the provisions of Title VI of the Civil Rights Act of 1964, 49 Code of Federal Regulations (CFR) Part 21, 23 CFR Part 200, Executive Orders (EO) and other applicable directives. These authorities provide that no person in the United States shall, on grounds of race, color, national origin, sex, age, disability, or income, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in City programs and activities.

As a recipient of federal-aid funding, the City is committed to nondiscrimination in all its programs and activities whether or not those programs and activities are federal funded. This guidance clarifies the City's fulfillment of responsibilities to limited English proficient (LEP) persons, pursuant to Executive Order 13166 "Improving Access to Services for Persons with Limited English Proficiency" and other orders and directives. The City will take reasonable steps to ensure meaningful access to the programs, activities, services, and information that are normally provided in English, are accessible to LEP

persons. The City is cognizant of the fact that failure to ensure that LEP persons can effectively participate in federally assisted programs and activities may violate the prohibition against national origin discrimination under Title VI of the Civil Rights Act of 1964.

Allegations of discrimination will be brought to the immediate attention of the Title VI Coordinator for the City of Harrisonburg Public Works Department.

Guidance Statement for Interpreter Services

The ability of individuals to communicate with and understand LEP persons is essential to the ability to participate in the City's programs, services, and activities. To ensure that every citizen, regardless of his or her native language, has access to and may participate in city programs, the City is committed to providing appropriate interpreter services to individuals with LEP, to the extent possible.

1. Implementation

The Title VI Coordinator and Title VI Specialist are responsible for monitoring programs and activities to ensure meaningful access for LEP persons.

2. Inventory of Resources for Language Assistance Services

- A. Telephone Language Assistance Service
- B. In-house interpreters
- C. Translated Materials into other languages

3. Language Services Ordering Procedure

The Title VI Coordinator and/or Title VI Specialist will coordinate requests for translation/interpreter services.

Requests for services will include the name of the person requesting translation services. All requests will be maintained in a database for LEP requests by division and project. The database shall include the following:

- Name of person making the request
- Division Name (Planning, ROW, Design, etc.)
- Project Name
- Name of the document or the LEP person
- Date of request
- Number of hours or words translated
- The language translated from and to

Written translations will be translated and sent back to the requestor and copied to the Title VI Specialist.

All Language Assistance Services will be made available to the LEP persons at the expense of the City, where circumstances indicated the provision of LEP services is appropriate or required.

4. Responsibilities

The Title VI Coordinator and Title VI Specialist have the following responsibilities:

- Ensuring identification and securing of existing and needed resources to provide oral and written language services.
- Identifying criteria for designation of languages for initial round of translation, based on demographic data.
- Creating systems to distribute translated documents, post electronically, and maintain supply.
- Identify training needs and provide training.
- Establish protocols for ensuring quality, timeliness, cost effectiveness, and appropriate levels of confidentiality in translations, interpretations, and bilingual staff communications.
- Identify and implement a system for receiving and responding to complaints.
- Review the progress of this plan annually and modify as appropriate.
- Ensure compliance with the LEP Guidelines including implementation.
- Maintain the language assistance resource list and revise as needed.
- Maintain data on the requests from LEP persons and provide reports as appropriate.

5. Agency Documents

The translation of vital documents into languages other than English is particularly important where a significant number or percentage of the customers served and/or eligible to be served have LEP. Whether or not a document is vital depends on how significant the impact on the health, safety, legal rights, or livelihood of an LEP person may be. Written documents include electronic and websites. Vital documents may include the following:

- Notices of public hearings/meetings and proposed transportation plans.
- Emergency transportation information.
- Community education materials.
- Notices notifying LEP person of language assistance at no cost to the them.
- Markings or signs.
- Instructions on how to participate in a program or activity.

Translated documents will be made available on the city website.

6. **Complaints**

Any LEP individual has a right to file a complaint against the city where he or she believes the city did not provide necessary LEP services as appropriate. These complaints include those available under Title VI of the Civil Rights Act of 1964.

All complaints alleging a violation under Title VI will be referred to the Title VI Coordinator.

The Title VI Specialist will take appropriate steps to resolve all complaints in accordance with the discrimination complaint procedures.

The Title VI Specialist will maintain a database tracking all complaints and resolutions and shall include the following:

- Source of complaint
- LEP request including relevant contact information
- Nature of complaint request
- Date complaint/request received
- Date complaint/request resolved
- Manner of resolution
- Comments

Interpreters will be made available to participants upon request or where a need for an interpreter is identified.

7. **Questions and Answers**

Q. Who is a Limited English Proficient (LEP) individual?

A. Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English can be LEP. These individuals may be entitled to language assistance with respect to a particular type or service, benefit, or encounter.

Q. Does the recipient have to provide translation services in every language?

A. No. Recipients and federal agencies are required to take reasonable steps to ensure meaningful access to their programs and activities by LEP persons. What is “reasonable” is based on the four-factor analysis. Recipient research of demographics and available resources may determine that language services are provided to the largest number of LEP persons served or encountered by the program or service.

Q. Will providing language services increase the risk of litigation and liability for recipients as a result of LEP Guidance?

A. No. The LEP Guidelines are based on Title VI and DOT's Title VI regulations at 49 CFR part 21 and does not provide any private right of action beyond that which exists in those laws. The LEP Guidance does not increase the risk of recipient's legal liability to private plaintiffs.

Q. What is "safe harbor"?

A. "Safe harbor" means that if a recipient provides written translations under certain circumstances, such action will be considered strong evidence of compliance with the recipient's WRITTEN translation obligations under Title VI.

Q. What are recipients of federal funds required to do to meet LEP requirements?

A. Recipients are required to take reasonable steps to ensure meaningful access to their programs and activities by LEP persons.

III. DISCRIMINATION COMPLAINT PROCEDURES

The complaint procedures apply to the beneficiaries of City programs and activities, and services, including but not limited to the public, contractors, subcontractors, and consultants.

Complaint forms and procedures shall be located on the Public Works Department website and upon request via mail, e-mail, in person or fax.

Complaints received by the City of Harrisonburg Public Works Department Title VI Coordinator shall be forwarded to VDOT.

Any person who believes they—or a specific class of persons—were subjected to discrimination on the basis of race, color, or national origin in the programs and activities of -- a recipient of Federal financial assistance through the Virginia Department of Transportation -- may file a Title VI complaint.

Where can one file?

Complaints related to the Federal-aid highway program may be filed with VDOT, FHWA Division Office, the FHWA Headquarters Office of Civil Rights (HCR), the USDOT Departmental Office of Civil Rights, or the USDOJ.

When must one file?

According to USDOT regulations, 49 CFR §21.11(b), a complaint must be filed not later than 180 days after the date of the last instance of alleged discrimination, unless the time for filing is extended by the processing agency.

What should a complaint look like?

Complaints should be in writing and signed and may be filed by mail, fax, in person, or e-mail. However, the complainant may call the receiving agency and provide the allegations by telephone, and the agency should transcribe the allegations of the complaint as provided over the telephone and send a written complaint to the complainant for correction and signature. A complaint should contain the following information:

- A written explanation of the alleged discriminatory actions.
- The complainant's contact information, including, if available: full name, postal address, phone number, and email address.
- The basis of the complaint (e.g., race, color, national origin).
- The names of specific persons and respondents (e.g., agencies/organizations) alleged to have discriminated.
- Sufficient information to understand the facts that led the complainant to believe that discrimination occurred in a program or activity that receives Federal financial assistance; and

- The date(s) of the alleged discriminatory act(s) and whether the alleged discrimination is on-going.

How are complaints routed?

FHWA Division Offices do not investigate Title VI complaints. Likewise, State DOTs and its Subrecipients do not investigate complaints filed against themselves. Finally, FHWA is responsible for all decisions regarding whether a complaint should be accepted, dismissed, or referred to another agency.

With this understanding, complaints should be routed in the following ways:

- All complaints will be routed to the FHWA Headquarters Office of Civil Rights (HCR) for processing. HCR is responsible for all determinations regarding whether to accept, dismiss, or transfer Title VI complaints filed against the City of Harrisonburg Public Works Department (a Subrecipient of Federal financial assistance).
- Complaints should be forwarded from the initial receiving agency through the Federal-aid highway oversight hierarchy until the complaint reaches HCR. For example, if a complaint is filed with the City of Harrisonburg, the City of Harrisonburg will forward the complaint to VDOT, which will forward the complaint to the VDOT’s FHWA Division Office, which will forward the complaint to HCR. If a complaint is filed with VDOT, VDOT will forward the complaint to the VDOT’s FHWA Division Office, which should forward the complaint to HCR.
- VDOT and the City of Harrisonburg will log all complaints received.
- When HCR decides on whether to accept, dismiss, or transfer the complaint, HCR will notify the Complainant, the FHWA Division Office, VDOT, and the City of Harrisonburg Public Works Department.

Complaints may also be sent to HCR directly at:

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

What are the potential outcomes for processing a complaint?

There are four potential outcomes for processing complaints:

- **Accept:** if a complaint is timely filed, contains sufficient information to support a claim under Title VI, and concerns matters under FHWA's jurisdiction, then HCR will send to the complainant, the respondent agency, and the FHWA Division Office a written notice that it has accepted the complaint for investigation.
- **Preliminary review:** if it is unclear whether the complaint allegations are sufficient to support a claim under Title VI, then HCR may (1) dismiss it or (2) engage in a preliminary review to acquire additional information from the complainant and/or respondent before deciding whether to accept, dismiss, or refer the complaint.
- **Procedural Dismissal:** if a complaint is not timely filed, is not in writing and signed, or features other procedural/practical defects, then HCR will send the complainant, respondent, and FHWA Division Office a written notice that it is dismissing the complaint.
- **Referral\Dismissal:** if the complaint is procedurally sufficient but FHWA (1) lacks jurisdiction over the subject matter or (2) lacks jurisdiction over the respondent entity, then HCR will either dismiss the complaint or refer it to another agency that does have jurisdiction. If HCR dismisses the complaint, it will send the complainant, respondent, and FHWA Division Office a copy of the written dismissal notice. For referrals, FHWA will send a written referral notice with a copy of the complaint to the proper Federal agency and a copy to the USDOT Departmental Office of Civil Rights.

The HCR is responsible for conducting all investigations of State DOTs and other primary Recipients. In the case of a complaint filed against a Subrecipient, HCR may either conduct the investigation itself, or it may delegate the investigation to VDOT. If HCR chooses to delegate the investigation of a Subrecipient, HCR will communicate its acceptance of the complaint to the complainant and respondent, but VDOT will conduct all data requests, interviews, and analysis.

VDOT will then create a Report of Investigation (ROI), which it will send to HCR. Finally, HCR will review the ROI and compose a Letter of Finding based on the ROI

What are the timeframes for investigation?

For FHWA, there is no regulatory timeframe for completing investigations. However, FHWA strives to complete all tasks within 180 days from the date of acceptance.

If VDOT is delegated an investigation from FHWA, VDOT must complete the investigation within 60 days of receipt (meaning the date it receives the delegated complaint from FHWA) as stipulated in 23 CFR §200.9(b)(3)

How does the Investigating Agency gather information?

There are no regulatory requirements for how information is gathered, but VDOT and the City of Harrisonburg Public Works Department are required to keep detailed records on how they comply with Title VI and to provide USDOT with access to documents and persons with relevant information. 49 CFR §21.9. Typically, the respondent will receive at least one Request for Information and Position Statement (RFI) to gather documents, and additional requests if necessary. Concurrently, the HCR or VDOT investigator will schedule interviews with relevant parties and conduct site visits as necessary.

Once FHWA starts an investigation, what are the potential outcomes?

First, at any time during the investigation, either FHWA or the respondent may initiate informal negotiations to resolve the issues. The FHWA always strives to resolve Title VI complaints informally, if possible.

In the absence of such negotiations, HCR (or an investigator for VDOT) will draft a Report of Investigation, which should contain all relevant data and findings, with legal conclusions and potentially include recommendations for action. FHWA is responsible for the final disposition of all complaints, including initiation and conduct of informal negotiations and the issuance of Letters of Finding (LOFs).

There are five potential outcomes for concluding an investigation:

1. The FHWA makes a finding of no violation, and the case will be closed with no further action. The FHWA will issue an LOF stating in sufficient detail the reasons for the determination of no violation.
2. If, by a preponderance of the evidence, FHWA determines the respondent has failed to comply with its Title VI requirements or threatens to fail to comply by action or inaction, then FHWA will inform the respondent and the matter will be resolved by informal means whenever possible.
 - If FHWA informally resolves the matter with the respondent by agreement, then FHWA will hold the complaint in abeyance until the respondent completes its corrective actions. If the corrective actions are completed to the FHWA's satisfaction, then the complaint will be dismissed with no further action.
 - If FHWA cannot informally resolve the matter or the respondent does not complete agreed upon corrective actions, then FHWA may issue a LOF stating that the Recipient is in noncompliance with its Title VI obligations.
3. If FHWA issues a LOF of noncompliance to the respondent, the LOF will request that the respondent provide to FHWA, within 90 days, an action plan that implements the recommendations in the LOF.
4. If FHWA approves the action plan, then the respondent will be given a reasonable amount of time to implement the plan. At the end of the implementation period, FHWA will assess whether the respondent has sufficiently corrected the deficiencies.

5. If FHWA does not approve the action plan, or the respondent is nonresponsive/uncooperative, then FHWA may seek administrative sanctions, including, but not limited to, suspension or termination of Federal funds or any other means authorized by law such as referral to USDOJ for enforcement.
 - o If USDOT seeks to suspend or terminate funds, it must provide the respondent with an opportunity for a hearing on the record. If the Secretary of Transportation determines that the respondent has not complied with Title VI and voluntary compliance cannot be secured, USDOT must notify Congress before that finding goes into effect. 49 CFR

IV. REVIEW OF AGENCY DIRECTIVES

The Title VI Staff employs the following process to review the Agency directives, policies, and practices:

- The Title VI Staff reviews all environmental documents, public meeting, and hearing transcripts to ensure staff is aware of any potential Title VI issues.
- The Title VI Staff works cooperatively with VDOT Civil Rights staff to implement federal nondiscrimination directives.

V. COMPLIANCE AND ENFORCEMENT PROCEDURES

These procedures will be enforced for the following instances:

Remedial Action

The goal for Title VI and regulatory enforcement is to achieve voluntary compliance. If deficiencies are found during a Title VI review, the Compliance Review Report will include a draft corrective action plan (CAP) with projected due dates. The program area Title VI Specialist or the Subrecipient will be able to propose remedial actions to correct the deficiencies. Program areas and Subrecipients are expected to correct all deficiencies according to their CAP and provide periodic updates to the Title VI Coordinator assigned to the review. The Title VI Coordinator will provide assistance, as needed, and work with the (program area's) Title VI Specialist or Subrecipient's Title VI Coordinator to ensure implementation of the CAP. When the Title VI Coordinator has determined that a sub-recipient's deficiencies are sufficiently corrected, the program area Title VI Specialist or the Subrecipient will be notified that the review process is complete and no further progress reporting is needed. The Subrecipient will receive an official Closeout Letter signed by the Agency's Title VI Coordinator.

Affecting Compliance

When an internal program area refuses to cooperate or comply with Title VI, the Title VI Specialist will elevate the matter to the Director, after which, the matter may be referred to the State DOT Civil Rights Manager or responsible USDOT Operating Administration (OA).

When a Subrecipient fails to take appropriate corrective action in response to the findings of deficiencies in the compliance report, the Subrecipient moves from a "deficiency status" to noncompliance; the City of Harrisonburg Public Works Department will submit two copies of the case file to the State DOT or FHWA with a recommendation that the sub-recipient be found in noncompliance; and/or, may, with the concurrence of the State DOT or FHWA (or other USDOT OA), initiate proceedings to impose sanctions for noncompliance.

Sanctions

In the event that a Subrecipient or contractor ("recipient") fails or refuses to comply with Title VI, the first step taken by the internal program area with oversight of the recipient will be the City of Harrisonburg attempts to resolve the issue using the program area's normal administrative solutions. However, the City of Harrisonburg may take any or all of the following steps, with the concurrence of VDOT or USDOT (i.e., FHWA), if the recipient is uncooperative or nonresponsive during attempts by the City of Harrisonburg to voluntarily resolve the compliance issue:

- a. Cancel, terminate, or suspend the contract or agreement in whole or in part.
- b. Refrain from extending any further assistance to the recipient under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the recipient.

- c. Take such other action that may be deemed appropriate under the circumstances, until compliance or remedial action has been accomplished by the recipient; and/or,
- d. Refer the case to the appropriate federal agency for appropriate administrative or legal proceedings. Other means authorized by law.

VI. AUTHORITIES

This section is a reference source of the applicable authorities related to Title VI of the Civil Rights Act of 1964 as amended.

Title VI of the 1964 Civil Rights Act (42 USC 2000d et seq) requires that “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.”

The Civil Rights Restoration Act of 1987, P.L. 100-209 further clarified the intent of Title VI to include all programs and activities of entities whether those programs and activities are federally funded or not.

49 CFR Part 21, the U.S. Department of Transportation’s Implementing Regulations of Title VI of the Civil Rights Act of 1964.

23 Code of Federal Regulations (CFR) Part 200, the Federal Highway Administration’s Title VI Program Implementation and Review Procedures.

USDOT Order 1050.2A

Section 162(a) of the Federal-Aid Highway Act of 1973 (Section 324, Title 23 U.S.C.) prohibits discrimination based on sex (gender).

Executive Order 12898 (issued February 11, 1994) addresses disproportionate adverse environmental, social, and economic impacts that may exist in communities, specifically minority and low-income populations.

Executive Order 13166 (issued August 16, 2000) addresses access to services for persons whose primary language is not English and who have limited ability to read, write, speak or understand English.

VII. TITLE VI ASSURANCES (STANDARD DOT TITLE VI ASSURANCES -USDOT 1050.2A)

TITLE VI/NONDISCRIMINATION ASSURANCES

DOT Order No.1050.2A

The *City of Harrisonburg Public Works Department*, (herein referred to as the "Recipient"), HEREBY AGREES THAT, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through the *Federal Highway Administration*, is subject to and will comply with the following:

Statutory/Regulatory Authorities

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

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

General Assurances

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

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

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

Specific Assurances

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

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

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

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

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

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

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

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

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

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

City of Harrisonburg Public Works Department

by _____
(Signature of Authorized Official)

DATED _____

APPENDIX A

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

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

APPENDIX B

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

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

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the *City of Harrisonburg Public Works Department* will accept title to the lands and maintain the project constructed thereon in accordance with the Virginia General Assembly, the Regulations for the Administration of the Federal-Aid Highway Program and the policies and procedures prescribed by the *Federal Highway Administration* of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the *City of Harrisonburg Public Works Department* all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

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

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

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

APPENDIX C

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

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

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

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

APPENDIX D

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

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

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

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

APPENDIX E

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

Pertinent Nondiscrimination Authorities:

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

VIII. APPENDICES

LPA may insert any forms, templates, samples, guidelines or attachments in this section.

