



Madison County

TITLE VI PLAN

Prepared by:
Madison County Department of Planning and Workforce Development

Signed by:
John M. Becker
Chairman of the Board of Supervisors
Date: April 10, 2018
E-Mail Address: john.becker@madisoncounty.ny.gov
Telephone Number: 315-366-2201

Signature

A handwritten signature in blue ink, appearing to read "John M. Becker", is written over a horizontal line.

Date

4/10/18

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Title VI/Nondiscrimination Policy Statement

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

In the event that the County of Madison distributes federal aid funds to another governmental entity, the County of Madison will include Title VI language in all written agreements and will monitor for compliance. The County of Madison is responsible for initiating and monitoring Title VI activities, preparing required reports and other County responsibilities as required by 23 CFR 200 and 49 CFR 21.

Authorities

Title VI of the 1964 Civil Rights Act provides that no person in the United States shall, on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance (please refer to 23 CFR 200.9 and 49 CFR 21).

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

Additional Authorities and Citations Include:

Title VI of the Civil Rights Act of 1964; 42 USC 2000d to 2000d-4; 42 USC 4601 to 4655; 23 USC 109(h); 23 USC 324; DOT Order 1050.2; EO 12250; EO 12898; 28 CFR 50.3; EO 13166.

Title VI Reporting

The County of Madison has appointed Scott Ingmire, Director of Planning and Workforce Development, as the County of Madison Title VI Coordinator.

The County of Madison is required to appoint a Title VI Coordinator who will have easy access to the agency's Chief Executive Officer.

The contact information for the County of Madison Title VI Coordinator is as follows:

Name: Scott Ingmire, Title VI Coordinator
Mailing Address: Madison County Department of Planning and Workforce Development
PO Box 606
Wampsville, NY 13163
Telephone Number: 315-366-2376
Email address: scott.ingmire@madisoncounty.ny.gov

Special Emphasis Program Areas

Appointment of Title VI Program Specialists

In addition to appointing a Title VI Coordinator, the County of Madison has appointed several Title VI Program Specialists to annually monitor the County emphasis program areas. The emphasis program areas are: Planning, Environmental Services, Design, Right-of-Way, Construction, Maintenance, Safety, and Research.

The Title VI Coordinator will also serve as the Title VI Specialist for the following areas:

Planning:	Construction
Environmental Services	Maintenance
Design	Traffic Safety
Right of Way	Research

Limited English Proficiency Strategies

Strategies to provide meaningful access to LEP persons to ensure that they can communicate effectively will be achieved by measures including but not limited to:

- Applying the "four factor analysis" process provided as a guideline from the U.S. Department of Justice to determine LEP needs. This process includes determining the number and proportion of LEP individuals within the population, the frequency with which LEP individuals will come in contact with the program, the nature and importance of the program to people's lives, and the resources available to provide translation services. The results of this analysis will be used to outreach and engage LEP persons in the transportation planning process.
- Developing a demographic assessment for the impacted area to determine if there is a 5% or more minority population requiring special language assistance, and address the needs.
- Developing a written policy to ensure the implementation of LEP measures that identify and assess the language needs of its LEP population. Provide for a range of language assistance options, including notices to LEP persons in a language they can understand regarding their right to free language assistance.
- Training to ensure that staff are knowledgeable and aware of LEP policies and procedures, and are trained to work effectively in the facilitation of the process.
- Providing translation services for public documents and competent interpreters at public hearings.
- Increasing opportunities for public involvement, particularly by historically underserved populations including LEP individuals by advertising in local and local minority newspapers.
- Monitoring the program to ensure that LEP persons have meaningful access to the transportation planning and implementation process.
- *See also* the County of Madison *Language Access Plan*, available on the County of Madison website.

Title VI Responsibilities

- Monitor compliance with Title VI requirements in all aspects of the environmental process, including Environmental Justice and Limited English Proficiency requirements.
- Conduct meetings to review the project impact.

- Disseminate to the public their right to call or write the department to view plans and discuss environmental problems.
- Ensure DBE goal attainment.
- Coordinate the gathering of environmental information for the Annual Title VI Update Report including awards to DBE firms.
- Notify protected group residents of public meetings or hearings regarding a proposed project. Ensure time and location for public meetings or hearings is accessible.
- Maintain mechanisms to identify population affected by a project.
- Ensure participation of all segments of the impacted population in the location selection process.
- Ensure that all federally funded consultant contracts administered by this section have the appropriate Title VI Appendix enclosed.
- Review guidelines and procedures to ensure Title VI compliance.
- Maintain and update necessary data and documentation, including demographic data mapping ethnicity by area as required for completion of the department's internal annual Title VI Annual Report.

Title VI Coordinator's Responsibilities

As authorized by the Chairman of the Board of Supervisors, the Title VI Coordinator and Title VI Program Specialist are responsible for initiating, monitoring, and ensuring the County of Madison compliance with Title VI requirements as follows:

1. Process, review and investigate Title VI complaints received by the County of Madison in accordance with the County's Complaint Procedures. If any individual believes they or any other program beneficiaries have been subject to unequal treatment or discrimination as to the receipt of benefits and/or services, or on the grounds of race, color, national origin, or gender, they may file a complaint with the County of Madison. It is the goal of the County of Madison to resolve complaints informally at the lowest managerial level.
2. Collect statistical data (race, color, income, gender, and national origin) of participants in and beneficiaries of, County of Madison highway programs (i.e., relocatee's, impacted citizens, and affected communities). Each of the Title VI special emphasis program area will maintain data to be incorporated in the Title VI updates. Procedures will be reviewed regularly to ensure the data is sufficient in meeting the Title VI program administration requirements.
3. Review special emphasis program areas to determine the effectiveness of program area activities at all levels. In addition to the day-to-day monitoring, all special emphasis program areas will be reviewed annually to assure effectiveness in their compliance of Title VI provisions. The Title VI Coordinator and Title VI Program Specialists will coordinate efforts to ensure equal participation in their program areas and activities at all levels.
4. Conduct Title VI reviews when necessary of contractors and other recipients of federal aid highway funds.
5. Work with special emphasis program staff to ensure the fundamental principles of Environmental Justice outlined below:
 - Avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority populations and low-income populations.
 - Ensure the full and fair participation by all potentially affected communities in the transportation decision-making process.
 - Prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations.

6. Develop Title VI and Limited English Proficiency information for Public Dissemination. Ensure dissemination to the general public and, where appropriate, in languages other than English. The County will disseminate Title VI Program information to County employees, contractors, subcontractors, consultants, and sub consultants as well as the general public. Public dissemination will include posting of public statements and inclusion of Title VI language in contracts. The Title VI/Nondiscrimination Policy Statement will be published in newspapers having a general circulation in the vicinity of proposed projects and announcements of hearings and meetings in minority publications.
7. Prepare an Annual Title VI Update Report. The update will report on any accomplishments and changes to the program occurring during the preceding year. The update will include goals and objectives for the upcoming year.
8. Schedule training for Title VI related statutes for County of Madison employees. The training will provide comprehensive information on Title VI provisions, its application to program operations, identification of Title VI issues and resolution of complaints. All directives providing operational guidelines to all subrecipients, and special emphasis program areas will be reviewed annually to include Title VI language and provisions and related requirements, where applicable.
9. Identify and eliminate discrimination when found to exist. Work with all County of Madison Offices and Departments to establish procedures for promptly resolving deficiencies. Procedures will be implemented to identify and eliminate discrimination when found to exist, including, but not limited to utilization of disadvantaged business enterprises, public involvement and property acquisition.
10. Establish procedures for promptly resolving deficiency status and reducing to writing the remedial action agreed to be necessary within a period of 90 days. The County of Madison will actively pursue the prevention of Title VI deficiencies and violations and will take the necessary steps to ensure compliance with all program administrative requirements. When irregularities occur in the administration of the program's operation, procedures will be implemented to resolve Title VI issues, and reducing to writing remedial action agreed necessary within a period of 90 days.

Subrecipients placed in a deficiency status will be given a reasonable time, not to exceed 90 days after receipt of the deficiency letter, to voluntarily correct deficiencies.

The County of Madison will seek the cooperation of the subrecipient in correcting deficiencies found during the Title VI compliance reviews. The County of Madison will also provide the technical assistance and guidance needed to aid the subrecipient to comply voluntarily.

When a subrecipient fails or refuses to voluntarily comply with requirements within the allotted time frame, the County of Madison will submit a copy of the case file to NYSDOT's Office of Civil Rights or the FHWA and a recommendation that the subrecipient be found in noncompliance.

A follow-up review will be conducted within 180 days of the initial review to ensure that the subrecipient has complied with the Title VI Program requirements in correcting deficiencies previously identified.

11. Maintain updated legislative and procedural information regarding the County of Madison Title VI Program. This will include federal laws, rules and regulations, NYSDOT guidelines, the County of Madison Plan and updates, and other resource information pertaining to Title VI issues.

Title VI Complaint Procedures

These procedures cover all complaints filed under Title VI of the Civil Rights Act of 1964 as amended, (including its Disadvantaged Business Enterprises (DBE)), Section 504 of the Rehabilitation Act of 1973, Civil Rights Restoration Act of 1987, and the Americans with Disabilities Act of 1990, relating to any transportation or Public Works program or activity administered by the City, as well as to subrecipients, consultants, and contractors. These procedures apply to complaints filed against a program or activity funded by either the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA) or the Federal Aviation Administration (FAA).

Intimidation or retaliation of any kind is prohibited per Title 49, Code of Federal Regulations, Part 21.11(e).

The procedures do not deny the right of the complainant to file formal complaints with other state or federal agencies or to seek private counsel for complaints alleging discrimination.

These procedures are part of an administrative process, which does not provide for remedies that include punitive damages or compensatory remuneration for the complainant. Every effort will be made to obtain early resolution of complaints at the lowest managerial/administrative level possible. The option of informal mediation meeting(s) between the affected parties and the investigator may be used for resolution, at any stage of the process. The investigator will make every effort to pursue a resolution of the complaint. Initial interviews with the complainant and the respondent will request information regarding specifically requested relief and settlement opportunities.

Procedures

Any person who believes that they or any specific class of persons has been subjected to discrimination or retaliation prohibited by any of the Civil Rights authorities prohibited under Title VI based upon race, color, sex, age, national origin or disability may file a written complaint with the County of Madison.

Time Limits for Filing

A formal complaint must be filed within 180 days after:

- The date of the alleged act of discrimination; or
- The date when the person became aware of the alleged discrimination; or
- There has been a continuing or the latest instance of the discriminatory conduct.

Form of Complaints

A formal complaint must meet the following requirements:

- Must be in writing and signed by the person or their representative and include the complainant's name, address and telephone number. A formal complaint of discrimination will also be acknowledged and processed if received by fax or e-mail. A formal complaint of discrimination received by telephone will be written down and provided to the complainant for confirmation or revision before processing.
- Must provide a detailed description of the issues including names, dates, and job titles of witnesses or those individuals perceived as parties in the complained of incident.

Upon receipt of the complaint, the County of Madison will determine its jurisdiction, acceptability, need for additional information and the investigative merit of the complaint. In cases where the complaint is against one of the County of Madison subrecipients of federal highway funds, the County of Madison will assume jurisdiction and will investigate and adjudicate the case. Complaints against the County of Madison will be referred to the New York State Department of Transportation's Office of Civil Rights for proper disposition. In special situations warranting intervention to ensure equity, the NYSDOT Office of Civil Rights may assume jurisdiction and either complete or obtain services to review or investigate matters.

Acceptance of a complaint will be determined by

- Whether the complaint is timely filed;
- Whether the allegations involve a covered basis such as race, color, national origin, gender, disability or retaliation;
- Whether the allegations involve a program or activity of a Federal-aid recipient, subrecipient, or contractor; or, in the case of ADA allegations, an entity open to the public;
- The complainant(s) acceptance of reasonable resolution based on the Department's administrative authority;

A complaint may be dismissed for the following reasons

- The complainant requests the withdrawal of the complaint;
- The complainant fails to respond to repeated requests for additional information needed to process complaint;
- The complainant cannot be located after reasonable attempts.

The County of Madison has sole authority for accepting complaints for investigation. Once the County of Madison decides to proceed with the investigation, the complainant and the respondent will be notified in writing of the determination within ten (10) calendar days. The complaint will receive a case number and be logged into the County of Madison's records identifying its basis, alleged harm, the race, color, national origin and gender of the complainant(s).

In cases where the County of Madison assumes investigation of the complaint, the County of Madison will provide the respondent with the opportunity to respond to the allegations in writing. The respondent will have ten (10) calendar days from the date of the County of Madison's written notification of acceptance of the complaint to furnish their response to the allegations.

Within 40 calendar days of the acceptance of the complaint, the County of Madison or NYSDOT investigator will prepare an investigative report for the County of Madison Title VI Coordinator and the Chairman of the Board of Supervisors. The report will include a narrative description of the incident, identification of persons interviewed, findings and recommendations for disposition. The County of Madison's Title VI Coordinator and Chairman of the Board will have 10 calendar days to review and provide comments to the investigator.

Once the investigator addresses any comments to the preliminary investigative report, the report and its findings will be forwarded to the County of Madison Law Department for review. The Law Department attorneys will review the report and associated documentation and will provide input within 10 calendar days.

Any comments or recommendations from the County of Madison Law Department will be reviewed by the Chairman of the Board. There will be a period of 10 calendar days for the Chairman of the Board to discuss the report and any recommendations with the County of Madison's Title VI Coordinator, and to have the Title VI Coordinator address any modifications before the report's release to the corresponding United States Department of Transportation (USDOT) modality (FHWA, FTA, FAA).

The County of Madison's final investigative report and a copy of the complaint will be forwarded to either NYSDOT, FHWA, FTA, or FAA, within 60 calendar days of the acceptance of the complaint.

The County of Madison will notify the parties of its preliminary findings which are subject to the corresponding USDOT modality's concurrence.

The corresponding USDOT modality will issue the final decision to the County of Madison based on the investigative report.

USDOT will analyze the facts of the case and will issue its conclusion to the complainant according to their procedures. Once the corresponding USDOT modality issues its final decision, the County of Madison will notify all parties involved about such determination. USDOT's final determination is not subject to an appeal.

Title VI Complaint Form

Name _____

Address _____ City _____ Zip _____

Telephone: Home _____ Work _____ Cell _____

Basis of Complaint

Race

Color

Sex

National Origin

Age

Disability (ADA)

Low-Income

Limited English Proficiency

Who allegedly discriminated against you?

Name _____

Address _____ City _____ Zip _____

Telephone _____

If an organization, what is its name?

Name of Organization _____

Address _____ **City** _____ **Zip** _____

Telephone _____

How were you discriminated against?

Where did the alleged discrimination occur?

Date/s and times discrimination occurred?

First time _____

Second time _____

Third time _____

Were there any other witnesses to the discrimination?

Name	Title	Work Telephone	Home Telephone

What can NYSDOT do to resolve the complaint?

Have you filed your complaint with anyone else?

Who _____

When _____

Complaint number, if known _____

Do you have an Attorney in this matter?

Name _____

Address _____ City _____ Zip _____

When did you acquire _____

Signed _____ Date _____

**Mail to: New York State Department of Transportation
 Title VI Coordinator
 Office of Civil Rights
 50 Wolf Road
 Albany, New York 12232
 or
 Phone (518) 457-1129
 Email: OCR-Title VI @dot.ny.gov**

Attachment 1

Title VI Notice to Public

The County of Madison hereby gives public notice that it is the County of Madison's policy to assure full compliance with Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, and related statutes and regulations in all programs and activities. Title VI requires that no person in the United States of America shall, on the grounds of race, color, gender, or national origin be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the County of Madison receives federal financial assistance.

Any person who believes they have been aggrieved by an unlawful discriminatory practice under Title VI has a right to file a formal complaint with the County of Madison. Any such complaint must be in writing and filed with the City Title VI Coordinator within one hundred eighty (180) days following the date of the alleged discriminatory occurrence. Title VI Discrimination Complaint Forms may be obtained from this office at no cost to the complainant on our website at <https://www.madisoncounty.ny.gov/> or by calling (315) 366-2201.

Attachment 2

Standard Title VI/Non-Discrimination Assurances

The *County of Madison* (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 *New York State Department of Transportation (NYSDOT)*, is subject to and will comply with the following:

Statutory/Regulatory Authorities

É 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);

É 49 C.P.R. Part 21 (entitled *Non-discrimination In Federally-Assisted Programs Of The Department Of Transportation-Effectuation Of Title VI Of The Civil Rights Act Of 1964*);

É 28 C.P.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 NYSDOT.

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these 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 transportation and highway programs:

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 transportation and highway programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

"The (County of Madison), in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 US. 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 Recipient 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 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 NYS DOT. You must keep records, reports, and submit the material for review upon request to NYS DOT, 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 County of Madison 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 transportation and highway programs. This ASSURANCE is binding on the State of New York, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the transportation and highway programs. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

(County of Madison)

by  _____

John M. Becker

(Signature of Chief Elected Official)

DATED April 10, 2018

APPENDIX A

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

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.

4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information,

and its facilities as may be determined by the Recipient 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, 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 Nondiscrimination provisions of this contract, the Recipient will impose such contract sanctions as it 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 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 *(Title o(Recipient))* will accept title to the lands and maintain the project constructed thereon in accordance with *(Name of Appropriate Legislative Authority)*, the Regulations for the Administration of *(Name of Appropriate Program)*, and the policies and procedures prescribed by the *(Title of Modal Operating Administration)* of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. §2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the *(Title of Recipient)* 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 *(Title of Recipient)* 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 *(Title of Recipient)*, its successors and assignees.

The *(Title of Recipient)*, 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 *(Title of Recipient)* 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 (*Title of Recipient*) pursuant to the provisions of Assurance 7(a):

A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:

1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, (*Title of Recipient*) will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said

lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*

C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the (*Title of Recipient*) 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 (*Title of Recipient*) 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 (*Title of Recipient*) 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, (*Title of Recipient*) 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, *(Title of Recipient)* will there upon revert to and vest in and become the absolute property of *(Title of Recipient)* and its assigns.*

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

APPENDIX E

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

Pertinent Non-Discrimination Authorities:

ÉTitle 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.

ÉThe 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);

ÉFederal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);

ÉSection 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;

ÉThe Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);

ÉAirport and Airway Improvement Act of 1982, (49 USC § 4 71, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);

ÉThe 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);

ÉTitles 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.P.R. parts 37 and 38;

ÉThe Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

ÉExecutive 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;

ÉExecutive 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);

ÉTitle 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).

