

Title VI

NON-DISCRIMINATION PLAN

CITY OF IRVING

825 W. Irving Blvd.
Irving, Texas 75060
972.721.6952

Title VI Coordinator Contact Information

Jill McAdams
Director of Human Resources
825 W. Irving Blvd.
Irving, Texas, 75060

Title VI Policy Statement

City of Irving

It is the policy of the City of Irving, Texas, to ensure complete compliance with the requirements and provisions of the Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d-42 U.S.C 2000d-4, and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964 and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, no person who resides in, or does business with, the City of Irving on the grounds race, color, national origin, sex, age, disability or economic condition, be excluded from the participation in, be denied the benefits of or otherwise be subjected to discrimination under any of our programs or activities.

Any person who believes he or she has been discriminated against should contact:

Jill McAdams
Director of Human Resources
City of Irving
825 W. Irving Blvd.
Irving, TX 75060
Phone: (972) 721-6952
E-mail: jmcadams@cityofirving.org

Approved:



Chris Hillman
City Manager
City of Irving

6-16-21

Date

Title VI Plan

City of Irving

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City of Irving

Title VI Non-Discrimination Plan

I. Plan Statement

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, national origin, age, sex or disability in programs and activities receiving Federal financial assistance. Specifically, Title VI provides that “no person in the United States shall, on the ground of race, color, national origin, age, sex or disability be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance” (42 U.S.C. Section 2000d).

The City of Irving is committed to ensuring that no person is excluded from participation in, or denied the benefits of any of its services on the basis of race, color, national origin, age, sex or disability as protected by Title VI.

This plan was developed to guide the City of Irving in its administration and management of Title VI related activities. Below is the City’s Title VI Coordinator:

City of Irving Title VI Coordinator

Jill McAdams, Director of Human Resources

City of Irving

825 W. Irving Blvd.

Irving, TX 75060

(972) 721-6952

jmcadams@cityofirving.org

The City’s primary goals and objectives of the Title VI Non-Discrimination Plan are:

1. To assign roles, responsibilities, and procedures for ensuring compliance with Title VI of the Civil Rights Act of 1964 and related regulations and directives;
2. To ensure that people affected by the City’s programs and projects receive the services, benefits, and opportunities to which they are entitled without regard to race, color, national origin, age, sex, or disability;
3. To prevent discrimination in City programs and activities, whether those programs and activities are federally funded or not;
4. To require City contractors to agree, in connection with the performance of their work, that they will comply with all Title VI requirements as stated in the contractual agreement.
5. To identify impacts in any program, service, or activity that may create an illegal impact on any person because of race, color, national origin, age, sex, or disability; or on minority

populations, low-income populations, the elderly, persons with disabilities, and all affected Title VI populations;

6. To periodically review Title VI compliance of specific program areas within the City of Irving;

7. To set forth a process for filing and investigating complaints by persons who believe they have been subjected to illegal discrimination under Title VI in a City-provided service, project, program or activity.

II. Title VI Information Dissemination

Title VI information posters (Appendix G) shall be prominently and publicly displayed in the Administrative Offices of the City of Irving. Additional information relating to the City's nondiscrimination obligation can be obtained from the City of Irving's Title VI Coordinator.

During New Employee Orientation, information relative to the provisions of Title VI, and the City of Irving's expectations to perform their duties accordingly will be reviewed and discussed. All employees will be provided a copy of the Title VI Policy and are required to sign the Acknowledgement of Receipt (Appendix A & B).

Title VI information (see Appendix A) will be kept in the City's HR Public Drive for all employees to access at their convenience and when necessary. This form reminds employees of the City's policy statement and of their Title VI responsibilities in their daily work and duties.

This Title VI plan will be located on the City of Irving's website for review and will be located at the City of Irving's Administration Office, as well at City Public Libraries.

III. Subcontracts and Vendors

All subcontractors and vendors who receive payments from the City of Irving where funding originates from any federal assistance are subject to the provisions of the Title VI of the Civil Rights Act of 1964 as amended.

Written contracts shall contain non-discrimination language, either directly or through the bid specification package which becomes an associated component of the contract.

IV. Record Keeping

The Title VI Coordinator will maintain permanent records, which include, but are not limited to, signed acknowledgements of receipt from the employees indicating the receipt of the City of Irving's Title VI Plan, copies of the Title VI complaints or lawsuits and related documentation, and records of correspondence to and from complainants, and Title VI investigations.

V. Title VI Complaint

Procedures for Filing a Complaint:

Any person can file a signed, written complaint up to one hundred and eighty (180) days from the date of the alleged discrimination. The complaint should include the following information (Appendix C):

- Complainant's name, mailing address, and viable contact information (i.e., telephone number, e-mail address, etc.)
- How, when, where and why the complainant believes that they were discriminated against. Include the location, names and contact information of any witnesses.
- Other information that is deemed significant.

The Title VI Complaint form (Appendix C) may be used to submit the complaint information. The complaint may be filed in writing with the City of Irving at the following address:

Attention: Jill McAdams
Title VI Coordinator
City of Irving
825 W. Irving Blvd.
Irving, TX 75060

The City of Irving encourages all complainants to certify all mail that is sent through the U.S Postal Service and/or ensure that all written correspondence can be easily tracked. For complaints originally submitted by e-mail or facsimile, an original, signed copy of the complaint must be mailed to the Title VI Coordinator as soon as possible, but no later than 180 days from the alleged date of discrimination.

Complaint Process:

All complaints alleging discrimination based on race, color, national origin, age, sex or disability in a service or benefit provided by the City of Irving will be directly addressed by the City of Irving. The City of Irving shall also provide appropriate assistance to complainants, including those persons with disabilities, or who are limited in their ability to communicate in English. Additionally, the City of Irving shall make every effort to address all complaints in an expeditious and thorough manner.

A letter acknowledging receipt of complaint will be mailed within seven days (Appendix D). Please note that in responding to any request for additional information, a complainant's failure to provide the requested information may result in the administrative closure of the complaint.

Notification of Complaint:

The City of Irving will send a final written response letter (Appendix E & F) to the complainant. In the letter notifying complainant that the complaint is not substantiated, the complainant is also advised of his or her rights to appeal within seven calendar days of receipt of the final written decision from the City of

Irving. Every effort will be made to respond to Title VI complaints within 60 working days of receipt of such complaints, if not sooner.

Once sufficient information for investigating the complaint is received by the City of Irving, a written response will be drafted subject to review by the city's attorney. If appropriate, the City of Irving city attorney may respond to the complainant or administratively close the complaint. The City of Irving will notify the complainant of the City's action as soon as possible.

Immediately following the final written decision from the City of Irving, all transportation-related complaints filed under Title VI where the City or its subrecipients are named as the respondent will be forwarded to the Texas Department of Transportation Office of Civil Rights for investigation within 10 calendar days.

Confidentiality:

To the extent feasible, confidentiality shall be maintained during the formal and informal investigation process.

Investigation records:

Records will be maintained in accordance to applicable Federal guidelines, or in their absence, applicable state record retention guidelines.

VI. Limited English Proficiency (LEP) Plan

The City of Irving promotes a positive and cooperative understanding of the importance of language access to federally conducted and federally assisted programs. While most individuals in the United States read, write, speak and understand English, there are many individuals whose primary language is not English. Individuals who do not speak English as their primary language and who have a limited ability read, write, speak or understand English are considered by federal law to be Limited English Proficient, or "LEP". This language barrier may prevent individuals from accessing services and benefits and they may be entitled to language assistance with respect to a particular type of service, benefit, or encounter.

Federal law requires that people who are LEP have meaningful access to federally conducted and federally funded programs and activities. Moreover, federal agencies are required to ensure that recipients of federal financial assistance provide meaningful access to their LEP constituencies.

Two federal documents provide the foundation for the development of the LEP plan: Title VI of the Civil Rights Act of 1964, and Executive Order 13166 "Improving Access to Services for Persons with Limited English Proficiency," signed in 2000. Title VI stipulates that agencies should take reasonable actions to provide language assistance. Executive Order 13166 requires agencies to examine the services provided and develop and implement a system by which LEP persons can meaningfully access those services.

The most recent demographic analysis conducted by the US. Census Bureau demonstrates that the LEP population, as a percentage of the total population in the Dallas County service area, is small. About 14%

percent of the Dallas County population speaks “limited” English. An examination of the population within the City of Irving indicates the LEP population is at 13%, slightly smaller than the Dallas County region.

The City of Irving is mindful of the LEP population in the region and is prepared to meet any language need that arises and respond appropriately to any requests that are made for language assistance. The City of Irving is ready to provide oral and written translation of documents if asked to do so. The City of Irving will provide language assistance when requested.

VII. Environmental Justice (EJ)

Compliance with Title VI includes ensuring that no minority or low income population suffers “disproportionately high and adverse human health or environmental effect” due to any “programs, policies and activities” undertaken by any agency receiving federal funds. This obligation will be met by the City in the following ways:

- When planning specific programs or projects, identifying those populations, if any, that will be affected by a given program or project.
- If a disproportionate affect is anticipated, the City will assess the extent of the disproportionate affect to the minority and low income populations and implement appropriate mitigation procedures.
- If mitigation options do not sufficiently eliminate the disproportionate effect, discussing and, if necessary, implementing reasonable alternatives.

Disproportionate effects are those effects which are appreciably more severe for one group or predominantly borne by a single group. The City will use U.S Census data to identify low income and minority populations when it is identified that a program, policy or activity may have a disproportionate negative affect to a minority or low income population.

Where a project impacts a small number or area of low income or minority populations, the City will document that:

- Other reasonable alternatives were evaluated and were eliminated for reasons such as the alternatives impacted a far greater number of people or did greater harm to the environment; etc.
- The project’s impact is unavoidable;
- The benefits of the project far out-weigh the overall impacts; and
- Mitigation measures are being taken to reduce the harm to low income or minority populations.

If it is concluded that no minority and/or low income population groups are present in the project area, the City will document how the conclusion was reached.

The following steps will be taken to assess the impact of projects on minority and/or low income population groups:

STEP ONE: Determine if a minority or low income population is present within the project area. If the conclusion is that no minority and/or low income population is present within the project area, document how the conclusion was reached. If the conclusion is that there are minority populations and/or low income population groups present, proceed to Step Two.

STEP TWO: Determine whether project impacts associated with the identified low income and minority populations are disproportionately high and adverse. If it is determined that there are disproportionately high and adverse impacts to minority and low income populations, proceed to Step Three.

STEP THREE: Propose measures that will avoid, minimize and/or mitigate disproportionately high and disproportionate adverse impacts and provide offsetting benefits and opportunities to enhance communities, neighborhoods and individuals affected by proposed project.

STEP FOUR: If after mitigation, enhancements and offsetting benefits to the affected populations, there remains a high and disproportionate adverse impact to minority or low income populations, then the following questions must be considered:

Question 1: Are there further mitigation measures that could be employed to avoid or reduce the adverse effect to the minority or low income population?

Question 2: Are there other additional alternatives to the proposed action that would avoid or reduce the impacts to low income or minority populations?

Question 3: Considering the overall public interest, is there a substantial need of the project?

Question 4: Will the alternatives that would satisfy the need for the project and have less impact on protected populations (a) have other social economic or environmental impacts that are more severe than those of the proposed action (b) have increased costs of extraordinary magnitude?

STEP FIVE: Include all findings, determinations or demonstrations in the environmental document prepared for the project.

VIII. Public Participation Plan

The Public Participation Plan (PPP) demonstrates how the City, working with TxDOT and their mandated process, provides opportunities for public review and comment at key decision points during the citywide transportation improvement planning process. The process consists of open discussion of planning documents in local government forums, public meetings, informational exhibits, published advertisements and, if required, a Public Hearing.

All City projects follow the Texas Open Meetings procedures which require a Public Meeting to provide the public with information on the project and its likely impact on the project area.

Public Participation and Consultative Tools

Besides the Public Meeting process, the City uses a number of methods to communicate information regarding projects and opportunities for public and stakeholder participation in the planning process:

- Newsletters and direct mailings
- Media releases
- Notices published in the local and regional newspapers
- Visualization presentations
- Exhibits
- Local community public meetings
- TxDOTS's interactive internet site
- Social Media such as Facebook and Twitter

Geographic Information System (GIS) Data

The City makes available to the public several sources of GIS data in the form of maps used in the planning process to enhance public understanding of the project.

Long-Range Planning Documents:

- The City's Major Thoroughfare Plan
- The Unified Development Code
- City Right of Way Maps and County Property Identification

TxDOT Notification Process

The City of Irving is mandated and follows the TxDOT notification process. The type, size and scope of a project will determine the specific notification actions taken by the City.

TxDOT informs all stakeholders about proposed plans and projects during the statewide transportation planning process. During this process, TxDOT also seeks input from all stakeholders on specific projects and issues.

Notification of any actions taken on the Statewide Transportation Improvement Program or the long-range statewide transportation plan, to include how and where to obtain a copy of the subject document, the time and date of the public hearing, instructions to those interested in providing comments, and a copy of the applicable Texas Register public notice, is sent to the following:

- Metropolitan Planning Organization directors
- State and Federal environmental agencies
- Texas Bicycle Coalition
- Central Federal Lands Highway Division
- National Park Service

All other interested parties are provided notice of the comment period and public hearings via the Texas Register public notice and TxDOT's website. Interested parties are able to access planning documents at TPP's Austin Office, District Offices and on TxDOT's website. Written comments can be provided to District Office personnel or can be mailed directly to TPP. Copies of all documents are available for review at the location of the public hearing.

TxDOT's statewide Public Participation Process allows for at least 45 calendar days from the date the public hearing notice appears in the Texas Register for the public to review and comment (in writing or in person at the hearing) on a planning document before it is adopted.

At least once every five years (after the adoption date of the plan), TxDOT will review and solicit comments from non-metropolitan local officials and other interested parties for a period of not less than 60 calendar days regarding the effectiveness of the consultation process outlined in the plan, and any proposed of counties, State municipal league, regional planning agencies, or directly to nonmetropolitan local officials.

Public and Stakeholder Outreach and Visualization Tools

Proactive public participation and stakeholder outreach is an important part of developing TxDOT's plan and programs. To ensure that all stakeholders are included in the long-range planning process and during the development of the PPP and other plans and programs referenced in it, TxDOT provides opportunities for stakeholders and the public to participate during public meetings and stakeholder working sessions as well as providing the public with access to all planning documents on TxDOT's website:

- Hearings and Meetings schedule is available at:
<http://www.txdot.gov/inside-txdot/get-involved/about/hearings-meetings.html>
- Planning documents are available at:
<http://www.txdot.gov/inside-txdot/forms-publications/publications/transportation-planning.html>
- Up-to-minute transportation information is available at:
<http://www.txdot.gov/inside-txdot/media-room.html>

Public Participation Considerations

Public participation is an ongoing aspect of the project planning process that encourages and solicits public input and provides the opportunity for the public to become fully informed about project development. Public participation considerations include:

- Types of Public Participation Procedures
- Specialized Public Participation – Cultural Resources
- Public Participation Following Project Approvals
- Notices and Media Releases

Types of Public Participation Procedures

Early in the planning process, projects are included in the Statewide Transportation Improvement Program (STIP) and Transportation Improvement Program (TIP). Meetings to discuss the recommended projects included in the STIP/TIP are advertised allowing any interested citizen to provide input in the project planning and programming process. In some instances these meetings can be considered adequate public participation for minor projects constructed in existing right of way and/or general

maintenance projects. However, depending on the type and complexity of the project, public concerns, associated social economic, and environmental factors, additional public participation may be required. Types of additional public participation efforts may include:

- Meetings with Affected Property Owners (MAPO) – MAPOs are held with property owners affected by minor or temporary projects. MAPOs may occur at any stage of the project development process. Due to informal nature of MAPOs, the format and conduct will be tailored to the individual project, allowing for ample time for public questions and comment.
- Public Meetings – Public meetings are held to inform the public and provide a forum for a free exchange of project views and concerns. Public meetings occur as early as TxDOT determines it feasible to assure public input in project planning, location, and design alternatives. Public meetings include meetings with interested citizens, the general public, or local, neighborhood, or special interest groups. A public meeting will be held during the drafting of a DEIS to present the draft coordination plan.
- Opportunities for Public Hearing – An opportunity for public hearing is advertised to determine if any interested citizens desire TxDOT to hold a public hearing for a proposed project. This is a minimum requirement for projects requiring a substantial change in layout or function of the roadway or connecting roadways, or requiring measurable adverse impact on abutting generally decided upon by a District in consultation with ENV and FHWA (for federally funded projects). If no requests for public hearing are received by the deadline, the district will submit a certification to that effect signed by the District Engineer or his/her designee.
- Public Hearings – Public hearings are held to present project alternatives. They also serve to encourage and solicit public comment on the location, design, and environmental analyses of a project.

Specialized Public Participation – Cultural Resources

Section 106 of the National Historic Preservation Act requires that special care be taken when potential historic and/or archaeological resources are involved in a transportation project. For projects involving historical resources and archeological sites, Districts will identify and coordinate with interested parties early in the project planning process. The manual includes procedures related to:

- Letter Content
- Certified Letter Transmittal
- Responding to Interested Parties
- Informing the Public

Public Participation Following Project Approvals

Additional public participation (opportunity, public hearing, public meeting or limited meeting) is scheduled when:

- Substantial change occurs in the project (major design changes, changes in right of way requirements, etc.).

- Substantial unanticipated development occurs in the project area.
- New significant social, economic, and environmental effects are identified as project related.
- An unusually long time passes before major steps are taken to advance the project. Major steps include authority to acquire Right of Way and issuance of construction Letter of Authority.

Notices and Media Releases

The Environmental Manual describes the requirements and formats for publishing notices and media release, which include:

- Publishing Notices – Official notices are published in local general circulation newspapers, regional newspapers (if there is no local newspaper) and special interest newspapers such as neighborhood, ethnic, foreign language. If the predominant language of an area is not English, notices will be published in the predominant language.
- Publication Requirements – The opportunities for public hearing notice is published approximately 30 days prior to the deadline for submission of written requests for holding a public hearing and at a minimum, a public hearing notice will be published at least 30 days before the day of a public hearing. The Environmental Manual outlines the information and procedures that should be included in all notices.
- Other Forms of Publicity – Other forms of publicity include temporary signs, leaflets posted in public locations, media releases, notices mailed to residents etc.
- Notices of Availability – Environmental Assessment (EA) and Final Environmental Impact Statement (FEIS) inform the public of the approval of an EA and required following approval of a FEIS; notice of availability is published in local newspapers.
- Media Releases – Media releases can be used any time to publicize meetings or other information about projects. Once the public participation process is complete, project planning and development decisions are to be publicized through press releases to inform the public about the project. Any changes to a transportation project may require additional public participation.
- Notice of Construction – The District will send a notice of impending project construction to landowners abutting the roadway within the project limits, local governments, and public officials. Projects that involve the addition of at least one travel lane or construction on a new location require notices of construction. The notice is sent at least 90 days prior to the proposed letting date.

IX. Community Outreach

Community Outreach is a requirement of Title VI recipients and sub-recipients shall seek out and consider the viewpoints of minority and low-income populations in the course of conducting public outreach. Recipients have wide latitude to determine what specific measures are most appropriate and should make this determination based on the composition of the affected population, the public involvement process, and the resources of the recipient.

Due to the small local LEP and minority population, the City of Irving does not have a formal outreach procedure in place. However, as an agency receiving federal financial assistance, we have made the following community outreach efforts:

- The Title VI plan will be located on the City of Irving’s website for review and will be available at the City of Irving’s Administrative Offices and public Libraries.
- The City of Irving’s website has the ability to be translated into multiple different languages including Spanish.
- City election notices are provided in Spanish as required by Chapter 272 of the Texas Elections Code
- All City of Irving City Council meetings are open to the public and follow the Texas Open Meetings Act
- Federal and State required employment notices are posted in the City’s Human Resources Department and other high profile locations. All notices are posted in both English and Spanish.

X. Annual Work Plan and Accomplishment Report Process

1. The City’s Title VI Plan will be communicated to each City department head who will review the plan with appropriate departmental employees.
2. The City’s Title VI Plan and Policy Statement will be published on the City’s website. The Policy Statement will also be posted in conspicuous locations.
3. The City of Irving will provide language assistance when requested.
4. City department heads and key supervisors will be trained or made aware of the LEP procedure and the Title VI complaint procedure.
5. A review of City facilities will be conducted in reference to compliance with the Americans with Disabilities Act.
6. The following data will be periodically collected and reviewed by the Title VI Coordinator and transmitted upon request to TxDOT:
 - a. Boards and Commissions: The number of vacancies; how vacancies are advertised and filled; the number of applicants; the representation of minorities.
 - b. Public Meetings: The number of Public Meetings or Open Houses directly related to planned projects; how meeting dates and times are communicated to the general public and to individuals directly affected by the meetings.
 - c. Construction Projects: The number of construction projects; number of minority contractors bidding and the number selected; verification that Title VI language was included in bids and contracts for each project.

- d. LEP Needs: Number of requests for language assistance or number of instances in which language assistance was required, and the outcome of these requests; if possible, analyze the number of times the website translator program has been utilized and what languages it translated information into.
- e. Complaints: The number of Title VI complaints received; nature of the complaints; resolution of the complaints.
- f. Timeliness of Services: Number of requests for services; amount of time from request to delivery of service; number of requests denied.
- g. Right of Way/Imminent Domain: Numbers of such actions and diversity of individuals affected.
- h. Program Participants: Racial data statistics and analysis of program participants where possible.
- i. Reviews: Status of special emphasis program reviews and reviews on the City's Sub-Recipients.

Appendix A
Employee Education Form

City of Irving, Texas

Title VI Policy Statement

It is the policy of the City of Irving, Texas, to ensure complete compliance with the requirements and provisions of the Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d-42 U.S.C 2000d-4, and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted

Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964 and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, no person who resides in, or does business with, the City of Irving on the grounds race, color, national origin, sex, age, disability or economic condition, be excluded from the participation in, be denied the benefits of or otherwise be subjected to discrimination under any of our programs or activities.

Any person who believes he or she has been discriminated against should contact:

Jill McAdams
Director of Human Resources
City of Irving
825 W. Irving Blvd.
Irving, TX 75060
Phone: (972) 721-6952
E-mail: jmcadams@cityofirving.org

Appendix B

Acknowledgement of Receipt of Title VI Policy Statement

I hereby acknowledge the receipt of the City of Irving Title VI Plan. I have read the plan and am committed to ensuring that no person is excluded from participation in, or denied the benefits of services on the basis of race, color, national origin, age, sex or disability as protected by Title VI.

Employee signature

Print your name

Date

Appendix C
Title VI Complaint Form

Title VI of the 1964 Civil Rights Act requires that "No person in the United States shall, on the ground of race, color, national origin, age, sex or disability be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance." If you feel you have been discriminated against, please provide the following information in order to assist us in processing your complaint and send it to:

Provide address here

Please print clearly:

Name: _____

Address: _____

City, State, Zip Code: _____

Telephone Number: _____ (home) _____ (cell)

Person discriminated against: _____

Address of person discriminated against: _____

City, State, Zip Code: _____

Please indicate why you believe the discrimination occurred (attach additional pages if necessary):

_____ race or color _____

_____ sex _____

_____ national origin _____

_____ income _____

_____ other _____

What was the date of the alleged discrimination? _____

Where did the alleged discrimination take place? _____

Please describe the circumstances as you saw it: _____

Please list any and all witnesses' names and phone numbers:

What type of corrective action would you like to see taken?

Please attach any documents you have which support the allegation. Then date and sign this form and send to the Title VI Coordinator at:

Jill McAdams, Director of Human Resources
City of Irving
825 W. Irving Blvd.
Irving, TX 75060
(972) 721-6952
jmcadams@cityofirving.org

Your signature

Print your name

Date

Appendix D
Sample Letter Acknowledging Receipt of Complaint

Today's Date

Ms. Jo Doe
1234 Main St.
Irving, Texas 75060

Dear Ms. Doe:

This letter is to acknowledge receipt of your complaint against the City of Irving alleging

An investigation will begin shortly. If you have additional information you wish to convey or questions concerning this matter, please feel free to contact this office by telephoning 972-427-6100, or write to me at this address.

City of Irving
825 W. Irving Blvd.
Irving, TX 75060

Sincerely,

Jill McAdams, Director of Human Resources
Title VI Coordinator

Appendix E
Sample Letter Notifying Complainant
that the Complaint Is Substantiated

Today's Date

Ms. Jo Doe
1234 Main St.
Irving, Texas 75060

Dear Ms. Doe:

The matter referenced in your letter of _____ (date) against the City of Irving alleging Title VI violation has been investigated.

(An/Several) apparent violation(s) of Title VI of the Civil Rights Act of 1964, including those mentioned in your letter (was/were) identified. Efforts are underway to correct these deficiencies.

Thank you for calling this important matter to our attention. You were extremely helpful during our review of the program.

Sincerely,

Jill McAdams, Director of Human Resources
Title VI Coordinator

Appendix F
Sample Letter Notifying Complainant
that the Complaint Is Not Substantiated

Today's Date

Ms. Jo Doe
1234 Main St.
Irving, Texas 75060

Dear Ms. Doe:

That matter referenced in your complaint of _____ (date) against the City of Irving, alleging _____ has been investigated.

The results of the investigation did not indicate that the provisions of Title VI of the Civil Rights Act of 1964 had in fact been violated. As you know, Title VI prohibits discrimination based on race, color, national origin, age, sex or disability in any program receiving federal financial assistance.

The City of Irving has analyzed the materials and facts pertaining to your case for evidence of the city's failure to comply with any of the civil rights laws. There was no evidence found that any of these laws have been violated.

I therefore advise you that your complaint has not been substantiated, and that I am closing this matter in our files.

You have the right to file a complaint in court and/or file a complaint with the Texas Department of Human Rights.

For appropriate agency for ADA complaints go to <http://www.ada.gov/cguide/pdf> or call the ADA information line at 800-514-0301 (voice) or 800-514-0383 (TTY).

Thank you for taking the time to contact us. If I can be of assistance to you in the future, do not hesitate to call me.

Sincerely,

Jill McAdams, Director of Human Resources
Title VI Coordinator

Appendix G
Samples of Narrative to be included in Posters to be Displayed in
City Facilities

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, national origin, age, sex or disability in programs and activities receiving Federal financial assistance. Specifically, Title VI provides that “no person in the United States shall, on the ground of race, color, national origin, age, sex or disability be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance” (42 U.S.C Section 2000d).

The City of Irving is committed to ensuring that no person is excluded from participation in, or denied the benefits of its services on the basis of race, color, national origin, age, sex or disability as protected by Title VI. If you feel you are being denied services provided by the City of Irving, or otherwise being discriminated against because of your race, color, national origin, gender, age or disability, our contact information is:

Jill McAdams, Director of Human Resources
Title VI Coordinator

City of Irving
825 W. Irving Blvd
Irving, TX 75060
(972) 721-6952
jmcadams@cityofirving.org

City of Irving

Title VI Policy Statement

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving Federal financial assistance. Specifically, Title VI provides 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” (42 U.S.C Section 2000d).

The City of Irving is committed to ensuring that no person is excluded from participation in, or denied the benefits of its services on the basis of race, color, or national origin, as protected by Title VI. If you feel you are being denied services provided by the City of Irving, or otherwise being discriminated against because of your race, color, national origin, gender, age or disability, our contact information is:

Jill McAdams, Director of Human Resources
Title VI Coordinator

City of Irving
825 W. Irving Blvd
Irving, TX 75060
(972) 721-6952
jmcadams@cityofirving.org

Addendum



City of Irving

FMCSA TITLE VI PROGRAM COMPLIANCE PLAN

Policy Statement

The City of Irving is committed to complying with 49 CFR Parts 21 and 303, ensuring that no person shall, on the grounds of race/color, national origin, income-status, age, Limited English Proficiency, sex, or disability be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program provided by the Department.

The City of Irving's Title VI Program Coordinator is Jill McAdams, Human Resources Director.

A copy of the City of Irving's Title VI Program Assurance signed by the City of Irving City Manager assuring the City of Irving's compliance with Title VI of the Civil Rights Act of 1964 and related nondiscrimination authorities to include 49 CFR Part 21 and 49 CFR Part 303 can be found as Attachment A.;

The City of Irving City Manager has delegated sufficient responsibility and authority to the Title VI Program Coordinator and designated personnel to effectively implement the City of Irving's Title VI program.


Chris Hillman, City Manager, City of Irving

6-16-21
Date

City of Irving

FMCSA Title VI Program Assurance – See Attachment A.

Description of Federal-Aid Program

The City of Irving has applied for funding from the U.S. Department of Transportation's (USDOT) Federal Motor Carrier Safety Administration (FMCSA) FY2021 High Priority (HP) grant. This grant provides funds to support innovative and highly impactful projects that advance FMCSA's mission to reduce crashes, injuries, and fatalities involving large trucks and buses. Funding also supports enforcement activities that improve safety and compliance with Commercial Motor Vehicle (CMV) regulations; projects that are national in scope; increased public awareness and education; to demonstrate new technologies; and to reduce the number and rate of CMV crashes.

Upon award of funding, the City of Irving will work towards achieving the project goals of the grant by adhering to the following:

- Public Information and Education Campaign to raise public awareness of safe driving habits to commercial and non-commercial drivers through various social media resources;
- Crash Data and Analysis
- Traffic Enforcement;
- Commercial Vehicle Enforcement;
- Training and collaboration with local motor carriers; and
- Collaboration with other law enforcement agencies as well as private organizations.

Notification to Beneficiaries/Participants

The City of Irving will make available on its website (<https://www.cityofirving.org>) information pertaining to its Title VI Program obligations and notifies members of the Public of the protections against discrimination afforded to the by Title VI Program requirements. In addition, Title VI posters will be posted in public places and facilities where the City typically posts notices for public information. These notifications will be created, distributed, and posted by September 1st, 2021.

Information provided to the public contains, at a minimum, the following:

- A statement that the Applicant operates the Program without regard to race, color, national origin, sex, age, or disability, including income-level and Limited English Proficiency;
- The statement identifies procedures to be followed by members of the Public to request additional information regarding the Applicant's Nondiscrimination obligations; and
- Identifies procedures to be followed by the public to file a discrimination complaint, to include the title of the complaint recipient, address, telephone number and email address.

Sub-Recipient Compliance Reports

The City of Irving is presently not providing Federal funding to any other entity.

Training

Title VI and Nondiscrimination-related responsibilities are taught to all sworn members of the City of Irving Police Department on a two (2) year training cycle. Presented during the Texas Commission on Law Enforcement's (TCOLE) block on racial profiling, this training is provided by members of the City of Irving's Training Academy staff during annual in-service training. Racial profiling, which includes anti-discrimination policies, is also part of the required training block for recruits entering the City of Irving. This topic is also covered in Irving's A.B.L.E. training. Moving forward, the racial profiling training will be supplemented with FMCSA's PowerPoint presentation. These will be added to the 2021-2022 training cycle which is FY2022. Further training, including FMCSA's PowerPoint, will be provided through PoliceOne training videos where we will include the FMCSA English Language Proficiency Testing and Enforcement Policy Memorandum (see attachment) and thus can be completed and disseminated to all sworn and non-sworn personnel by September 1, 2021 to coincide with the public posting of the notice to beneficiaries/participants.

Access to Records

The City of Irving agrees that all records relating to the effective implementation of Title VI Program requirements will be made available for review by the FMCSA upon request of FMCSA staff, along with periodic submissions, if required by the FMCSA. Said records shall also include documents required for compliance reviews and/or complaint investigations conducted by the FMCSA.

Complaint Disposition Process

Members of the public may file a signed, written complaint of the alleged discrimination in the City of Irving's provision of services, administration of programs, or activities. Complaints may be made in person at the City of Irving, Human Resources Division, 825 W. Irving Blvd, Irving, TX 75060. Listed below are the standard procedures in place to handle all the Title VI complaints:

1. All complaints of discrimination must be filed in a timely manner to ensure the alleged act of discrimination can be thoroughly investigated and where necessary, discipline may be imposed, within 180 days of the date of alleged violation.
2. Signed and completed complaint forms must be submitted to the City of Irving in person or by mail. The address is:

City of Irving
Human Resources Department
825 W. Irving Blvd
(972) 721-2696
jmcadams@cityofirving.org

3. Within forty-eight (48) hours of the receipt of the complaint, an Irving Human Resources designee assigned to the complaint will contact the complainant confirming receipt of the complaint. The HR designee will send a letter when reasonable efforts to reach the complainant by phone, email, or personal visit are unsuccessful. In situations where the complaint involved a police employee, coordination will be made with the Police Professional Standards lieutenant.
4. If the complaint is deemed incomplete, additional information will be requested by the assigned investigator and the complainant will be given a reasonable amount of time to submit the required information. Failure to meet the investigator's timeline to fulfill the request for additional or required information may be considered good cause for a determination of no investigative merit.

5. Within sixty (60) days after receiving the completed complaint, the Human Resources section will conduct an investigation of the allegation. Based on the information obtained, the Human Resources designee will render a recommendation for action in a report of finding to the Human Resources Director. The complaint should be resolved by informal means whenever possible. Such informal attempts and their results will be summarized in the report of findings.
6. Within ninety (90) days of the receipt of the complaint, the Human Resources Director will notify the complainant in writing of the final decision reached, including the proposed disposition of the matter. The notification will advise the complainant of their appeal rights with FMCSA, if they are dissatisfied with the final decision rendered by the Human Resources Department. The City of Irving Title VI Coordinator will also provide FMCSA with a copy of the decision and summary of findings upon completion of the investigation.
7. Records pertaining to all Title VI complaints are maintained by the Human Resources Department and will be made available to the FMCSA upon request.

The Title VI Program coordinator shall maintain a Title VI Complaint Log to include the following information: name of complainant; identification by demography (i.e. race, color, national origin, etc.); allegation(s); complaint date; date of Report of Investigation; determination made and date; and any other relevant information as deemed appropriate. This Complaint Log shall be available to the FMCSA upon request.

Status of Corrective Actions Implemented by Applicant Deficiencies Previously Identified During a Title VI Program Compliance Review:

FMCSA OCR or any other state, local, or federal agency has not previously conducted a Title VI Program compliance review of the City of Irving within the last five (5) years.

Community Participation Process:

The City of Irving does not conduct motorist licensure/motor vehicle registration activities and, therefore, this section is not applicable.

CITY OF IRVING



U.S. Department
of Transportation

Memorandum

Federal Motor Carrier
Safety Administration

ACTION: English Language Proficiency
Testing and Enforcement Policy
Subject: MC-ECE-2016-006

Date: JUN 15 2016

From: William A. Quade *W. Quade*
Associate Administrator for Enforcement

Reply to
Attn. of:

To: All FMCSA Staff

PURPOSE:

This policy memorandum provides guidance to Federal Motor Carrier Safety Administration (FMCSA) personnel conducting safety investigations, audits, and inspections of commercial motor vehicles (CMV) and drivers using the Commercial Vehicle Safety Alliance's (CVSA) North American Inspection Standards. This policy removes the requirement to place drivers out of service for English Language Proficiency (ELP) violations and changes the Agency's standard for determining non-compliance with the ELP requirements at 49 CFR § 391.11(b)(2) based on direction from the Office of the Secretary (OST) and the U.S. Department of Justice (DOJ).

CANCELLATION:

This policy memorandum supersedes the policy memoranda issued on this subject titled, "Placing Drivers Out of Service for Violating 49 CFR 391.11(b)(2) English Language Proficiency" dated July 20, 2007, and "49 CFR Section 391.11(b)(2) English Language Proficiency" dated February 1, 2008.

BACKGROUND:

Section 391.11(b)(2) of the Federal Motor Carrier Safety Regulations requires drivers operating CMVs in interstate commerce to "read and speak the English language sufficiently to converse with the general public, to understand highway traffic signs and signals in the English language, to respond to official inquiries, and to make entries on required reports and records."

Additionally, on April 26, 1995, the North American Free Trade Agreement, Land Transportation Standards Subcommittee on Commercial Motor Vehicle and Driver Standards and Motor Carrier Compliance agreed to a resolution on language proficiency of CMV vehicle drivers as follows: "That in recognition of the three countries' language differences it is the responsibility of the driver and the motor carrier to be able to communicate in the country in which the driver/carrier is operating so that safety is not compromised."

CVSA amended its out-of-service (OOS) criteria, effective April 1, 2005, to include violations of 49 CFR Section 391.11(b)(2). In a July 20, 2007, policy memorandum, the Office of Enforcement issued guidance instructing inspectors to cite drivers and/or motor carriers for

CITY OF IRVING

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violations of 49 CFR 391.11(b)(2) when a driver fails to communicate in English sufficiently to understand and respond to official inquiries and directions, and to place the driver out-of-service. The same memorandum provided guidance and an assessment tool to confirm a driver's ability to communicate English sufficiently to understand and respond to official inquiries and directions.

In a second ELP policy memorandum, effective February 1, 2008, FMCSA staff and enforcement personnel were provided a tool specifically for evaluating a driver's ability to understand U.S. highway traffic signs. The 2008 policy allowed the driver to explain his/her understanding of the highway traffic signs in a language other than English, provided the inspector is able to understand the explanation.

Additionally, on October 1, 2014, FMCSA published regulatory guidance titled, "Driver Qualifications; Regulatory Guidance Concerning the Applicability of Language Requirement to Drivers Who Do Not Meet the Hearing Standard" [79 FR 59139]. This guidance explained that the English language rule should not be construed to prohibit operation of a commercial motor vehicle (CMV) by hearing impaired drivers who can read and write in the English language but do not speak, for whatever reason, and were granted exemptions by FMCSA. Specifically, the guidance advises that a driver who is granted an exemption from 49 CFR 391.41(b)(11) would not be considered unqualified under the English language proficiency requirement in 49 CFR 391.11(b)(2) if the driver is capable of reading and writing in the English language. In that circumstance, the hearing impaired driver satisfies the English language requirement.

More recently, CVSA members voted to remove 49 CFR 391.11(b)(2) from their out of service criteria because they could not substantiate the safety impacts. This change went into effect on April 1, 2015. As a result, FMCSA is formally canceling its policy of citing non-compliance with this regulation as an OOS violation, effective immediately.

In addition, FMCSA Grant Applicants are required to sign the FMCSA Title VI Program Assurance, which includes as authorities Title VI of the Civil Rights Act of 1964 (Title VI) and Executive Order #13166 (Limited English Proficiency or LEP). As a result, FMCSA Recipient-conducted enforcement activities (to include inspection activities) are to be implemented in a non-discriminatory manner that comports with the National Origin protection under Title VI generally and affording reasonable accommodation to LEP drivers specifically.

POLICY:

Formal driver interviews to confirm ELP will not be conducted during roadside inspections.

If the driver can communicate sufficiently to complete the inspection or investigation, he/she should not be cited for violations of 391.11(b)(2). If the driver cannot read, write, or speak English, but can communicate sufficiently with the inspector/investigator, he/she should not be cited for a violation of 391.11(b)(2).

Tools to facilitate communication such as interpreters, I-Speak cards, cue cards, smart phone applications, and On-Call Telephone Interpretation Service may be used when interacting with drivers. Federal Highway Administration Recipients (primarily State Departments of

CITY OF IRVING

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Transportation) are required to have developed Language Access Plans under their Title VI Programs and may be useful resources to contact regarding available LEP tools and resources. Use of these devices does not constitute a violation of 391.11(b)(2).

If a deaf or hard-of-hearing driver has obtained an exemption from the hearing standard under 49 CFR 391.41(b)(11), the deaf or hard-of-hearing driver satisfies the English language requirement, if they can read and write English sufficiently to communicate.

If a non-English speaking driver acknowledges that he/she does not speak English, the driver should be cited for a violation of Section 391.11(b)(2). However, this is no longer an OOS violation.

This policy does not apply to inspections in Puerto Rico, Guam, the Northern Mariana Islands or American Samoa, as each of these territories has an official language in addition to English.

If a driver is cited for a violation of the ELP requirements and the employing motor carrier provides information advising that the employee has completed English language training, it should be considered sufficient documentation for addressing this violation.

If during an investigation, there is a pattern of violations discovered and the motor carrier is also identified for prioritization by the Safety Measurement System through an Alert in the Driver Fitness BASIC, enforcement action on these violations may be considered.

EFFECTIVE DATE:

This policy is effective immediately. Please share this information with the State Motor Carrier Safety Assistance Program lead agency.

If you have any questions or comments regarding application of this policy, please contact Bill Mahorney, Chief, Enforcement Division, at 202-493-0001 or Bill.Mahorney@dot.gov.

The United States Department of Transportation

Standard Title VI/Non-Discrimination Assurances

DOT Order No. 1050.2A

The City of Irving (herein referred to as the “Recipient”), **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the United States Department of Transportation (DOT), through the **Federal Motor Carrier Safety Administration (FMCSA)**, 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);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Title IX of the Education Amendments of 1972, as amended, (20 U.S.C. § 1681 *et seq.*), (prohibits discrimination on the basis of sex in education programs or activities);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability);
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 *et seq.*), (prohibits discrimination on the basis of disability);
- 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*);
- 49 C.F.R. part 27 (entitled *Nondiscrimination On The Basis Of Disability In Programs Or Activities Receiving Federal Financial Assistance*);
- 49 C.F.R. part 28 (entitled *Enforcement Of Nondiscrimination On The Basis Of Handicap In Programs Or Activities Conducted By The Department Of Transportation*);
- 49 C.F.R. part 37 (entitled *Transportation Services For Individuals With Disabilities (ADA)*);
- 49 C.F.R. part 303 (FMCSA’s Title VI/Nondiscrimination Regulation);
- 28 C.F.R. part 35 (entitled *Discrimination On The Basis Of Disability In State And Local Government Services*);
- 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.

Although not applicable to Recipients directly, there are certain Executive Orders and relevant guidance that direct action by Federal agencies regarding their federally assisted programs and activities to which compliance is required by Recipients to ensure Federal agencies carry out their responsibilities. Executive Order 12898 (1995), entitled “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” emphasizes that Federal agencies should use existing laws to achieve Environmental Justice, in particular Title VI,

to ensure nondiscrimination against minority populations. Recipients should be aware that certain Title VI matters raise Environmental Justice concerns and FMCSA intends that all Recipients evaluate and revise existing procedures (as appropriate) to address and implement Environmental Justice considerations. See the following FHWA website for more information and facts about Environmental Justice: http://www.fhwa.dot.gov/environment/environmental_justice/index.cfm

Additionally, Executive Order 13166 (2001) on Limited English Proficiency, according to the U.S. Department of Justice in its Policy Guidance Document dated August 16, 2000 (65 Fed. Reg. at 50123), clarifies the responsibilities associated with the “*application of Title VI’s prohibition on national origin discrimination when information is provided only in English to persons with limited English proficiency.*” When receiving Federal funds Recipients are expected to conduct a Four-Factor Analysis to prevent discrimination based on National Origin. (See also U.S. DOT’s “*Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient (LEP) Persons,*” dated December 14, 2005, (70 Fed. Reg. at 74087 to 74100); the Guidance is a useful resource when performing a Four-Factor Analysis).

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, national origin, sex, age, disability, low-income, or LEP 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 FMCSA.”

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 non-discrimination 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 Assurances, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted **FMCSA Program**:

1. The Recipient agrees that each “activity,” “facility,” or “program,” as defined in 49 C.F.R. §§ 21.23 (b) and 21.23 (e) 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 the FMCSA Program and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

*“The **City of Irving**, 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, all contractors will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of the owner's race, color, national origin, sex, age, disability, income-level, or LEP 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, **City of Irving** 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 **FMCSA** 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 **FMCSA**. You must keep records, reports, and submit the material for review upon request to **FMCSA**, 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.

City of Irving 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 Department of Transportation under the **FMCSA Program**. This ASSURANCE is binding on [insert State], other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the **FMCSA Program**. The person (s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

City of Irving

(Name of Recipient)

by



Chris Hillman, City Manager, City of Irving
(Signature of Authorized Official)

DATED

6-16-21

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, Federal Motor Carrier Safety Administration (FMCSA), 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, national origin, sex, age, disability, income-level, or LEP 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 as set forth in Appendix E, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 C.F.R. 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, national origin, sex, age, disability, income-level, or LEP.
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 FMCSA 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 FMCSA, 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 FMCSA 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 FMCSA 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.

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

APPENDIX B

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 Department of Transportation as authorized by law and upon the condition that the City of Irving 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 **Federal Motor Carrier Safety Administration (FMCSA) Program**, and the policies and procedures prescribed by the **FMCSA** of the Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, Department of Transportation, subtitle A, Office of the Secretary, part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation 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 Irving all the right, title and interest of the 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 City of Irving 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 Irving, its successors and assigns.

The City of Irving, 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, national origin, sex, age, disability, income-level, or LEP 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 Irving 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, Department of Transportation, subtitle A, Office of the Secretary, part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations 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 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 effectuate the purpose of Title VI.)

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

APPENDIX C

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the City of Irving 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 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, national origin, sex, age, disability, income-level, or LEP 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, City of Irving 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 City of Irving 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 Irving and its assigns.*

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

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

APPENDIX D

The following clauses will be included in deeds, licenses, permits, or similar instruments/ agreements entered into by City of Irving 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, national origin, sex, age, disability, income-level, or LEP 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, national origin, sex, age, disability, income-level, or LEP 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 Non-discrimination covenants, City of Irving 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, City of Irving will there upon revert to and vest in and become the absolute property of City of Irving and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to effectuate 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:

- Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. § 2000d *et seq.*), (prohibits discrimination on the basis of race, color, national origin), as implemented by 49 C.F.R. § 21.1 *et seq.* and 49 C.F.R. part 303;
- 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, as amended (29 U.S.C. § 794 *et seq.*) (prohibits discrimination on the basis of disability); and 49 C.F.R. 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 (Pub. L. 97-248 (1982)), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (102 Stat. 28) ("*...which restore[d] the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964.*");
- 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 Justice regulations at 28 C.F.R. parts 35 and 36, and 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 non-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.*).

