



City of Marion
Title VI Implementation Plan

*Updated and Revised
May 11, 2020*

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Introduction

The City of Marion (the City) has adopted a Title VI Plan to ensure that the City is in compliance with the provisions of Title VI of the Civil Rights Act of 1964. Title VI prohibits discrimination on the basis of race, color or national origin in programs or activities receiving federal financial assistance. Presidential Executive Order 12898 addresses environmental justice in minority and low-income populations. Presidential Executive Order 13166 addresses services to those individuals with Limited English Proficiency. Discrimination on the basis of gender, age, and disability is prohibited under related statutes. These Presidential Executive Orders and the related statutes fall under the umbrella of Title VI.

Federal-aid recipients, sub recipients and contractors are required to prevent discrimination and ensure nondiscrimination in all of their programs, activities and services whether these programs, activities and services are federally funded or not. The City of Marion Title VI Coordinator is responsible for providing leadership, direction and policy to ensure compliance with Title VI and environmental justice principles.

If you have experienced discrimination or harassment or have a human rights concern, you can file a discrimination complaint with the City at marionnc.org.

Authorities

Title VI of the Civil Rights Act of 1964 [Pub. L. 88-352 (1964), codified as 42 U.S.C. §2000d through 2000d-4]:

Title VI of the Civil Rights Act of 1964 prohibits the discrimination in, or the denial of benefits under, any program or activity receiving federal financial assistance on grounds of race, color or national origin.

The Civil Rights Restoration Act of 1987, [Pub. L. 100-259, Sec. 6 (1988), codified as 42 U.S.C. §2000d-4a]:

The Civil Rights Restoration Act of 1987 broadened the scope of Title VI coverage by expanding the definition of the 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.

Federal Aid Highway Act of 1973, [Pub. L. 93-87 (1973), codified as 23 U.S.C. §324]:

The Federal Aid Highway Act of 1973 provides that no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal assistance.

Age Discrimination Act of 1975, [Pub. L. 94-135 (1975), codified as 42 U.S.C. §6102]:

The Age Discrimination Act of 1975 provides that no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal assistance.

Americans with Disabilities Act of 1990, Subchapter 2, Part A [Pub. L. 101-336 (1990); codified as 42 U.S.C. §§12131-12134]:

The Americans with Disabilities Act of 1990 provides that no qualified individual with a disability shall, by reason of such disability, be excluded from the participation in, be denied the benefits

of, or be subjected to discrimination by a department, agency, special purpose district, or other instrumentality of a state or a local government.

Section 504 of the Rehabilitation Act of 1973 [Pub. L. 93-112 (1973), codified as 29 U.S.C. §794]:

Section 504 of the Rehabilitation Act of 1973 provides that no qualified handicapped person, shall, solely by reason of his/her handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal assistance.

23 CFR Part 200:

23 CFR 200 are administration regulations promulgated by the Federal Highway Authority that specify the Title VI implementation requirements for state departments of transportation at state and local levels.

49 CFR Part 21:

49 CFR 21 are administration regulations promulgated by the US Department of Transportation that specify the Title VI implementation requirements for state departments of transportation at state and local levels.

Exec. Order No. 12898:

Executive Order 12898 regards federal actions to address Environmental Justice in minority populations and low income populations. (Environmental justice seeks equal protection from environmental and public health hazards for all people regardless of race, income, culture and social class. Additionally, environmental justice means that no group of people including racial, ethnic or socioeconomic groups should bear a disproportionate share of the negative environmental consequences resulting from industrial, land-use planning and zoning, municipal and commercial operations or the execution of federal, state, local and municipal program and policies).

Exec. Order No. 13166:

Executive Order 13166 regards the improvement of access to services for persons with Limited English Proficiency.

Non-Discrimination Policy

It is the express policy of the City of Marion that no person shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under, any program or activity receiving federal funds on the grounds of race, color, national origin, sex, age, disability, or income, as provided by Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, the Federal Aid Highway Act of 1973, Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973, Executive Order 12898 and Executive Order 13166.

It is also the express policy of the City that no person shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any City program or activity, whether those programs and activities are federally funded or not, on the grounds of race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation, gender identity and source of income. The City of Marion's Non-Discrimination Policy can be viewed online at marionnc.org.

Definitions

As used in this Title VI Plan, the following mean:

Affected Parties: persons protected against discrimination because of race, color, national origin, sex, age, disability, or income by the Title VI Requirements.

Contractor: a person or entity who has entered into an agreement with the City that is subject to the Title VI Requirements.

LEP Program: the Limited English Proficient program established by the City to assist individuals who do not speak English as their primary language, and who therefore have limited ability to read, speak, or understand the English language and connect with City government and assist with needed services.

Locating and Citing Actions: a recommendation by City staff or decision by the City staff or the City Council that will result in the construction of a public facility that could have adverse environmental impacts on the surrounding area.

Meaningful Access: the provision of communicative assistance by the City necessary to allow affected persons to participate in governmental services/activities.

Proposed Project: a project that receives federal funds and is subject to the Title VI Requirements.

Subrecipient: a person or entity that receives federal funds from the City to be used by the entity to further the objectives of the federal grant. The City is the recipient of the grant, and the person or entity is a subrecipient of those grant funds. An example of a subrecipient relationship would be where the City grants federal funds to a non-profit corporation that the corporation uses to provide assistance for low-income households to pay utility bills.

Title VI Assurances: conditions imposed upon contractors or subrecipients as a result of federal funding being directly or indirectly provided to the contractor or subrecipient.

Title VI Requirements: the nondiscrimination provisions contained in Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, the Federal Aid Highway Act of 1973, Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973, Executive Order 12898 and Executive Order 13166.

Title VI Plan Organization and Staffing

City Manager

The City Manager's Office is responsible for ensuring the City's compliance with Title VI Requirements, including, but not limited to, monitoring City programs, preparing required reports and undertaking such other responsibilities as required by 23 Code of Federal Regulation (CFR) 200 and 49 CFR 21. To ensure compliance, the City Manager will appoint a Title VI Coordinator.

Title VI Coordinator

The Public Information Officer / City Clerk is the Title VI Coordinator and responsible for the overall management of the Title VI Program, under the direct supervision of the City Manager the Title VI Coordinator's responsibilities are:

1. Process complaints regarding compliance with this Title VI Plan that are received by the City Coordinate with Department Heads to compile statistical data related to race, color, national origin, sex, age, disability, and income of participants in, and beneficiaries of, federally funded programs to ensure compliance with the Title VI Requirements.
2. Review City programs or projects receiving federal funds in coordination with Department Heads to ensure compliance with Title VI Requirements.
3. Conduct training programs related to Title VI Requirements for City staff who are responsible for Title VI compliance, and for contractors or subrecipients who are subject to Title VI Requirements.
4. Make recommendations to the City Manager on ways to achieve compliance with Title VI Requirements.
5. Develop information regarding this Title VI Plan for dissemination to the general public and, where appropriate, use the LEP Program to ensure dissemination of the information to affected populations.
6. Ensure that individuals who will be affected by Locating and Citing Actions obtain meaningful access to the public awareness/involvement process.
7. Identify deficiencies in compliance with the Title VI Requirements, and make recommendations to the City Manager for remedial actions to be taken to promptly resolve such deficiencies.
8. Annually prepare a Title VI Plan Report that documents progress, accomplishments, impediments and goals in fulfilling this Title VI Plan.

Departmental Responsibilities

Each Department Head is responsible for Title VI compliance for individual projects. Compliance activities include, but are not limited to:

1. Ensuring that all aspects of a Proposed Project's planning process and operations comply with the Title VI Requirements.
2. Ensuring that Affected Parties have meaningful access to a Proposed Project's planning processes.
3. Assisting the Title VI Coordinator in gathering and organizing data for the Title VI Plan Report.
4. Reviewing the Department work programs, policies, and other directives to ensure compliance with the Title VI Requirements.
5. Verifying the level of participation of Affected Parties at public outreach meetings.

Program Components

Elimination of Discrimination

The City will continue its practice of identifying discrimination based on race, color, religion, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation, gender identity and source of income, and where such discrimination is found to exist, implementing programs or practices to eliminate the discrimination. Programs include, but are not limited to, hiring Minority/Women/Disadvantaged Business Enterprises (DBE) contractors, providing translations through the LEP Program, and conducting public outreach and involvement in City projects.

Limited English Proficiency Program (LEP)

The City of Marion has developed this Limited English Proficiency Plan (LEP) to ensure that LEP persons will have meaningful access to its services as required by Executive Order 13166.

The plan (Appendix G) details procedures on how to identify a person who may need language assistance, the ways in which assistance may be provided, the manner in which staff should be trained, how to notify LEP persons that assistance is available, and monitoring and implementing future plan updates.

Public Dissemination of Information

The Title VI Coordinator shall assist City staff in the creation and dissemination of Title VI Program information to City employees, subrecipients, contractors, Affected Parties, and the general public. Public dissemination efforts may include: posting public statements setting forth the City of Marion non-discrimination policy; inclusion of Title VI Assurances in City contracts

and grants; and publishing a Title VI Policy Statement on the City of Marion website; including the notice and policy into all adopted plans and program documents.

Title VI Assurances in Contracts and Grants

Title VI Assurances in Contracts and Grants Contracts and procurement are integrated into each department. Staff will ensure that all federally funded contracts administered by the City of Marion contain Title VI Assurances. In the event that the City of Marion distributes federal funds to another entity through grants or other agreements, the Department Head administering the grant or agreement will ensure that such grants and agreements contain the Title VI Assurances. The Department's project administrator or grant administrator will monitor the performance of the contract or grant for compliance. The Title VI Coordinator and Department Head will coordinate efforts to ensure that the requirements of Title VI are met throughout the entire contracting and grant performance process.

Data Collection

Statistical data on Affected Parties will be compiled by each Department Head. The data compilation process will be reviewed regularly by the Title VI Coordinator and the Department Heads to ensure the data is sufficient to meet the requirements of this Title VI Plan.

Training Program

Annual training (Appendix E) will be made available to Department Heads from the Title VI Coordinator who will be required to provide to all staff. Training will provide comprehensive information on the Title VI Requirements and its application to specific programs or operations; assistance on the identification of Title VI issues; and an overview of the complaint process.

Title VI Program Reviews

Each Department will conduct an annual Title VI Plan review to assess the Department's effectiveness in ensuring compliance with the Title VI Requirements. The Title VI Program review will be overseen by the Title VI Coordinator with the assistance of the Department Heads, and will include an evaluation of administrative procedures and staffing; review of operational guidelines for City staff, contractors and subrecipients; and assessment of resources available to ensure compliance with the Title VI Requirements.

Department Title VI Reports

Department Heads shall annually prepare a Department Report to be submitted to the City Manager by June 30th. The Department Report will be based on the data compiled by the Department Head and the Title VI Program Review. The Department Report shall include an executive summary; a list of programs subject to the Title VI Requirements; a summary of any complaints of violations of the Title VI requirements and how each complaint was resolved; a summary of the statistical data compiled by the Department Head; a summary of Title VI training provided; and a general assessment of the Title VI compliance by the Department.

Title VI Coordinator Title VI Plan Report

The Title VI Coordinator shall annually prepare a comprehensive Title VI Plan Report, and forward it to the City Manager, by August 30th. The Title VI Plan Report will be based on the Department Title VI reports, and shall contain an assessment of the accomplishments during the preceding year; a list of recommended changes to the programs subject to the Title VI Requirements; and a list of recommended goals and objectives for the upcoming year.

Preventative and Remedial Efforts

The City will actively seek to prevent Title VI deficiencies or irregularities, and to remedy Requirements. In taking such action, the Department Head will work with the Title VI Coordinator to create an action plan within 90 days of the date the need for preventive or remedial action is identified by City staff. A copy of the action plan will be provided to the Department Head and the City Manager and retained by the Title VI Coordinator. When the Department Head reasonably believes a contractor or subrecipient has violated a Title VI Requirement, the Department Head will follow the following process:

1. The project or grant administrator and the Department Head will meet with the contractor or subcontractor to conduct an initial review of the facts supporting a finding that a violation of the Title VI Requirements has occurred or is occurring.
2. If, after the initial review, the Department Head concludes that the contractor or subrecipient has violated the Title VI Requirements, the contractors or subrecipient will be given a reasonable time, not to exceed 90 days from the date notice is provided to the contractor or subrecipient, to voluntarily correct noncompliance.
3. The City will seek to obtain the cooperation of the contractor or subrecipient in correcting non-compliance, and will offer to provide technical assistance needed by the contractor or subrecipient to obtain voluntary compliance with the Title VI Requirements.
4. A follow-up review will be conducted within 180 days of the date notice is provided to the contractor or subrecipient to ensure that the violation of the Title VI Requirements has been corrected. If after the review, the contractor or subrecipient has failed to correct the violation, the City Manager may take appropriate action (e.g., withhold funds, cancel contract) required to comply with the City's obligation under the federal grant.
5. When a contractor or subrecipient has failed or has refused to comply with Title VI Requirements within the 180 day period after the initial review, the Department Head will submit two copies of the file to the appropriate state or federal agency along with a recommendation that the file be reviewed for a determination of whether the contractor or subrecipient has violated the Title VI Requirements

Complaint Process

The City of Marion will take prompt and reasonable actions to thoroughly investigate concerns and complaints. Any individual who believes they have been subjected to discrimination, may file a complaint with the City of Marion Title VI Coordinator. Complaint forms (Appendix F) can be found on the City of Marion website, or by contacting the City of Marion Title VI Coordinator.

In order for the complaint to be considered, the complainant must file the appropriate documentation:

1. Within 180 days of the alleged act of discrimination; or
2. Where there has been a continuing course of alleged discriminatory conduct on the date in which the alleged conduct was discontinued.

Complaints shall be made in writing and shall be signed by the complainant and/or the complainant's representative. Complaints must contain the following and describe as completely as possible the facts and circumstances surrounding the alleged discrimination:

- Name of the complainant.
- Contact information (telephone number, address, email address).
- Basis for the allegation(s) (i.e., race, color, national origin, gender, age, etc.).
- A detailed description of the alleged discrimination (how, when, where, and why they believe they were discriminated against including the location(s), name(s), and contact information of all witnesses, if applicable).
- Any other information that is deemed significant.

If the complainant is unable or incapable of providing a written statement, a verbal complaint may be made to the City of Marion Title VI Coordinator. Under these circumstances, the complainant will be interviewed and the City of Marion Title VI Coordinator will assist the complainant in completing a written statement. Within fifteen (15) calendar days after receipt of the complaint, the Title VI Coordinator will arrange to speak or meet with the complainant to discuss the complaint and the possible resolutions, if applicable.

If a complaint is deemed incomplete, additional information will be requested. The complainant has sixty (60) business days to respond to the request for additional information. A complainant's failure to respond to the request within sixty (60) business days may result in the administrative closure of the complaint.

If the City of Marion does not have sufficient jurisdiction to investigate the complaint, the Title VI Coordinator will refer the complaint to the appropriate local, state, or federal agency holding such jurisdiction. The Title VI Coordinator will notify the complainant or their representative, in writing, that the complaint is outside of the City of Marion's jurisdiction and where the complaint has been referred for further handling.

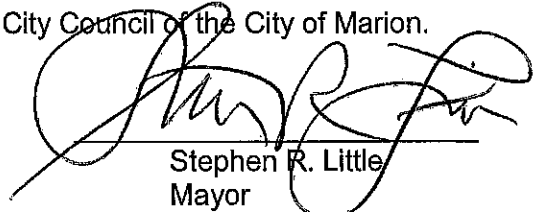
The Title VI Coordinator will conduct a complete and thorough investigation of complaints inside the City of Marion's jurisdiction and based upon the information obtained, will render a final written response letter to the complainant or their representative by registered mail or hand delivery within sixty (60) business days. The final written response will include a description of the complaint, a summary of the investigation, and the findings of such, summaries of all individuals interviewed, and if appropriate, recommendations and resolutions. All written complaints, investigations, and responses, will be retained by the City of Marion for at least three (3) years. A complainant's identity shall be kept confidential except to the extent necessary to complete the investigation.


If it is necessary to disclose the complainant's identity to the alleged person who may have discriminated or to a third-party, the City of Marion must first obtain the complainant's written consent. The City of Marion must also obtain the complainant's written consent before providing

a copy of the complaint to any other individual(s) involved with the investigation. If a complainant is dissatisfied with the final resolution of the complaint, they have the right to file a complaint with the following:

Department of Justice
Federal Coordination and Compliance Section
NWB Civic Rights Division
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Adopted this the 19th day of May, 2020 by the City Council of the City of Marion.


Stephen R. Little
Mayor

ATTEST: 
Landdis A. Hollifield
City Clerk/Public Information Officer



Policy Number: P-20-05-19-2

Appendix A

Title VI Policy and Assurances

The City of Marion (hereinafter referred to as the "Recipient") HEREBY AGREES THAT as a condition to receiving any Federal financial assistance from the Department of Transportation it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat.252, 42 USC 2000d-42 USC 2000d-4 (hereinafter referred to as the "Act"), and all requirements imposed by or pursuant to Title 40, 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 (hereinafter referred to as the "Regulations") and other pertinent directives, to the end that is in accordance with the Act, Regulations, and other pertinent directives, 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 the appropriate Grantor(s) and, HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement. This assurance is required by subsection 21.7(a) (1) of the Regulations. More specifically and without limiting the above general assurance, the Recipient hereby gives the following specific assurances with respect to the "appropriate Grantor(s):"

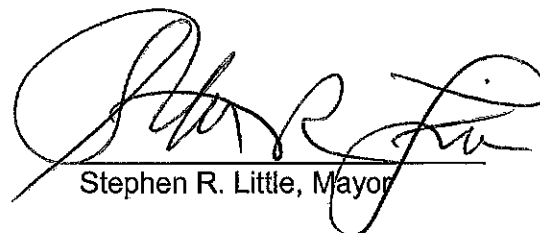
1. That the Recipient agrees that each "program" and each "facility" as defined in subsections 21.23(e) and 21.23(b) of the Regulations, will be (with regard to a "program") conducted, or will be (with regard to a "facility") operated in compliance with all requirements imposed by, or pursuant to, the Regulations.
2. That the Recipient shall insert the following notification in all solicitations for bids for work or material subject to the Regulations and made in connection with the "appropriate Grantor(s)" and, in adapted form in all proposals for negotiated agreements: Recipient, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat, 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidden that it will affirmatively insure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.
3. That the Recipient shall insert the clauses of Appendix B of this assurance in every contract subject to the Act and the Regulations.
4. That the Recipient shall insert the clauses of Appendix C of this assurance as a covenant running with the land, in any deed from the United States effecting a transfer of real property, structures, or improvements thereon, or interest therein.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance shall 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 acquisitions of real property or an interest in real property, the Assurance shall extend to rights to space on, over or under such property.
7. That the Recipient shall include the appropriate clauses set forth in Appendix D of this Assurance as a covenant running with the land, in any future deeds, leases, permits, licenses and similar agreements entered into by the Recipient with other parties: (a) for the subsequent transfer of real property acquired or improved under the "appropriate

- Grantor(s)"and (b) for the construction or use of or access to space on, over or under real property acquired, or improved under the "appropriate Grantor(s)."
8. The 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 shall 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-grantees, contractors, subcontractors, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, 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 Act, the Regulations, and this Assurance.

This Assurance is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Recipient Department of Transportation under the "appropriate Grantor(s)" and is binding on it, other recipients, subgrantees, contractors, subcontractors, transferees, successors in interest and other participants in the "appropriate Grantor(s)". The person or persons whose signatures appear below are authorized to sign this Assurance on behalf of the Recipient.



J Robert Boyette, City Manager



Stephen R. Little, Mayor

Appendix B Contractor Assurances

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 shall comply with the Regulation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the "Regulations") which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, shall 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 shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
3. **Solicitations for Subcontractors, 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 shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the City of Marion and the North Carolina Department of Transportation (NCDOT) or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to the City of Marion and NCDOT or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, The City of Marion shall impose such contract sanctions as it and the NCDOT or the FHWA may determine to be appropriate, including, but not limited to: (a) withholding of payments to the contractor under the contract until the contractor complies, and/or (b) cancellation, termination or suspension of the contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directive issued pursuant thereto. The contractor shall take such action with respect to any subcontractor procurement as the City of Marion and NCDOT or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such directions, the contractor may request the City of Marion to enter into such litigations to protect the interests of the City of Marion and, in addition, the contractor may request the United States to enter into such litigations to protect the interests of the United States.

Appendix C

Clauses for Deeds Effecting or Recording the Transfer of Real Property, Structures, or Improvements

The following clauses shall be included in any and all deeds effecting or recording the transfer of real property, structures or improvements thereon, or interest therein from the United States: GRANTING CLAUSE NOW, THEREFORE, the Department of Transportation, as authorized by law, and upon the condition that the City of Marion will accept Title to the lands and maintain the project constructed thereon, in accordance with Title 23, United States Code, the Regulations for the Administration of Federal-Aid Highway Programs and the policies and procedures prescribed by FHWA, also in accordance with and in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter referred to as the "Regulations") pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat 252; 42 U.S.C. 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the City of Marion all the right, Title and interest of the Department of Transportation in and said lands described in Exhibit A attached hereto and made a part thereof.

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

The City of Marion, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person shall on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of or be otherwise subject to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,](and)* (2) that the City of Marion shall use the lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination of federally assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended [,] and (3) that in the event of breach of any of the above mentioned non-discrimination conditions, the department shall have a right to re-enter said lands and facilities on said land, and the above described land and facilities shall thereon revert to and vest in and become the absolute property of the Department of Transportation and its assigns as such interest existed prior to this instruction.¹

¹ Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

Appendix D

Clauses for Deeds, Licenses, Leases, Permits, or Similar Instruments Entered into by the City of Marion

The following clauses shall be included in all deeds, licenses, leases, permits, or similar instruments entered into by the City of Marion pursuant to the provisions of Title VI Assurances, item 7(a).

The (grantee, licensee, lessee, permittee, etc., as appropriate), for himself, his heirs, personal representatives, successors in interest and assigns, as a part of consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose of which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1963, and as said Regulations may be amended.

The following shall be included in all licenses, leases, permits, etc.: That in the event of breach of any of the above nondiscrimination covenants, the City of Marion shall have the right to terminate the [license, lease, permit, etc.] and to re-enter and repossess said land and the facilities thereon, and hold the same as if said [licenses, lease, permit, etc.] had never been made or issued.

The following shall be included in all deeds: That in the event of breach of any of the above nondiscrimination covenants, the City of Marion shall have the right to re-enter said lands and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of the City of Marion and its assigns.

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by the City of Marion pursuant to the provisions of Title VI Assurance 7(b). The (grantee, licensee, lessee, permittee, etc., as appropriate) for himself, his 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 shall 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 shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) shall use the premises in compliance with all other 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 as said regulations may be amended.

Appendix E
Title VI Employee Acknowledgement
City of Marion, North Carolina, An Equal Opportunity Employer

Title VI of the Civil Rights Act of 1964 as amended 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). Pursuant to Title VI of the Civil Rights Act of 1964 and the Civil Rights Restoration Act of 1987, the City of Marion will not exclude from participation in, deny the benefits of, or subject to discrimination any individual on the grounds of race, color, or national origin. All City of Marion employees are expected to consider, respect and observe this policy in their daily work responsibilities and interactions with other employees and the public. City of Marion employees should work to prevent and alleviate any barriers to service or public use that would restrict public access or usage and take prompt and reasonable action to avoid or minimize discrimination incidences. If another employee or citizen approaches with a question, concern or complaint regarding discrimination, please refer them to the City of Marion's Title VI Coordinator:

Landdis Hollifield
Title VI Coordinator
City of Marion
194 N Main St
Marion NC 28752

Employee Name

Date

Employee Signature

Date

Appendix F Title VI Complaint Form

City of Marion
194 N Main St
Marion NC 28752
(828) 652-3551
Fax (828) 652-1983

Complainants Information

Complainant's Name

Date

Address

City/Town

State

Zip Code

Phone Number

E-Mail Address

Person Discriminated Against (If Someone Other Than Complainant)

Complainant's Name

Date

Address

City/Town

State

Zip Code

Phone Number

E-Mail Address

Please Indicate Why you believe the discrimination occurred:

- Race
- Color
- National Origin
- Other – Please Explain: _____

Date of alleged discrimination

Location of alleged discrimination

Please describe the alleged discrimination. Be specific as possible in explaining what happened and whom you believe was responsible (attach additional pages if needed).

Please list any and all witnesses' names, phone numbers, and email addresses:

What type of remedy would you suggest?

Have you ever filed a complaint with any other federal, state, or local agency, or with any federal or state court?

Yes

No

If yes, which court or agency?

Please attach any documents or other information that you believe is relevant to your complaint. Please sign, date, and send your complaint to:

Landdis Hollifield
Title VI Coordinator
City of Marion
194 N Main St
Marion NC 28752
Phone: (828) 652-3551
Email: lhollifield@marionnc.org

Printed Name

Signature

Date

Appendix G
City of Marion
Language Assistance Plan
Limited English Proficiency

Introduction

Most individuals in the United States read, write, speak and understand English. However, 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 to read, write, speak or understand English may be Limited English Proficient, or "LEP." This language barrier may prevent individuals from accessing services and benefits.

There are two pieces of legislation that establish the manner in which agencies which are recipients of federal funds must address the needs of LEP persons. Title VI of the Civil Rights Act of 1964 and Executive Order 13166 clarify requirements for LEP persons under Title VI.

Title VI of the Civil Rights Act of 1964 and implementing regulations provide that no person shall be subjected to discrimination on the basis of race, color, or national origin under any program or activity that receives federal financial assistance.

Executive Order 13166 applies to all federal agencies and all programs and operations of entities that receive funding from the federal government, including state and local agencies, and governments, private and non-profit entities, and subrecipients. The purpose of this LEP guidance is to clarify the responsibilities of recipients of federal financial assistance from the U.S. Department of Transportation and assist them in fulfilling their responsibilities to LEP persons. The Executive Order also requires agencies to examine the services it provides and develop and implement a Language Implementation Plan which includes a system by which LEP persons can meaningfully access those services.

Plan Summary

The City of Marion has developed this Limited English Proficiency Plan (LEP) to ensure that LEP persons will have meaningful access to its services as required by Executive Order 13166.

The plan details procedures on how to identify a person who may need language assistance, the ways in which assistance may be provided, the manner in which staff should be trained, how to notify LEP persons that assistance is available, and monitoring and implementing future plan updates.

To develop its Plan, The City of Marion undertook the U.S. Department of Transportation's Four Factor LEP analysis which considers:

- 1) The number or proportion of LEP persons eligible to be served or likely to encounter a program, activity or service of The City of Marion;
- 2) The frequency with which LEP individuals come in contact with the program;
- 3) The nature and importance of the program, activity or service provided by The City of Marion to people's lives; and
- 4) The resources available to The City of Marion and implementation costs. A brief description of the self-assessment undertaken in each of these areas follows.

Four Factor Analysis

Factor 1: The number or proportion of LEP persons eligible to be served or likely to encounter a program, activity or service of The City of Marion.

Response: The City of Marion examined several data sources for demographic data of its service areas to assess whether there were any underserved LEP populations.

The City of Marion reviewed information from the U.S. Census Bureau and the American Community Survey (ACS) 5 Year Estimates 2014 - 2018 for Marion, NC.

The City of Marion has approximately 1,345 people age 5 and older who spoke a language other than English at home. Approximately 439 respondents or 5.8% of respondents speak English less than "very well." In the City of Marion, 1,269 respondents or 16.9% speak Spanish at home. There were 5.7% or 425 respondents in the City of Marion who speak Spanish at home, speak English less than "very well". The next most used languages spoken at home is Asian and Pacific Island languages, which comprise approximately 0.6% percent of persons in the city or 45 respondents. Fourteen respondents or 0.2% of respondents who speak Asian and Pacific Islander languages at home speak English less than "very well".

City of Marion, NC		
Analysis of ESL Population in Relation to 2018		
Total City Population		
2018 Total Marion Population	7,839*	
ESL Group*	Estimated Population*	Population Percentage *
Spanish or Spanish Creole that speak English less than very well	425	5.7%
Other Indo European Language that speak English less than very well	0	0.0%
Asian and Pacific Island Languages that speak English less than very well	14	0.2%
Speak other Languages that speak English less than very well	0	0.0%
*U.S. Census Bureau, American FactFinder, Language Spoken at Home by Ability to Speak English for the Population 5 Years and Over, 2014-2018 American Community Survey 5-Year Estimates		

1. Based on this data, the City of Marion does meet the 1,000 or 5% LEP persons threshold for Spanish or Spanish Creole. 5.7% (425) of our total population that speak Spanish or Spanish Creole speak English less than very well.
2. While there are other ESL groups represented in the City that speak English less than "very well", is represented by 14 people which is .2% of the population.

Factor 2: The frequency with which LEP individuals come in contact with the program.

Response: The City of Marion accesses the frequency at which staff has or could possibly have contact with LEP persons. This includes examining census data, documenting phone inquiries, requests for translated documents, and staff feedback.

Factor 3: The nature and importance of the program, activity or service provided by the City of Marion to people's lives.

Response: The City of Marion is responsible for all roads within the City of Marion, which are not state or federal highways. The City is also responsible for sidewalks, trails, public right-of-way, and parks. The City of Marion strives for safe and accessible roads, sidewalks, and trails, and continues to work to improve the transportation infrastructure for the residents of Marion. Transportation is critical to the public as it provides access to emergency services (fire, police, etc.), health care, employment, and other essential individual needs. If this information is not accessible to people with limited English proficiency, or if language services in these areas are delayed, the consequences to the individuals relying on these services could be life-threatening.

Factor 4: The resources available to The City of Marion and implementation costs.

Response: The City of Marion assessed its available resources that could be used to provide LEP assistance. This included identifying bilingual staff, how much a professional interpreter and translation service would cost, determining which documents should be translated, and deciding what level of staff training is needed.

The City will use other translation services to translate documents and forms when needed such as Google Translate. There would be no costs to the recipient.

City departments have the ability to customize the documents provided by the public. The Language Assistance Plan and any documents that are available in Spanish can be provided on the website. There would be no costs to the recipient.

Language Assistance Plan

After analyzing the four factors outlined in the U.S. DOT policy guidance, The City of Marion developed the following plan for providing language assistance to LEP persons.

Components of the Plan

There are five areas that comprise the City of Marion's LEP plan:

1. Identifying LEP individuals who need language assistance
2. Language assistance measures
3. Training staff
4. Providing notice to LEP persons
5. Monitoring and updating the LEP plan

Identifying LEP individuals who need language assistance

The City of Marion will review demographic data every three years and solicit data from the LEP community to identify language assistance needs within its service areas.

- Based on the U.S. Census Bureau; American Community Survey (ACS) for 2014 – 2018 Spanish speaking LEP persons are the primary group requiring language assistance in The City of Marion's service areas.
- We will continue to monitor and evaluate our agency's efforts based on requests for LEP assistance and adjust or change as needed.
- There are several measures that can be taken to identify persons who may need language assistance in our service area, with emphasis on our primary group requiring help:
 - Send out notifications in Spanish of upcoming events/meeting(s).
 - Select locations that may be more convenient for LEP persons; send out the notices in Spanish.
 - When open houses or public meetings are held, set-up a sign-in table and have a staff member greet and briefly speak to each attendee in order to informally gauge his/her ability to speak and understand English.
 - Have the Census Bureau's "I Speak Cards" at various events. Although staff may not be able to provide translation assistance at the time, the cards are an excellent tool to identify language needs for future events/meetings.
 - Post a notice of available language assistance at open houses/public meetings to encourage LEP persons to self-identify.
 - Examine record requests for language assistance from past meetings and events to anticipate the possible need for assistance at upcoming meetings.
 - Survey staff who have contact with LEP individuals to record language assistance requests.

Language assistance measures

The City of Marion has or will implement the following measures.

- Users of the City of Marion's website have online access to Google Translate, the online language translation service which allows users to translate to and from Spanish and 56 other languages.
- Send out notifications in Spanish of upcoming events/meeting(s).
- Train staff to utilize translation apps to support LEP persons during regular customer service provided by Town staff.
- Have the Census Bureau's "I Speak" card at various events. Although staff may not be able to provide translation assistance at the time, the cards are an excellent tool to identify language needs for future events/meetings.
- Post a notice of available language assistance at open houses/public meetings to encourage LEP persons to self-identify.
- City departments have the ability to customize the documents provided the public. The Language Assistance Plan and any documents that are available in Spanish can be provided on the website.

- The City will use other translation services in times of non-emergency such as the Google Translate website when time is not of the essence.

Staff Training

It is important that staff members, especially those having contact with the public know their obligation to provide meaningful access to information and services for LEP persons. The City of Marion has implemented the following procedures. During orientation the Training Coordinator will provide a "summary" copy of the Title VI Program and LEP Plan to new staff to be aware and understand their role; and

- Become aware of and understand Title VI and LEP responsibilities;
- Language assistance services The City of Marion offers;
- Use of LEP "I Speak Cards";
- Specific procedures to follow when encountering an LEP person;
- Document/report language assistance requests; and
- Copies of the LEP Plan will also be distributed to all managers to disseminate plan information to appropriate administrative staff.
- Staff members will be made aware of the Google Translate website.

Monitoring and Updating the Language Access Plan

An annual review will be conducted via U.S. Census updates to determine the following:

- Determine the current LEP population in the area
- Determine whether or not the need for translation services have changed
- Determine if there is a need for additional language populations
- Determine if the needs of the LEP population have been addressed and how
- Determine whether the LAP has been effective and sufficient
- Determine if there is an increase or decrease in LEP contacts
- Document and requests or complaints from the LEP population

In addition, the City will analyze further needs as part of planning and budget processes and as demographics shift in the future.

Appendix H

Non-Discrimination Policy

It is the policy of the City of Marion to ensure that no person shall, on the grounds of race, color, national origin, Limited English Proficiency, income-level, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any City of Marion program or activity, including, where applicable, religion, as provided by Title VI of the Civil Rights Act of 1964 and other pertinent nondiscrimination authorities.

The following practices are hereby prohibited throughout the City of Marion to comply, at a minimum, with Title VI and related requirements:

- Denying to an individual any standard service, financial aid, or other program benefit without good cause;
- Providing any service, financial aid, or other benefit to a person which is distinct in quantity or quality, or is provided in a different manner, from that provided to others under the program;
- Subjecting a person to segregation or separate treatment in any part of a program;
- Restricting in the enjoyment of any advantages, privileges, or other benefits enjoyed by others;
- Using methods of Administrations, which, directly or through contractual relationships, would defeat or substantially impair the accomplishment of effective nondiscrimination;
- Applying different standards, criteria, or other requirements for admission, enrollment, or participation in planning, advisory, contractual or other integral activities;
- Using acts of intimidation or retaliation, including threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by any pertinent nondiscrimination law, or because s/he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing;
- Allowing discrimination in any employment resulting from a program, the primary purpose of which is to provide employment.

Non-Discrimination Notice and Accessibility Rights

The City of Marion, pursuant to its policy to comply with Title VI of the Civil Rights Act of 1964 and other pertinent nondiscrimination authorities, will not exclude from participation in, deny the benefits of, or subject to discrimination any person based on race, color, national origin, Limited English Proficiency, income-level, sex, age, or disability (or religion, where applicable), under any programs or activities conducted or funded by the City of Marion.

Any person who believes they have been wronged by a discriminatory act (action or inaction) of the City of Marion or its funding recipients, has the right to file a complaint with the City of Marion. For instructions on how to file a complaint, or additional information regarding the City of Marion's nondiscrimination obligations, please contact:

City of Marion
Title VI Coordinator
194 N Main St
Marion NC 28752
(828) 652-3551

You may also visit www.marionnc.org

Anyone with a hearing or speech impairment may use Relay NC, a telecommunications relay service, to call the City of Marion. Relay NC can be accessed by dialing 711 or 1-877-735-8200.

ATTENTION: If you speak a language other than English, the following language assistance services are available to you, free of charge. Qualified interpreters and information written in other languages. Call 1-800-522-0453.

ATENCION: Si habla un idioma distinto del inglés, los siguientes servicios de asistencia de idiomas están disponibles para usted, de forma gratuita. Intérpretes cualificados e información escrita en otros idiomas. Llame al 1-800-522-0453.