Introduced By: **Alderman Migliazzo**

Resolution No. **2014-03**

RESOLUTION

ACCEPTING AND APPROVING A TITLE VI POLICY FOR THE CITY OF BELLEFONTAINE NEIGHBORS

WHEREAS, the City of Bellefontaine Neighbors is committed to ensuring that the fundamental principles of equal opportunity are upheld in all decisions involving our employees, contractors and consultants and to ensure that residents are afforded access to all programs and services provided by the City; and

WHEREAS, Title VI of the Civil Rights Act of 1964 provides that no person in the United States shall, on the grounds of gender, race, color or national origin, be excluded from participation in, be denied benefits of or otherwise subject to discrimination for which the City receives any measure of federal financial assistance.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF BELLEFONTAINE NEIGHBORS, MISSOURI AS FOLLOWS:

THAT, the Board of Aldermen hereby approves the updated Title VI Policy submitted by the City Clerk and attached hereto as Exhibit "A"; and

FURTHER THAT, the Board of Aldermen hereby authorizes the City Clerk to continue to do all things necessary with respect to the adoption and administration of the City's Title VI Policy.

This Resolution passed and approved this 18th day of December, 2014

Robert J. Doerr, Mayor

ATTEST

Deni Donovan, City Clerk

TITLE VI PLAN

CITY OF BELLEFONTAINE NEIGHBORS
9641 Bellefontaine Road
Bellefontaine Neighbors, Missouri
63137

www.cityofbn.com

Updated December, 2014

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CITY OF BELLEFONTAINE NEIGHBORS POLICY STATEMENT

The CITY OF BELLEFONTAINE NEIGHBORS is committed to ensuring that the fundamental principles of equal opportunity are upheld in all decisions involving our employees and contractors/consultants, and to ensuring that the residents of our City are afforded access to our programs and services.

To that end, no person shall be excluded from participation, be denied the benefits of, or be otherwise subjected to discrimination under any CITY OF BELLEFONTAINE NEIGHBORS program or activity on the grounds of race, color, national origin, income, sex, age, disability, or limited English proficiency. The CITY OF BELLEFONTAINE NEIGHBORS assures all its programs and activities will be free from discrimination, whether those programs and activities are federally funded or not.

The CITY OF BELLEFONTAINE NEIGHBORS will include Title VI language in all written agreements and bid notices falling within the scope of Title VI, and will monitor compliance.

The CITY OF BELLEFONTAINE NEIGHBORS designates the *City Clerk* as the Title VI Officer with the responsibility of ensuring that the CITY OF BELLEFONTAINE NEIGHBORS complies with the Title VI regulations.

The *City Clerk* of the CITY OF BELLEFONTAINE NEIGHBORS will be responsible for initiating and monitoring Title VI activities, and all other responsibilities as required.

Inquiries concerning the CITY OF BELLEFONTAINE NEIGHBORS policies, investigations, complaints, compliance with applicable laws regulations, and concerns regarding compliance with Title VI may be directed to the *City Clerk*, 9641 Bellefontaine Road, BELLEFONTAINE NEIGHBORS, MO 63137.

This policy statement will be circulated throughout the CITY OF BELLEFONTAINE NEIGHBORS and included by reference in all contract agreements, programs and services administered by the CITY OF BELLEFONTAINE NEIGHBORS, falling within the scope of Title VI.

Deni Donovan 12/18/2014

Deni Donovan, City Clerk

CITY OF BELLEFONTAINE NEIGHBORS TITLE VI ASSURANCE

The CITY OF BELLEFONTAINE NEIGHBORS (hereinafter referred to as the City) hereby agrees that as a condition to receiving any Federal financial assistance from the U.S. 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 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-Assisted Programs for 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 in accordance with the Act, Regulations, and other pertinent directives, no person in the United States shall, on the grounds of gender, 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 City received Federal financial assistance from the Department of Transportation, including the Federal Highway Administration, and hereby gives assurances that it will promptly take any measures necessary to effectuate this agreement. This assurance is required by subsection 21.7 (a) (1) and (b) of the Regulations.

More specifically and without limiting the above general assurance, the City hereby gives the following specific assurance with respect to the Federal Aid Highway Program:

1. That the City 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 City shall insert the following notification in all solicitations for bids for work or material subject to the Regulations and, in adapted form, in all proposals for negotiated agreements:

   "The CITY OF BELLEFONTAINE NEIGHBORS in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Federally-assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, 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 gender, disability, race, color or national origin in consideration for an award."

3. That the City shall insert the clauses of Appendix A of this assurance in every contract subject to the Act and the Regulations.

4. That where the City receives Federal financial assistance to construct a facility, or part of a facility, the assurance shall extend to the entire facility and any facilities operated in connection therewith. If any such construction projects are undertaken, a list of such

projects, and where applicable, a Title VI equity analysis with respect to the location of any projects will be attached hereto as an addendum to this policy.

5. That where the City receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the assurance shall extend to rights to space on, over or under such property.

6. That this assurance obligates the City 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 City 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 City retains ownership or possession of the property.

7. The City 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 guarantees that it, other recipients, sub-grantees, contractors, sub-contractors, 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.

8. If applicable, the City shall provide for such methods of administration for the program as are found to give reasonable guarantee that it, other recipients, sub-grantees, contractors, sub-contractors, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed by, or pursuant to, the Act, the regulations and this assurance. Should this requirement become applicable, the City shall provide a description of how this information will be tracked as an addendum to this policy.

9. In the event that the City establishes any non-elected planning boards, advisory councils or committees related to transportation that are appointed by the City, the City shall attach a table hereto depicting the racial breakdown of any such body as an addendum to this policy.

10. The City 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 City under the Federal Aid Highway Program and is binding on it, other recipients, sub-grantees, contractors, sub-contractors, transferees, successors in interest and other participants in the Federal Aid Highway Program. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the City.

Dated: _____

CITY OF BELLEFONTAINE NEIGHBORS

_____

Deni Donovan, City Clerk

DEFINITIONS

Adverse Effects – The totality of significant individual or cumulative human health or environmental effects including interrelated social and economic effects, which may include, but are not limited to:

- Bodily impairment, infirmity, illness or death
- Air, noise and water pollution and soil contamination
- Destruction or disruption of man-made or natural resources
- Destruction or diminution of aesthetic values
- Destruction or disruption of community cohesion or community's economic vitality
- Destruction or disruption of the availability of public and private facilities and services
- Adverse employment effects
- Displacement of person's businesses, farms or non-profit organizations
- Increased traffic congestion, isolation, exclusion or separation of minority or low-income individuals within a given community or from the broader community
- Denial of, reduction in, or significant delay in the receipt of benefits of the City programs, policies and activities

Significant Adverse effects on Minority and Low-Income Populations – An adverse effect that:

a. is predominantly borne by a minority population and/or a low-income population, or
b. will be suffered by the minority population and/or low-income population and is shown to be appreciably more severe or greater in magnitude than the adverse effect that will be suffered by the non-minority population and/or non-low-income population.

Limited English Proficiency - Individuals with a primary or home language other than English who much, due to limited fluency in English, communicate in that primary or home language if the individuals are to have an equal opportunity to participate effectively in or benefit from any aid, service or benefit provided by the City.

Federal Assistance – Includes grants and loans of federal funds; the grant or donation of federal property and interests in property; the detail of federal personnel, federal property or any interest in such property without consideration or at a nominal consideration or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient; and any federal agreement, arrangement or other contract which has, as one of its purposes, the provision of assistance.

Low-Income – A person whose median household income is at or below the Department of Health and Human Service Property guidelines. http://aspe.hhs.gov/poverty/

Low-Income Population – Any readily identifiable group of low-income persons who live in geographic proximity and, if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed City program, policy or activity.

Minority – A person who is:

a. Black – A person having origins in any of the black racial groups of Africa;
b. Hispanic – A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race;
c. Asian American – A person having origins in any of the original people of the Far East, Southeast Asia, the Indian sub-continent, or the Pacific Islands; or
d. American Indian and Alaskan Native – A person having origins in any of the original people of North American and who maintains cultural identification through tribal affiliation or community recognition.

Minority Population – Any readily identifiable groups of minority persons who live in geographic proximity and, if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed City program, policy or activity.

Non-Compliance – A recipient has failed to meet prescribed requirements and has shown an apparent lack of good faith effort in implementing all the requirements of Title VI and related statues.

Persons – Where designation of persons by race, color or national origin is required, the following designation ordinarily may be used; "White not of Hispanic origin", "Black not of Hispanic origin", "Hispanic", "Asian or Pacific Islander", "American Indian or Alaskan Native". Additional sub-categories based on national origin of primary language spoken may be used, where appropriate, on either a national or a regional basis.

Program – Includes any road or park project including planning or any activity for the provision of services financial aid or other benefits to individuals. This includes education or training, work opportunities, health welfare, rehabilitation, or other services, whether provided directly by the recipient of federal financial assistance or provided by others through contracts or other arrangements with the recipient.

Recipient - Any state, territory, possession, the District of Columbia, Puerto Rico, or any political subdivision, or instrumentality thereof, or any public or private agency, institution, or organization, or other entity, or any individual, in any state, territory, possession, the District of Columbia, or Puerto Rico, to whom Federal assistance is extended, either directly or through another recipient, for any program. Recipient includes any successor, assignee, or transferee thereof, but does not include any ultimate beneficiary under any such program.

Sub-Recipient – Any agency such as a council or governments, regional planning agency, education institution, for example, that received Federal Highway Administration (FHWA) funds through the State DOT and not directly from the FHWA. Other agencies, local governments, contractors, consultants that receive these funds are all considered sub-recipients.

ADMINISTRATION – GENERAL

The *City Clerk* shall have lead responsibility for coordinating the administration of the Title VI and related statutes program, plan and assurances.

Complaints: If any individual believes that he/she or any other program beneficiaries have been the object of unequal treatment or discrimination as to the receipt of benefits and/or service, or on the grounds of race, color, national origin (including Limited English Proficiency), sex, age or handicap, she/he may exercise his/her right to file a complaint with the City. Complaints may be filed with the *City Clerk.* Every effort will be made to resolve complaints informally at the lowest level.

Data Collection: Statistical data on race, color, national origin, English language ability and sex of participants in, and beneficiaries of City programs; e.g., impacted citizens and affected communities will be gathered and maintained by the City. The gathering procedures will be reviewed triennially to ensure sufficiency of the data in meeting the requirements of the Title VI program.

Title VI Reviews on Sub-Recipients: Title VI compliance reviews will be conducted annually by the *City Clerk.* Priority for conducting reviews will be given to those recipients of federal (U.S. Department of Transportation) funds with the greatest potential of impact to those groups covered by the act. The reviews will entail examination of the recipients' adherence to all Title VI requirements. The status of each review will be reported to relevant U.S. Department of Transportation (USDOT) modes upon request.

Public Dissemination: The City will make available Title VI Program information to City employees and to the general public, both at City Hall and through the City's website. Title VI Program information will be submitted to sub-recipients, contractors and beneficiaries.

Remedial Action: The City, through the *City Clerk* will actively pursue the prevention of Title VI deficiencies and violations and will take the necessary steps to ensure compliance with all program administrative requirements. When deficiencies are found, procedures will be promptly implemented to correct the deficiencies and to put in writing the corrective action(s). The period to determine corrective action(s) and put it/them in writing to effect compliance may not exceed 90 days from the date the deficiencies are found.

LIMITED ENGLISH PROFICIENCY

See Appendix E.

ENVIRONMENTAL JUSTICE

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 that will be affected by a given program or project.
- If a disproportionate effect is anticipated, following 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.

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. If it is determined that one or more of these population groups are present in the area, the City will administer potential disproportionate effects test.

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

STEP ONE: Determine if a minority of low income population is present within the project area. If a 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 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 the low income or minority populations?
Question 3: Considering the overall public interest, is there a substantial need for 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.

FILING A COMPLAINT

See Appendix D.

APPENDIX A: REQUIRED CONTRACT LANGUAGE

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 Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, 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.

   Further, on any federal assisted contract, the Contractor and sub-contractor agree to comply with the Equal Employment Opportunity provisions cited in CFR 23, Subpart D – Construction Contract Equal Employment Opportunity Compliance Procedures, CFR 49 – Non-Discrimination in Federally-assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964, E.E. 11246 and Title VII of the Civil Rights Act of 1964.

2. **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, sex, or national origin in the selection, retention, and treatment of subcontractors, including procurements of materials in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contractor covers a program set for in Appendix B of the Regulations.

3. **Solicitation 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 shall be notified by the contractor of the contractor's obligations under the 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 issues pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the State Highway Department of the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. 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 State Highway Department or the Federal Highway Administration, as appropriate, and shall set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event the contractor's noncompliance with the nondiscrimination provisions of this contract, the State Highway Department shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

   a. Withholding payments to the contractor under the contract until the contractor complies and/or
   b. Cancellation, termination or suspension of the contract, in whole or in part.

6. **Incorporation of Provisions:** The contractor shall include provisions of paragraphs (1) through (5) in every subcontract, including procurement of material and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the State Highway Department or the Federal Highway Administration 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 direction, the contractor may request the State Highway Department to enter into such litigation to protect the interests of the State, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX B: TRANSFER OF PROPERTY

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, 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 the Department of Transportation and, also in accordance with and in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, 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 State of Missouri all the right, title and interest of the Department of Transportation in and to said lands described Exhibit "A" attached hereto and made a part hereof.

(HABENDUM CLAUSE)*

TO HAVE AND TO HOLD said lands and interests therein unto the City, and its successors forever, subject, however, the covenant, 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 shall be binding on the City, its successors and assigns.

The City, 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, national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part, on, over, or under such lands hereby conveyed (,) (and)*(2) that the City 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 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 (,) and (3) that in the event of breach of any of the above-mentioned nondiscrimination 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 deed.

*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 of the Civil Rights Act of 1964.

APPENDIX C: PERMITS, LEASES AND LICENSES

The following clauses shall be included in all deeds, licenses, leases, permits, or similar instruments entered into by the City, pursuant to the provisions of Assurance 6(a).

The grantee, licensee, lessee, permittee, etc., (as appropriate) for himself, his heirs, personal representative, 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 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 for 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 remain 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 1964, and as said Regulations may be amended.

(Include in licenses, leases, permits, etc.)*

That in the event of breach of any of the above nondiscrimination covenants, the City 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 license, lease, permit, etc., had never been made or issued.

(Include in deeds)*

That in the event of breach of any of the above nondiscrimination covenants, the City shall have the right to re-enter lands and facilities hereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of the City and its assigns.

*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purpose of the Title VI of the Civil Rights Act of 1964 and the Civil Rights Act of 1987.

APPENDIX D: FILING A COMPLAINT/COMPLAINT FORM

I. Introduction

The Title VI complaint procedures are intended to provide aggrieved persons an avenue to raise complaints of discrimination regarding the City programs, activities and services as required by statute.

II. Purpose

The purpose of the discrimination complaint procedures is to describe the process used by the City for processing complaints of discrimination under Title VI of the Civil Rights Act of 1964 and related statutes.

III. Roles and Responsibilities

The *City Clerk* has overall responsibility for the discrimination complaint process and procedures. The *City Clerk* may, at his/her discretion assign a capable person to investigate the complaint.

The designated investigator will conduct an impartial and objective investigation, collect factual information and prepare a fact-finding report based upon information obtained from the investigation.

IV. Filing a Complaint

The complainant shall make him/herself reasonably available to the designated investigator, to ensure completion of the investigation within the timeframes set forth.

Applicability: The complaint procedures apply to the beneficiaries of City programs, activities and services, including but not limited to: the public, contractors, sub-contractors, consultants, and other sub-recipients of federal and state funds.

Eligibility: Any person who believes that he/she has been excluded from participation in, denied benefits or services of any program or activity administered by the City or its sub-recipients, consultants and contractors on the basis of race, color, national origin (including Limited English Proficiency), sex, age or disability may bring forth a complaint of discrimination under Title VI.

Time Limitation on Filing Complaints: Title VI complaints shall be filed with the CITY OF BELLEFONTAINE NEIGHBORS *City Clerk.* In all situations, the CITY OF BELLEFONTAINE NEIGHBORS employees must contact the *City Clerk* immediately upon receipt of Title VI related statutes complaints.

Complaints must be filed within 180 days of the alleged discrimination. If the complainant could not reasonably be expected to know that the act was discriminatory within the 180 day period, the complainant has 60 days after he/she became aware to file the complaint.

Complaints must be in writing, and must be signed by the complainant and/or the complainant's representative. The complaint must set forth as fully as possible the facts and circumstances surrounding the claimed discrimination. In cases where the complainant is unable or incapable of providing a written statement, the complainant will be assisted in converting the verbal complaint into a written complaint. All complaints, however, must be signed by the complainant and/or by the complainant's representative. *Items that should not be considered a formal complaint:* (unless the items contain a signed cover letter specifically alleging a violation of Title VI) include but are not limited to:

1. An anonymous complaint that is too vague to obtain required information
2. Inquiries seeking advice or information
3. Courtesy copies of court pleadings
4. Newspaper articles
5. Courtesy copies of internal grievances

V. Investigation

Investigation Plan: The investigator shall prepare a written plan, which includes, but is not limited to the following:

- Names of the complainant(s) and respondent(s)
- Basis for complaint
- Issues, events or circumstances that caused the person to believe that he/she has been discriminated against
- Information needed to address the issue
- Criteria, sources necessary to obtain the information
- Identification of key people
- Estimated investigation time line
- Remedy sought by the complainant(s)

Conducting the Investigation:

- The investigation will address only those issues relevant to the allegations in the complaint.
- Confidentiality will be maintained as much as possible.
- Interviews will be conducted to obtain facts and evidence regarding the allegations in the complaint. The investigator will ask questions to elicit information about aspects of the case.
- A chronological contact sheet is maintained in the case file throughout the investigation.
- If a Title VI complaint is received on a MoDOT related contract against the City, MoDOT will be responsible for conducting the investigation of the complaint. Upon

receipt of a Title VI complaint filed against the City, the complaint and any pertinent information should immediately be forwarded to the MoDOT Office of Civil Rights Programs.

Investigation Reporting Process:

- Within 40 days of receiving the complaint, the investigator prepares an investigative report and submits the report and supporting documentation to the office of the *City Clerk* for review.
- The *City Clerk* reviews the file and investigative report. Subsequent to the review, the *City Clerk* makes a determination of "probable cause" or "no probable cause" and prepares the decision letter.

Retaliation

The laws enforced by this City prohibit retaliation or intimidation against anyone because that individual has either taken action or participated in action to secure rights protected by these laws. If an individual experiences retaliation or intimidation separate from the discrimination alleged in this complaint please contact:

Missouri Department of Transportation
1590 Woodlake Drive
Chesterfield, MO 63017
314-275-1500

or

U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, N.W.
Washington, DC 20530
Title VI
Hotline: 1-888-TITLE-06 (1-888-848-5306)

Reporting Requirements to an External Agency

A copy of the complaint, together with a copy of the investigation report and final decision letter will be forwarded to the Missouri Department of Transportation, Office of Civil Rights Program within 60 days of the date the complaint was received.

Records

All records and investigative working files are maintained in a confidential area. Records are kept for three years.

CITY OF BELLEFONTAINE NEIGHBORS
TITLE VI COMPLAINT FORM

This form may be used to file a complaint with the CITY OF BELLEFONTAINE NEIGHBORS based on violations of Title VI of the Civil Rights Act of 1964. You are not required to use this form; a letter that provides the same information may be submitted to file your complaint.

Complaints should be filed within 180 days of the alleged discrimination. If you could not reasonably be expected to know the act was discriminatory within 180 day period, you have 60 days after you became aware to file your complaint.

If you need assistance completing this form due to a physical impairment, please contact Deni Donovan, [314-867-0076] or by e-mail at ddonovan@cityofbn.com

Name: _____ Date: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____(home) _____(work)

Individual(s) discriminated against, if different than above (use additional pages, if needed).

Name: _____ Date: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____(home) _____(work)

Please explain your relationship with the individual(s) indicated above: _____

_____

Name of agency and department or program that discriminated:

Agency or department name: _____

Name of individual (if known): _____

Address: _____

City: _____ State: _____ Zip: _____

Date(s) of alleged discrimination:

Date discrimination began _____

Last or most recent date _____

ALLEGED DISCRIMINATION:

If your complaint is in regard to discrimination in the delivery of services or discrimination that involved the treatment of you by others by the agency or department indicated above, please indicate below the basis on which you believe these discriminatory actions were taken.

____Race	____ Religion
____ Color	____ National Origin
____ Age	____ Sex
____Disability	____ Limited English Proficiency

Explain: Please explain as clearly as possible what happened. Provide the name(s) of witness(es) and others involved in the alleged discrimination. (Attach additional sheets, if necessary, and provide a copy of written material pertaining to your case).

_____

_____

_____

Signature: _____ Date: _____

Note: *The CITY OF BELLEFONTAINE NEIGHBORS prohibits retaliation or intimidation against anyone because that individual has either taken action or participated in action to secure rights protected by policies of the City. Please inform the City Clerk if you feel you were intimidated or experience perceived retaliation in relation to filing this complaint.*

APPENDIX E: LIMITED ENGLISH PROFICIENCY (LEP) PLAN

Introduction

Executive Order 13166, "Improving Access to Services for Persons With Limited English Proficiency,"[1] reprinted at 65 FR 50121 (August 16, 2000), directs each Federal agency that is subject to the requirements of Title VI to publish guidance for its respective recipients clarifying that obligation. Executive Order 13166 further directs that all such guidance documents be consistent with the compliance standards and framework detailed in the Department of Justice's (DOJ's) Policy Guidance entitled "Enforcement of Title VI of the Civil Rights Act of 1964--National Origin Discrimination Against Persons With Limited English Proficiency." (See 65 FR 50123, August 16, 2000 DOJ's General LEP Guidance). Different treatment based upon a person's inability to speak, read, write, or understand English may be a type of national origin discrimination. Executive Order 13166 applies to all federal agencies and all programs and operations of entities that receive funding from the federal government, including state agencies, local agencies such as the CITY OF BELLEFONTAINE NEIGHBORS, private and non-profit entities, and subrecipients.

The CITY OF BELLEFONTAINE NEIGHBORS receives funds from the US Department of Transportation via the Federal Highway Administration.

Plan Summary

The City has developed this Limited English Proficiency Plan (LEP) to help identify reasonable steps to provide language assistance for LEP persons seeking meaningful access to City services as required by Executive Order 13166. A Limited English Proficiency person is one who does not speak English as their primary language and who has a limited ability to read, speak, write, or understand English. This plan details procedures on how to identify a person who may need language assistance, the ways in which assistance may be provided, training staff, how to notify LEP persons that assistance is available, and information for future plan updates.

The City will use a U.S. Department of Transportation four factor LEP analysis which considers the following: 1) The number or proportion of LEP persons eligible in the CITY OF BELLEFONTAINE NEIGHBORS service area who may be served or likely to encounter a CITY OF BELLEFONTAINE NEIGHBORS program, activity, or service; 2) the frequency with which LEP individuals come in contact with a City service; 3) the nature and importance of the program, activity or service provided by the City to the LEP population; and 4) the resources available to the City and overall costs to provide LEP assistance. A brief description of these considerations is provided in the following section.

Factor 1: The Proportion, Numbers and Distribution of LEP Persons

The 2010 Census data for the CITY OF BELLEFONTAINE NEIGHBORS shows a very small amount of the population that would speak English 'less than very well,' and therefore would be

[1] The executive order verbatim can be found online at http://www.usdoj.gov/crt/cor/Pubs/eolep.htm

classified as LEP Persons. LEP Persons numbered 33, or 0.3% of the total population of the City which equals 10,860.

Factor 2: Frequency of Contact with LEP Individuals

The majority of work with funds received from Federal programs is performed on the roadways with the use of large trucks and heavy equipment. Very infrequently do the operators have direct contact with the public. The office staff handles service requests regarding road issues and processes permits for work in the right of way. Regular City Board of Aldermen meetings are held every 1st and 3rd Thursday of each month and public hearings are held when needed, which would bring interested persons to the CITY OF BELLEFONTAINE NEIGHBORS.

Factor 3: The Nature and Importance of the Program, Activity, or Service to LEP

Denial or delay of access to services or information provided by the CITY OF BELLEFONTAINE NEIGHBORS would not have life-threatening implications on a LEP individual. It is believed that denial or delay of access to services or information provided by the CITY OF BELLEFONTAINE NEIGHBORS would not have serious implications on a LEP individual, especially compared to the services, such as health, emergency transportation, water, sewer, fire protection, police protection and other emergency services.

Factor 4: The Resources Available to the CITY OF BELLEFONTAINE NEIGHBORS and Overall Cost

US Department of Transportation Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient (LEP) Persons published in the Federal Register: December 14, 2005 (Volume 70, Number 239) states:

> *Certain DOT recipients, such as those serving very few LEP persons or those with very limited resources, may choose not to develop a written LEP plan.*

While the CITY OF BELLEFONTAINE NEIGHBORS does serve very few LEP persons and has very limited resources, it has decided to include a LEP section in its Title VI Plan.

Safe Harbor Stipulation

Federal law provides a "Safe Harbor" situation so that recipients can ensure with greater certainty that they comply with their obligation to provide written translations in languages other than English. A "safe harbor" means that if a recipient provides written translation in certain circumstances, such action will be considered strong evidence of compliance with the recipient's written-translation obligations under Title VI.

The failure to provide written translations under the circumstances does not mean there is noncompliance, but rather provides a guide for recipients that would like greater certainty of compliance than can be provided by a fact-intensive, four factor analysis. For example, even if a safe harbor is not used, if written translation of a certain document(s) would be so burdensome as

to defeat the legitimate objectives of its program, it is not necessary. Other ways of providing meaningful access, such as effective oral interpretation of certain vital documents, might be acceptable under such circumstances.

Strong evidence of compliance with the recipient's written-translation obligations under "safe harbor" includes providing written translations of vital documents for each eligible LEP language group eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally.

This "safe harbor" provision applies to the translation of written documents only. It does not affect the requirement to provide meaningful access to LEP individuals through competent oral interpreters where oral language services are needed and are reasonable.

Given the small number of LEP language group members, the CITY OF BELLEFONTAINE NEIGHBORS's budget and number of staff, it is deemed that written translations of vital documents would be so burdensome as to defeat the legitimate objectives of our programs. It is more appropriate for CITY OF BELLEFONTAINE NEIGHBORS to proceed with oral interpretation options for compliance with LEP regulations.

Providing Notice to LEP Persons

USDOT LEP guidance says: Once an agency has decided, based on the four factors, that it will provide language service, it is important that the recipient notify LEP persons of services available free of charge. Recipients should provide this notice in languages LEP persons would understand.

The guidance provides several examples of notification including:

1. Signage when free language assistance is available with advance notice.
2. Stating in outreach documents that language services are available from the agency.
3. Working with community-based organizations and other stakeholders to inform LEP individuals of the recipient's services, including the availability of language assistance services.

The CITY OF BELLEFONTAINE NEIGHBORS will provide statements in public information and public notices that persons requiring language assistance or special accommodations will be provided, with reasonable advance notice to the CITY OF BELLEFONTAINE NEIGHBORS.

Options and Proposed Actions
Options:

Federal fund recipients have two (2) main ways to provide language services: oral interpretation either in person or via telephone interpretation service and written translation. The correct mix should be based on what is both necessary and reasonable in light of the four-factor analysis.[2]

CITY OF BELLEFONTAINE NEIGHBORS defines an interpreter as a person who translates spoken language orally, and a translator as a person who transfers the meaning of written text from one language into another.[3]

Considering the relatively small amount of Federal assistance received by the CITY OF BELLEFONTAINE NEIGHBORS, the small number of LEP individuals in the service area, and limited financial resources, it is necessary to limit language aid to the most basic and cost-effective services.

What the CITY OF BELLEFONTAINE NEIGHBORS will do. What actions will the CITY OF BELLEFONTAINE NEIGHBORS take?

With advance notice of seven calendar days, the CITY OF BELLEFONTAINE NEIGHBORS will provide interpreter services at the public meetings. Interpreter to include foreign language and hearing impaired.

Placement of statements in notices and publications that interpreter services are available for these meetings, with seven days advance notice.

Publications of the federal complaint form available at public meetings.

CITY OF BELLEFONTAINE NEIGHBORS Staff Training

CITY OF BELLEFONTAINE NEIGHBORS staff will be provided training on the requirements for providing meaningful access to services for LEP persons.

LEP Plan Access

The CITY OF BELLEFONTAINE NEIGHBORS will have paper copies of the LEP Plan at City Hall, and be made available through the City's website.

Any person or agency may also request a copy by contacting:

CITY OF BELLEFONTAINE NEIGHBORS
9641 Bellefontaine Road
BELLEFONTAINE NEIGHBORS, Missouri
63137

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[2] http://www.dotcr.ost.dot.gov/asp/lep/asp

[3] Department of Justice Final LEP Guidelines, Federal Register June 18, 2002-Vol. 67-Number 117.

APPENDIX F: PROGRAM COMPLIANCE/PROGRAM REVIEW GOALS FOR CURRENT PLAN YEAR

1. The City Title VI Policy will be communicated to each City Department Head who will review the Policy with appropriate departmental employees.
2. Appendix A will be included in all City contracts as outlined in the Title VI Plan.
3. The language in Number 2 of the CITY OF BELLEFONTAINE NEIGHBORS Title VI Assurance will be included in all solicitations for bids for work or material subject to the Regulations and in all proposals for negotiated agreements.
4. A procedure for responding to individuals with Limited English Proficiency will be developed.
5. All City employees will be trained or made aware of the LEP procedure and the Title VI complaint procedure.
6. A review of City facilities will be conducted in reference to compliance with the American Disabilities Act.

APPENDIX G

City of Bellefontaine Neighbors' Policy on Public Participation and Comment (Public Participation Plan)

A. Introduction and Policy Statement

The City of Bellefontaine Neighbors is committed to providing an open and visible decision-making process to which the City's residents have equal access. It is the policy of the City to actively solicit the involvement of citizens in the public decision-making process, through public notification, media exposure, neighborhood meetings, and public hearings.

Further, it is the policy of the City to offer early and continuous opportunities for the public to be involved in the identification of social, economic, and environmental impacts of proposed transportation decisions. This includes seeking out and considering the viewpoints of minority, low-income, and limited English proficiency (LEP) populations (as well as older adults and people with limited mobility) in the course of conducting public outreach activities, consistent with Federal Transit Administration (FTA) Circular 4702.1B ("Title VI Requirements and Guidelines for Federal Transit Administration Recipients").

B. Public Involvement Plan

When a project, program or issue may have identifiable impacts on a neighborhood or citizen group, a Public Involvement Plan shall be submitted to the City Clerk's Office at the beginning of the project or program. The Plan shall be designed to:

1. Ensure responsiveness to the level of interest and concern expressed by the public;
2. Ensure visibility and understanding by the agencies, groups and individuals who may participate; and
3. Ensure that public involvement is carefully and systematically included as part of the decision-making process.

City-initiated projects will be reviewed and approved by the City Clerk prior to implementation.

The Public Involvement Plan will be included as part of staff reports for the Board of Aldermen.

C. Public Involvement Principles

The following principles will be used to develop the Public Involvement Plan for City projects and programs:

- When a project (e.g., construction activity) may affect a neighborhood, special neighborhood meetings will be scheduled early in the project planning process. Notices will be sent to organized neighborhood groups and any individual who has requested notification.

- All public hearing notices shall be written in clear, concise and understandable language and will incorporate graphics when it aids the message. The notices will clearly be identified as a City notice.
- The Public Involvement Plan will reflect the City's policy to provide early and continuous opportunities for the public to be involved in the identification of the impacts of proposed decisions. It will also reflect the City's policy to seek out the viewpoints of minority, low-income, and Limited English Proficiency (LEP) populations, as well as older adults and people with limited mobility, in the course of conducting public outreach and involvement activities, consistent with the City's Title VI Program, Executive Order 13166 on Limited English Proficiency, and U.S. Department of Transportation (DOT) LEP Guidance.
- The Public Involvement Plan will be tailored to the populations affected and the type of plan, program, or service under consideration.
- Public meetings will be held in locations that are accessible to transit riders and people with disabilities, and will be scheduled at times that are convenient for members of the public.
- Public meetings and hearings will be broadly advertised in the community in both English and Spanish (e.g., through posters onboard buses and at major transit stops and facilities, the City website, local print media, social media, and email notification to the City's outreach mailing list) and notification will be provided regarding the availability of language assistance.

D. Targeted Public Outreach to Minority and Limited English Proficient (LEP) Populations

During development of the Public Involvement Plan and/or planning for public engagement in general, the City will incorporate strategies intended to promote involvement of minority and LEP individuals in public participation activities, as appropriate for the plan, project, or service in question, and consistent with federal Title VI regulations, Executive Order 13166 on Limited English Proficiency, and the U.S. Department of Transportation LEP Guidance.

At a minimum, staff will implement the strategies identified in Section C, including holding public meetings in locations that are accessible to transit riders and people with disabilities, scheduling meetings at times that are convenient for members of the public, advertising meetings and hearings in English and Spanish, and providing notice of the availability of language assistance.

In addition, City staff should consider implementing the following public engagement strategies to complement the minimum requirements, as appropriate to the plan, project, or service:

- Using supplemental outreach strategies such as surveys regarding City projects or proposed service changes.
- Partnering with community organizations to engage members of the public who are less likely to attend traditional public meetings (including LEP populations) through means such as surveys and focus groups. The City maintains a list of current and potential future community partners.

- Attending community events and meetings of neighborhood associations, faith-based organizations, advocacy groups, and other groups to solicit feedback from diverse members of the public.

City staff may consult FTA Circular 4703.1 ("Environmental Justice Policy Guidelines for Federal Transit Administration Recipients") for additional strategies that may be incorporated into the Public Involvement Plan.

E. Public Comment for Fare Increases and Major Service Changes

It is the policy of the City to solicit public opinion and consider public comment before raising fares or implementing a major service change.

A public hearing is required prior to implementation of a fare increase or a major service change. A "major" service change is defined as a modification that affects 25% or more of a single route, or 25% or more of all routes. Additional public involvement strategies, such as public meetings, neighborhood meetings, or other outreach to affected individuals will be implemented as appropriate to solicit public comment for consideration in advance of the public hearing. Public comments received will be compiled and considered prior to finalizing the City's recommendation to the City's Board of Aldermen regarding a fare increase or major service change. A summary of the public comments received will be provided as part of the staff report submitted to the City's Board of Aldermen for the fare increase or major service reduction in question.

The public hearing will be scheduled as part of a regular Board of Aldermen meeting, and advertised broadly through the City's website, publication in a newspaper of general circulation, and posting flyers at major transfer centers and facilities for potentially impacted services. The hearing will also be advertised through targeted outreach to neighborhood groups or other organizations and individuals, as appropriate to the proposed change. Notices regarding the public hearing will be provided in both English and Spanish.

The public hearing will consist of a staff report before the City Board of Aldermen, followed by public testimony.

Attachment 1 provides additional information on practices related to public comment.

Attachment 1

Additional information on process for soliciting public comment on service changes

Proposed service changes are developed by City staff. Once proposals are finalized, printed information is created that explains the proposed changes. These informational materials (available in English and Spanish) are used as handouts at public informational meetings and hearings. Flyers and posters that direct interested individuals to these materials are also posted major transfer centers and facilities for potentially impacted services, and are provided to facilities (libraries, senior communities, human service organizations, schools, etc.) which are likely to be impacted by the service changes.

Any interested individual is invited to make comments. Comments may be submitted in person at the public informational meetings and public hearings. They may also be submitted by mail and by Comment Card. In addition, comments may be submitted over the phone to City representatives, and via email.

Information about scheduled public meetings is available via:

1. Board of Aldermen agendas.
2. The City's Website.
3. Posted flyers at major transfer centers and facilities for potentially impacted services.
4. Appropriate venues, such as senior communities, human service organizations, and schools.
5. Email notification and social media, where appropriate.
6. Published in a newspaper of general circulation

All comments received are reviewed by City staff and considered in the final decisions. The goal of the City is to always provide the best possible service to its citizens and those using its facilities.

APPENDIX H

City of Bellefontaine Neighbors
Transit-Related Title VI Investigations, Complaints, and Lawsuits
Year: 2014

	Date	Summary: Basis of complaint: race, color or national origin	Status	Actions Taken
Investigations				
1)				
2)				
3)				
4)				
5)				
Lawsuits				
1)				
2)				
3)				
4)				
5)				
Complaints				
1)				
2)				
3)				
4)				
5)				

☒ Currently, there are no Investigations, Complaints or Lawsuits for this calendar year.