

A RESOLUTION ADOPTING THE NON-DISCRIMINATION/LIMITED ENGLISH PROFICIENCY (LEP) PLAN.

WHEREAS, in accordance with the Title VI non-discrimination laws regarding appropriate access to services and activities provided by federal agencies and recipients of federal assistance, the Non-Discrimination/Limited English Proficiency (LEP) Plan was drafted to define how the City of Fenton will ensure that residents, businesses and visitors of the City are afforded access to our programs and services; and

WHEREAS, the City of Fenton assures that all of its programs and activities will be free from discrimination, whether those programs and activities are federally funded or not.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF FENTON, ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:

Section 1. The Board of Aldermen of the City of Fenton, Missouri hereby approve and adopt the Title VI Non-Discrimination/Limited English Proficiency Plan as set forth in Exhibit A, attached hereto and incorporated herein.

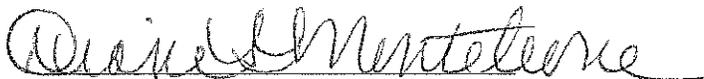
PASSED by the Board of Aldermen this 28th day of February, 2013.

APPROVED this 28th day of February, 2013.



Dennis J. Hancock, Mayor

ATTEST:



City Clerk

TITLE VI

NON-DISCRIMINATION PLAN

**CITY OF FENTON
625 New Smizer Mill Road
Fenton, Missouri 63026
636-343-2080**

TABLE OF CONTENTS

City of Fenton Policy Statement	1
City of Fenton Title VI Assurance	2
Authorities.....	4
Definitions.....	5
Administration-General.....	7
Limited English Proficiency.....	8
Environmental Justice.....	8
Filing a Complaint.....	11
Appendix A: Required Contract Language	15
Appendix B: Transfer of Property	17
Appendix C: Permits, Leases and Licenses	19
Appendix D: Title VI Complaint Form	18
Appendix E: Determine/Distinguish Significant/Non-Significant Effects.....	23
Appendix F: Current Program Compliance/Program Review Goals	24

CITY OF FENTON TITLE VI ASSURANCE

The City of Fenton (hereinafter referred to as the City) 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 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 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:

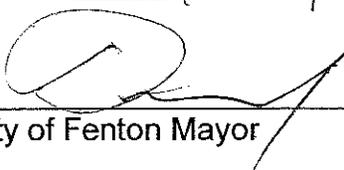
“The City of Fenton in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Federally-assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that 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.

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. 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.
9. 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: 2/28/13



City of Fenton Mayor

AUTHORITIES

Title VI of the Civil Rights Act of 1964, 42 USC 2000d to 2000d-4; 42 USC 4601 to 4655; 23 USC 109(h);

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

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

Federal Aid Highway Act of 1973, 23 USC 324: No person shall on the ground 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 under this title or carried on under this title.

Age Discrimination Act of 1975, 42 USC 6101: 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 financial assistance.

Americans With Disabilities Act of 1990 PL 101-336: No qualified individual with a disability shall, by reason of his/her handicap, be excluded from 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 local government.

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

USDOT Order 1050.2: Standard Title VI Assurances.

EO12250: Department of Justice Leadership and coordination of Non-discrimination Laws.

EO12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations; and

28 CFR 50.3: Guidelines for the enforcement of Title VI, Civil Rights Act of 1964.

EO13166: Improving Access to Services for Persons with Limited English Proficiency.

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: (See Appendix B for additional discussion of “significant”)

- 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 statutes.

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 Administrator 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 Administrator. 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 annually to ensure sufficiency of the data in meeting the requirements of the Title VI program.

City Reviews: Special emphasis program reviews will be conducted based on the annual summary of Title VI activities accomplishments and problems. The reviews will be conducted by the City to assure effectiveness in their compliance of Title VI provisions. The City Administrator will coordinate efforts to ensure the equal participation in all their programs and activities at all levels. The City does not have any special emphasis programs at this time.

Title VI Reviews on Sub-Recipients: Title VI compliance reviews will be conducted annually by the City Administrator. 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 disseminate Title VI Program information to City employees and to the general public. Title VI Program information will be submitted to sub-recipients, contractors and beneficiaries. Public dissemination will include placement of Title VI language in contracts and publication of the Title VI policy Statement on the City internet website, www.fentonmo.org.

Remedial Action: The City, through the City Administrator 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 (LEP)

The City of Fenton has adopted an LEP Plan utilizing the following four-factor analysis to identify LEP persons and respond appropriately:

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by a program, activity, or service of the recipient or grantee.
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 recipient to the LEP community.
4. The resources available to the City of Fenton and the overall cost.

For more information regarding our policies on LEP, a copy of our LEP plan can be found on our website www.fentonmo.org or a copy of the plan document can be requested from:

City of Fenton
Attn: Mark Sartors
625 New Smizer Mill Road
Fenton, MO 63026
Phone: 363-343-2080
Fax: 636-343-1183

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 and/or 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/or minority populations are disproportionately high and adverse. In doing so, refer to the list of potential impacts and questions contained in Appendix E. If it is determined that there are disproportionately high and adverse impacts to minority and/or 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 and/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 and/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 and/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

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 Administrator has overall responsibility for the discrimination complaint process and procedures. The City Administrator 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 Fenton City Administrator. In all situations, the City of Fenton employees must contact the City Administrator 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 Administrator for review.
- The City Administrator reviews the file and investigative report. Subsequent to the review, the City Administrator 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.

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 assistance 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 of 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 (6) 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 7(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: TITLE VI COMPLAINT FORM

**CITY OF FENTON
TITLE VI COMPLAINT FORM**

This form may be used to file a complaint with the City of Fenton 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 the 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 Mark Sartors, 636-343-2080 by fax at 636-343-1183 or by e-mail at msartors@fentonmo.org

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: _____

Return complaint form to:
City Administrator
City of Fenton
625 New Smizer Mill Road
Fenton, MO 63026
636-343-2080 (phone)
636-343-1183 (fax)

Note: The City of Fenton 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 Administrator if you feel you were intimidated or experience perceived retaliation in relation to filing this complaint.

APPENDIX E: DETERMINE/DISTINGUISH SIGNIFICANT/NON-SIGNIFICANT EFFECTS

“Significant” requires considerations of both context and intensity:

- (a) *Context*. This means that the significance of an action must be analyzed in several contexts such as society as a whole (human, nation), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the local area rather than in the world as a whole. Both short-and long-term effects are relevant.
- (b) *Intensity*. This refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects of a major action.

Impacts that may be both beneficial and adverse. A significant effect may exist even if, on balance, the effect would be beneficial.

“Non-significant effect” means no substantial change to an environmental component and this no material bearing on the decision-making process.

Scientific, technical, institutional, the public’s value, and the local economic conditions influence the meaning of significant effect.

If an alternative would provide a beneficial effect, then the alternative would cause no significant adverse effect. If an alternative would provide an adverse effect, the effect might be significant or the effect might be non-significant.

Determinations of “significant” and “non-significant” effects will be made by the City Administrator.

APPENDIX F: CURRENT PROGRAM COMPLIANCE/PROGRAM REVIEW GOALS

1. The City Title VI Policy will be communicated to each City Department Head who will review the Policy with appropriate departmental employees.
2. The City Title VI Policy will be published on the City of Fenton Website.
3. Appendix A will be included in all City contracts as outlined in the Title VI Plan.
4. The language in Number 2 of the City of Fenton 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.
5. A procedure for responding to individuals with Limited English Proficiency will be developed.
6. All City employees will be trained or made aware of the LEP procedure and the Title VI complaint procedure.
7. A review of City facilities will be conducted in reference to compliance with the American Disabilities Act.

Limited English Proficiency Plan

**City of Fenton
625 New Smizer Mill Road
Fenton, MO 63026**

TABLE OF CONTENTS

Introduction	3
Elements of an Effective LEP Policy	4
Methodology for Assessing Needs and Reasonable Steps for an Effective LEP Policy	4
The Four-Factor Analysis	5
Factor 1: The Proportion, Numbers and Distributions of LEP Persons	5
Factor 2: Frequency of Contact with LEP Individuals	6
Factor 3: The Nature and Importance of the Program, Activity, or Service to LEP Community	6
Factor 4: The Resources Available to the City of Fenton and Overall Cost	7
Safe Harbor Stipulation	7
Providing Notice to LEP Persons	8
Options and Proposed Actions	8
What the City of Fenton will do	9
City of Fenton Staff Training	9
LEP Plan Access	9

Introduction

On August 11, 2000, President William J. Clinton signed an executive order, Executive Order 13166: Improving Access to Service for Persons with Limited English Proficiencyⁱ, to clarify Title VI of the Civil Rights Act of 1964. Its purpose was to ensure accessibility to programs and services to otherwise eligible persons who are not proficient in the English language.

This executive order stated that individuals who do not speak English well and who have a limited ability to read, write and speak, or understand English are entitled to language assistance under Title VI of the Civil Rights Act of 1964 with respect to a particular type of service, benefit, or encounterⁱⁱ. These individuals are referred to as being limited in their ability to speak, read, write, or understand English, hence the designation, "LEP," or Limited English Proficient. The Executive Order states that:

"Each federal agency shall prepare a plan to improve access to it's federally conducted programs and activities by eligible LEP persons. Each plan shall be consistent with the standards set forth in the LEP Guidance, and shall include the steps the agency will take to ensure that eligible LEP persons can meaningfully access the agency's programs and activities.

Not only do all federal agencies have to develop LEP plans as a condition of receiving federal financial assistance; **recipients have to comply with Title VI and LEP guidelines of the federal agency from which funds are provided as well.**

Federal financial assistance includes grants, training, use of equipment, donations of surplus property, and other assistance. Recipients of federal funds range from state and local agencies, to nonprofits and organizations. Title VI covers a recipient's entire program or activity. This means all parts of a recipient's operations are covered, even if only one part of a recipient's organization receives the federal assistance. **Simply put, any organization that receives federal financial assistance is required to follow this Executive Order.**

The City of Fenton receives funds from the US Department of Transportation via the Federal Highway Administration.

The US Department of Transportation published *Policy Guidance Concerning Recipients' responsibilities to Limited English Proficient Person* in the December 14th, 2005 Federal Register.ⁱⁱⁱ

The Guidance implies that the City of Fenton is among the organizations that must follow this guidance:

This guidance applies to all DOT funding recipients, which include state departments of transportation, state motor vehicle administrations, airport operators, metropolitan planning organizations, and regional, state, and local transit operators, among many others. Coverage extends to a recipient's entire program or activity, i.e., to all parts of a recipient's operations. This is true even if only one part of the recipient receives the Federal assistance. For example,

if DOT provides assistance to a state department of transportation to rehabilitate a particular highway on the National Highway System, all of the operations of the entire state department of transportation-not just the particular highway program or project-are covered by the DOT guidance.

Elements of an Effective LEP Policy

The US Department of Justice, Civil Rights Division, has developed a set of elements that may be helpful in designing an LEP policy or plan. These elements include:

1. Identifying LEP persons who need language assistance
2. Identifying ways in which language assistance will be provided
3. Training Staff
4. Providing notice to LEP persons

The recommended method of evaluating accessibility to available transportation services is the Four-Factor Analysis identified by the USDOT. These recommended plan elements have been incorporated into this plan.

Methodology for Assessing Needs and Reasonable Steps for an Effective LEP Policy

The DOT guidance outlines **four factors** recipients should apply to the various kinds of contacts they have with the public to assess language needs and decide what reasonable steps they should take to ensure meaningful access for LEP persons:

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by a program, activity, or service of the recipient or grantee.
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 recipient to the LEP Community.
4. The resources available to the recipient and overall cost.

The greater the number or proportion of eligible LEP persons, the greater the frequency with which they have contact with a program, activity, or service; and the greater the importance of that program, activity, or service, the more likely enhanced language services will be needed.

DOT's guidance suggests a balance that ensures meaningful access by LEP persons to critical services while not imposing undue burdens on small organizations and local governments.

Smaller recipients with more limited budgets are typically not expected to provide the same level of language service as larger recipients with larger budgets.

The DOT guidance is modeled after the Department of Justice's guidance and requires recipients and sub-recipients to take steps to ensure meaningful access to their programs and activities for LEP persons. More information for recipients and sub-recipients can be found at <http://www.lep.gov>.

The Four-Factor Analysis

This plan uses the recommended four-factor analysis. Each of the following factors is examined to determine the level and extent of language assistance measures required to sufficiently ensure meaningful access to City of Fenton services and activities that may affect the quality of life of LEP persons. Recommendations are then based on the results of the analysis.

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

The Census Bureau has a range of classifications of how well people speak English. The classifications are 'very well', 'not well', and 'not at all'. For our planning purposes, we are considering people that speak English 'less than very well' as Limited English Proficient persons.

As seen in Table #1, the United States Census Bureau indicates that a small amount of the City of Fenton population speaks English 'less than very well'.

TABLE #1

City of Fenton, MO	Estimate	Margin of Error	Percent	Percent Margin of Error
Population 5 years and over	3,912	+/-64	3,912	(X)
English only	3,816	+/-116	97.5%	+/-2.3
Language other than English	96	+/-92	2.5%	+/-2.3
Speak English less than "very well"	15	+/-25	0.4%	+/-0.6
Spanish	15	+/-25	0.4%	+/-0.6
Speak English less than "very well"	15	+/-25	0.4%	+/-0.6
Other Indo-European languages	63	+/-82	1.6%	+/-2.1
Speak English less than "very well"	0	+/-85	0.0%	+/-0.8
Asian and Pacific Islander languages	18	+/-27	0.5%	+/-0.7
Speak English less than "very well"	0	+/-85	0.0%	+/-0.8
Other languages	0	+/-85	0.0%	+/-0.8
Speak English less than "very well"	0	+/-85	0.0%	+/-0.8

Source: 2007-2011 American Community Survey (ACS) 5-Year Estimates

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. Committee Meetings of the Board of Aldermen are held the first and second Thursday of each month, the Regular Board Meeting is held the fourth Thursday of each month, which would bring interested persons to the City of Fenton.

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 Fenton 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 Fenton 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 Fenton 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 Fenton does serve very few LEP persons and has limited resources, it has decided to include a LEP section in its Title VI Plan.

Safe Harbor Stipulation

Federal law provides a "Safe Harbor" stipulation 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 reasonably available.

Given the small number of LEP language group members, the City of Fenton 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 Fenton 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 Fenton 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 Fenton.

Options and Proposed Actions:

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.^{iv}

City of Fenton is defining an interpreter as a person who translates spoken language orally, as opposed to a translator, who transfers the meaning of written text from one language into another. The person who translates orally is not a translator, but an interpreter.^v

Considering the relatively small amount of Federal assistance received by the City of Fenton, 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 Fenton will do. What actions will the City of Fenton take?

With advance notice of seven calendar days, the City of Fenton will provide interpreter services at public meetings, for other languages, and the 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 at public meetings.

City of Fenton Staff Training

City of Fenton staff will be provided training on the requirements for providing meaningful access to services for LEP persons.

LEP Plan Access

The City of Fenton will have paper copies of the LEP Plan at the main office and make the plan available on the City of Fenton website.

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

City Administrator
City of Fenton
625 New Smizer Mill Road
Fenton, Missouri 63026
314-849-3400

ⁱ The executive order verbatim can be found online at <http://www.usdoj.gov/crt/cor/Pubs/eolep.htm>.

ⁱⁱ Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient (LEP) Persons. Federal Register: December 14, 2005 (Volume 70, Number 239)

ⁱⁱⁱ The DOT has also posted an abbreviated version of this guidance on their website at <http://www.dotcr.ost.dot.gov/asp/lep.asp>.

^{iv} <http://www.dotcr.ost.dot.gov/asp/lep/asp>

^v Department of Justice Final LEP Guidelines, Federal Register June 18, 2002-Vol. 67-Number 117.

Limited English Proficiency Plan

**City of Fenton
625 New Smizer Mill Road
Fenton, MO 63026**

TABLE OF CONTENTS

Introduction	3
Elements of an Effective LEP Policy	4
Methodology for Assessing Needs and Reasonable Steps for an Effective LEP Policy	4
The Four-Factor Analysis	5
Factor 1: The Proportion, Numbers and Distributions of LEP Persons	5
Factor 2: Frequency of Contact with LEP Individuals	6
Factor 3: The Nature and Importance of the Program, Activity, or Service to LEP Community	6
Factor 4: The Resources Available to the City of Fenton and Overall Cost	7
Safe Harbor Stipulation	7
Providing Notice to LEP Persons	8
Options and Proposed Actions	8
What the City of Fenton will do	9
City of Fenton Staff Training	9
LEP Plan Access	9

Introduction

On August 11, 2000, President William J. Clinton signed an executive order, Executive Order 13166: Improving Access to Service for Persons with Limited English Proficiencyⁱ, to clarify Title VI of the Civil Rights Act of 1964. Its purpose was to ensure accessibility to programs and services to otherwise eligible persons who are not proficient in the English language.

This executive order stated that individuals who do not speak English well and who have a limited ability to read, write and speak, or understand English are entitled to language assistance under Title VI of the Civil Rights Act of 1964 with respect to a particular type of service, benefit, or encounterⁱⁱ. These individuals are referred to as being limited in their ability to speak, read, write, or understand English, hence the designation, "LEP," or Limited English Proficient. The Executive Order states that:

"Each federal agency shall prepare a plan to improve access to its federally conducted programs and activities by eligible LEP persons. Each plan shall be consistent with the standards set forth in the LEP Guidance, and shall include the steps the agency will take to ensure that eligible LEP persons can meaningfully access the agency's programs and activities.

Not only do all federal agencies have to develop LEP plans as a condition of receiving federal financial assistance; **recipients have to comply with Title VI and LEP guidelines of the federal agency from which funds are provided as well.**

Federal financial assistance includes grants, training, use of equipment, donations of surplus property, and other assistance. Recipients of federal funds range from state and local agencies, to nonprofits and organizations. Title VI covers a recipient's entire program or activity. This means all parts of a recipient's operations are covered, even if only one part of a recipient's organization receives the federal assistance. **Simply put, any organization that receives federal financial assistance is required to follow this Executive Order.**

The City of Fenton receives funds from the US Department of Transportation via the Federal Highway Administration.

The US Department of Transportation published *Policy Guidance Concerning Recipients' responsibilities to Limited English Proficient Person* in the December 14th, 2005 Federal Register.ⁱⁱⁱ

The Guidance implies that the City of Fenton is among the organizations that must follow this guidance:

This guidance applies to all DOT funding recipients, which include state departments of transportation, state motor vehicle administrations, airport operators, metropolitan planning organizations, and regional, state, and local transit operators, among many others. Coverage extends to a recipient's entire program or activity, i.e., to all parts of a recipient's operations. This is true even if only one part of the recipient receives the Federal assistance. For example,

if DOT provides assistance to a state department of transportation to rehabilitate a particular highway on the National Highway System, all of the operations of the entire state department of transportation-not just the particular highway program or project-are covered by the DOT guidance.

Elements of an Effective LEP Policy

The US Department of Justice, Civil Rights Division, has developed a set of elements that may be helpful in designing an LEP policy or plan. These elements include:

1. Identifying LEP persons who need language assistance
2. Identifying ways in which language assistance will be provided
3. Training Staff
4. Providing notice to LEP persons

The recommended method of evaluating accessibility to available transportation services is the Four-Factor Analysis identified by the USDOT. These recommended plan elements have been incorporated into this plan.

Methodology for Assessing Needs and Reasonable Steps for an Effective LEP Policy

The DOT guidance outlines **four factors** recipients should apply to the various kinds of contacts they have with the public to assess language needs and decide what reasonable steps they should take to ensure meaningful access for LEP persons:

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by a program, activity, or service of the recipient or grantee.
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 recipient to the LEP Community.
4. The resources available to the recipient and overall cost.

The greater the number or proportion of eligible LEP persons, the greater the frequency with which they have contact with a program, activity, or service; and the greater the importance of that program, activity, or service, the more likely enhanced language services will be needed.

DOT's guidance suggests a balance that ensures meaningful access by LEP persons to critical services while not imposing undue burdens on small organizations and local governments.

Smaller recipients with more limited budgets are typically not expected to provide the same level of language service as larger recipients with larger budgets.

The DOT guidance is modeled after the Department of Justice's guidance and requires recipients and sub-recipients to take steps to ensure meaningful access to their programs and activities for LEP persons. More information for recipients and sub-recipients can be found at <http://www.lep.gov>.

The Four-Factor Analysis

This plan uses the recommended four-factor analysis. Each of the following factors is examined to determine the level and extent of language assistance measures required to sufficiently ensure meaningful access to City of Fenton services and activities that may affect the quality of life of LEP persons. Recommendations are then based on the results of the analysis.

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

The Census Bureau has a range of classifications of how well people speak English. The classifications are 'very well', 'not well', and 'not at all'. For our planning purposes, we are considering people that speak English 'less than very well' as Limited English Proficient persons.

As seen in Table #1, the United States Census Bureau indicates that a small amount of the City of Fenton population speaks English 'less than very well'.

TABLE #1

City of Fenton, MO	Estimate	Margin of Error	Percent	Percent Margin of Error
Population 5 years and over	3,912	+/-64	3,912	(X)
English only	3,816	+/-116	97.5%	+/-2.3
Language other than English	96	+/-92	2.5%	+/-2.3
Speak English less than "very well"	15	+/-25	0.4%	+/-0.6
Spanish	15	+/-25	0.4%	+/-0.6
Speak English less than "very well"	15	+/-25	0.4%	+/-0.6
Other Indo-European languages	63	+/-82	1.6%	+/-2.1
Speak English less than "very well"	0	+/-85	0.0%	+/-0.8
Asian and Pacific Islander languages	18	+/-27	0.5%	+/-0.7
Speak English less than "very well"	0	+/-85	0.0%	+/-0.8
Other languages	0	+/-85	0.0%	+/-0.8
Speak English less than "very well"	0	+/-85	0.0%	+/-0.8

Source: 2007-2011 American Community Survey (ACS) 5-Year Estimates

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. Committee Meetings of the Board of Aldermen are held the first and second Thursday of each month, the Regular Board Meeting is held the fourth Thursday of each month, which would bring interested persons to the City of Fenton.

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 Fenton 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 Fenton 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 Fenton 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 Fenton does serve very few LEP persons and has limited resources, it has decided to include a LEP section in its Title VI Plan.

Safe Harbor Stipulation

Federal law provides a "Safe Harbor" stipulation 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 reasonably available.

Given the small number of LEP language group members, the City of Fenton 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 Fenton 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 Fenton 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 Fenton.

Options and Proposed Actions:

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.^{iv}

City of Fenton is defining an interpreter as a person who translates spoken language orally, as opposed to a translator, who transfers the meaning of written text from one language into another. The person who translates orally is not a translator, but an interpreter.^v

Considering the relatively small amount of Federal assistance received by the City of Fenton, 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 Fenton will do. What actions will the City of Fenton take?

With advance notice of seven calendar days, the City of Fenton will provide interpreter services at public meetings, for other languages, and the 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 at public meetings.

City of Fenton Staff Training

City of Fenton staff will be provided training on the requirements for providing meaningful access to services for LEP persons.

LEP Plan Access

The City of Fenton will have paper copies of the LEP Plan at the main office and make the plan available on the City of Fenton website.

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

City Administrator
City of Fenton
625 New Smizer Mill Road
Fenton, Missouri 63026
314-849-3400

ⁱ The executive order verbatim can be found online at <http://www.usdoj.gov/crt/cor/Pubs/eolep.htm>.

ⁱⁱ Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient (LEP) Persons. Federal Register: December 14, 2005 (Volume 70, Number 239)

ⁱⁱⁱ The DOT has also posted an abbreviated version of this guidance on their website at <http://www.dotcr.ost.dot.gov/asp/lep.asp>.

^{iv} <http://www.dotcr.ost.dot.gov/asp/lep.asp>

^v Department of Justice Final LEP Guidelines, Federal Register June 18, 2002-Vol. 67-Number 117.

