



**CITY OF BOYNE CITY
TITLE VI
NON – DISCRIMINATION
PLAN**

City of Boyne City
319 N. Lake St.
Boyne City, MI 49712
(231) 582-6597

**CITY OF BOYNE CITY
TITLE VI NON – DISCRIMINATION
POLICY STATEMENT**

The City of Boyne City assures that no person shall, on the grounds of race, color, or national origin as provided by Title VI of the Civil Rights Act of 1964, be excluded from or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance. The Federal-aid Highway Act prohibits discrimination based on sex. The City of Boyne City further assures every effort will be made to ensure nondiscrimination in all of its programs and activities, whether those programs and activities are federally funded or not, pursuant to the Civil Rights Restoration Act of 1987.

The City of Boyne City will include Title VI language in all written agreements and bid notices and will monitor for compliance.

The City Manager of the City of Boyne City will be responsible for implementing and monitoring Title VI activities, accepting and processing complaints, and all other responsibilities as required under Title VI.

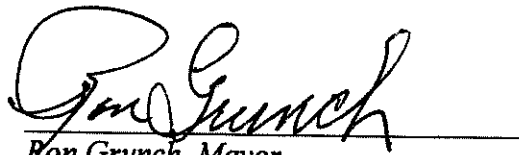
Title VI Coordinator:

Michael Cain, City Manager
City of Boyne City
319 N. Lake St.
Boyne City, MI 49712
(231) 582-6597 (telephone)
(231) 582-6506 (fax)
Email: mcain@boynecity.com



Michael Cain, City Manager

3-14-12
Date



Ron Grunch, Mayor

03/15/2012
Date

This policy was adopted at a regular City Commission meeting held on March 13, 2012.

TITLE VI AUTHORITIES

Title VI of the Civil Rights Act of 1964 and related statutes provide that no person in the United States shall, on the grounds of race, color, national origin, disability 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 assistance (23 CFR 200.9 and 49 CFR 21).

The Civil Rights Restoration Act of 1987 broadened the scope of Title VI coverage by expanding the definition of terms “programs or activities” to include all programs and 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).

COORDINATOR RESPONSIBILITIES

The City Manager is responsible for ensuring the implementation and the day to day administration of the City of Boyne City’s Title VI Plan. The City Manager is also responsible for implementing, monitoring, and ensuring the City’s compliance with the Title VI regulations.

GENERAL RESPONSIBILITIES

A. Public Dissemination

The City of Boyne City will disseminate Title VI Program information to City employees, sub-recipients, and contractors, as well as the general public. Public dissemination will include posting of public statements, inclusion of Title VI language in contracts, and announcements of hearings, and meetings in minority newspapers when determined necessary and funding is available.

B. Prevention of Discrimination

Procedures will be implemented to detect and eliminate discrimination when found to exist, including, but not limited to, issues of accessibility of training to all qualified City employees, utilization of Minority/Women/Disadvantaged Business Enterprises (DBE) contractors, public involvement and material acquisition.

C. Annual Reporting Form

An annual report will be required by August 1 of each year. The City Manager will be responsible for coordination, compilation, and submission of this information and provide the data to the Michigan Department of Transportation, Office of Civil Rights Programs and Federal Highway Administration via the Sub-Recipient Annual Certification Form (MDOT form #0179) by September 1st.

D. Title VI Plan Updates

If updated, a copy of Title VI Plan will be submitted by October 1 to the Michigan Department of Transportation.

E. Remedial Action

The City of Boyne City will actively pursue the prevention of any Title VI deficiencies or violations and will take the necessary steps to ensure compliance through a program review with the program administrative requirements. If irregularities occur in the administration of the programs operation, procedures will be promptly implemented to resolve Title VI issues and reduce to writing remedial action agreed to be necessary, all within a period not to exceed 90 days.

MDOT will be notified of any complaint filed at the City of Boyne City involving Title VI issues, as well as any resolution.

ENVIRONMENTAL JUSTICE CONSIDERATIONS:

Environmental Justice is a federal directive, Executive Order 12898 enacted in 1994 requiring all federal programs to identify and address, as appropriate, disproportionately high and adverse human health or environmental effects as the result of its programs, policies and activities on minority populations and low income populations. Populations which require special consideration include historically under-represented populations like African Americans, Asian Americans, Native Americans, or Hispanic Americans, the elderly and low-income households.

In addition to the general Environmental Justice mandate, the US DOT published its own Order (5610.2) in the Federal Register on April 15, 1997 requiring the incorporation of Environmental Justice principles in all US DOT programs, policies and activities. The US DOT integrates the goals of the Executive Order through a process developed within the framework of existing requirements, primarily the National Environmental Policy Act of 1969 (NEPA), Title VI of the Civil Rights Act of 1964 (to ensure that no person is excluded from participation in, denied the benefits of, or is subjected to, discrimination).

Within Boyne City, efforts are undertaken to ensure that all municipal activities and investments that are implemented do not have disproportionately negative effects on minority populations and low-income populations. In addition, activities and investments must provide for an equitable distribution of benefits to the areas that are traditionally underrepresented in the planning process.

Despite the fact that more current poverty data is available from the US Department of Health and Human Services, the 2000 US Census was used in order to keep the poverty data in sync chronologically with the minority data. That means that Environmental Justice areas will not vary from year to year based on poverty.

COMMUNITY OUTREACH AND INVOLVEMENT

Title VI statements are posted in all City Facilities for public viewing; the City's Title VI plan is posted on the City's website at www.boynecity.com. Public hearings on all projects that involve State and/or Federal Financial Assistance are conducted and signs are placed in specific areas of anticipated construction projects notifying citizens of an impending project and inviting them to contact City Hall.

FILING A COMPLAINT

Applicability

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

Eligibility

If any individual, group or individuals, or entity believes that they or any other program beneficiaries have been subjected to discrimination prohibited by Title VI nondiscrimination provision as a recipient of benefits and/or services, or on the grounds of race, color, national origin, sex, or disability they may exercise the right to file a complaint with The City of Boyne City. Every effort will be made to resolve complaints informally at the agency, recipient and/or contractor level.

Time Limitation on Filing Complaints

Title VI complaints may be filed with:

- City of Boyne City Title VI Coordinator
Michael Cain, City Manager
319 N. Lake St.
Boyne City, MI 49712
(231) 582-6597 (telephone)
(231) 582-6506 (fax)
Email: mcain@boynecity.com
- Michigan Department of Transportation
- Federal Highway Administration
- U.S. Department of Transportation

In all situations, City of Boyne City employees must contact the City Manager immediately upon receipt of Title VI or 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 they will have an additional 60 days to file their complaint after they became aware.

Complaints must be in writing, and must be signed by the complainant and/or the complainant's representative. Complaints may be mailed, faxed, or emailed. The complaint must set forth as fully as possible the facts and circumstances surrounding the claimed discrimination.

A Title VI complaint form is available at the City of Boyne City Clerk's office during normal business hours or on the city's website at www.boynecity.com.

INTERNAL COMPLAINT PROCESSING

This complaint procedure covers the following nondiscrimination laws and related directives, and statutes: Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, The Civil Rights Restoration Act of 1987, and the Americans with Disabilities Act (ADA) of 1990.

Complaints of discrimination may be filed by any person who believes that he or she has been excluded from participation in, been denied the benefits of, or has otherwise been subjected to discrimination under any program, service or activity receiving federal financial assistance on the basis of race, color, national origin, sex, age or disability, socio-economic status or geographical location.

Complaint Reporting

1. Any person who believes that he or she, individually, or as a coordinator of any specific group or class, or in connection with any disadvantaged business enterprise, has been subjected to discrimination prohibited by Title VI of the Civil Rights Act of 1964, as amended, may file a complaint with the city. A complaint may also be filed by a representative on behalf of such a person. All complaints will be referred to the Title VI coordinator for review and action.

Complaints should be filed within 180 days of the alleged discrimination. If the complainant 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.

2. Complaints shall be in writing and shall be signed by the complainant and/or the complainant's representative. Complaints shall set forth as fully as possible the facts and circumstances surrounding the claimed discrimination. In the event that a person makes a verbal complaint of discrimination to an officer or employee of the recipient, the person shall be interviewed by the Title VI Coordinator. If necessary, the Title VI Coordinator will assist the complainant in reducing the complaint to writing and submit the written version of the complaint to the person for signature. The complaint shall then be handled in the usual manner.
3. Within 10 days, the Title VI Coordinator will acknowledge receipt of the allegation, inform the complainant of action taken or proposed action to process the allegation, and advise the complainant of other avenues of redress available, such as MDOT, FHWA and the USDOT.
4. The Title VI Coordinator will gather the following information for complaint processing and investigation:

- i. Names, addresses, and phone numbers of the complainants
 - ii. Names and addresses of alleged discriminating officials
 - iii. Basis of complaint (i.e., race, color, national origin, sex, age, disability.)
 - iv. Date of alleged discriminatory act(s)
 - v. Date of complaint received by the recipient
 - vi. A statement of the complaint
 - vii. Other agencies (state, local or federal) where the complaint has been filed.
 - viii. An explanation of the actions the recipient has taken or proposed to resolve the issue raised in the complaint
5. Within 60 days, the Title VI Coordinator will conduct and complete an investigation and based on the information obtained, will render a recommendation for action in a report of findings to MDOT. The complaint should be resolved by informal means whenever possible. Such informal attempts and their results will be summarized in the report findings
 6. Within 90 days of receipt of the complaint, the Title VI Coordinator will notify the complainant in writing of the final decision reached, including the proposed disposition of the matter. The notification will advise the complainant of his/her appeal rights with MDOT, FHWA or the USDOT, if they are dissatisfied with the final decision rendered by the City.

Investigations

A complaint may be filed against the recipient, contractor, sub-contractor, consultant, or supplier for illegal discrimination under Title VI and related statutes.

Complaints against the city will be investigated by the Michigan Department of Transportation, Federal Highway Administration, Federal Transit Authority or other federal agency having jurisdiction. Allegations of discrimination are taken very seriously and will be investigated in a timely manner. The Title VI Coordinator will gather relevant information in a fair and impartial manner and will submit the report to the appropriate federal agency. This report will include the nature of the complaint, remedy sought, and a summary of the investigative findings and activities.

The Title VI Coordinator in conjunction with the appropriate area will determine the appropriate course of action, and the Title VI Coordinator will prepare a Statement of Decision reflecting the city's final determination. The complainant and appropriate areas shall receive written notifications to the department's decision. If the finding is adverse to the complainant, they will be advised of their avenues for appeal.

Copies of Title VI complaints and investigative reports will be forwarded to MDOT, FHWA, FTA, or other federal agency having jurisdiction within 60 days of receipt and investigation of the complaint. Investigation files are confidential and will be maintained by the Title VI Coordinator. The contents of such files may be disclosed to city personnel on a need-to-know

basis and in accordance with state and federal law.

Retaliation

Retaliation against any individual or group for filing a complaint, acting as a witness, or participating in an investigation is illegal, and a subsequent investigation may arise out of a retaliation claim even though the original complaint may be without merit.

**CITY OF BOYNE CITY
TITLE VI ASSURANCES**

The City of Boyne City (hereinafter referred to as the “Recipient”) HEREBY AGREES THAT as a condition to receiving any Federal financial assistance from the Department of Transportation it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d-f (hereinafter referred to as the Act), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of the Transportation, Sub Title A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the Regulations) and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance from the Department of Transportation, including the City of Boyne City, and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement. This assurance is required by subsection 21.7(a)(1) of the Regulations, a copy of which is attached.

More specifically and without limiting the above general assurance, the Recipient hereby gives the following specific assurances with respect to the City of Boyne City:

1. That the Recipient agrees that each “program” and each “facility as defined in subsections 21.23(e) and 21.23 (b) of the Regulations, will be (with regard to a “program”) conducted, or will be (with regard to a “facility”) operated in compliance with all requirements imposed by, or pursuant to, the Regulations.
2. That the Recipient shall insert the following notification in all solicitations for bids for work or material subject to the Regulations and made in connection with all of the City of Boyne City and, in adapted form in all proposals for negotiated agreements.

The City of Boyne City, in accordance with the Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, SubTitle A, Office the Secretary, Part 21, Nondiscrimination in Federally assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidden that it will affirmatively insure that in all contact entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

3. That the Recipient shall insert the clauses of Appendix A of this assurance in every contract subject to the Act and the Regulations.
4. That the Recipient shall insert the Clauses of Appendix B of this assurance, “as a covenant running with the land, in any deed from the United States effecting a transfer of

real property, structures, or improvements thereon, or interest therein.

5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the assurance shall extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property, or an interest in real property, the assurance shall extend to rights to space on, over or under such property.
7. That the Recipient shall include the appropriate clauses set forth in Appendix C of this assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Recipient with other parties: (1) for the subsequent transfer of real property acquired or improved under the City of Boyne City; and (b) for the construction or use of or access to space on, over or under real property acquired, or improved under The City of Boyne City.
8. That this assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property or interest therein or structures or improvements thereon, in which case the assurance obligates the Recipient or any transferee for the longer of the following periods: (a) the period during which the Recipient retains ownership or possession of the property.
9. The Recipient shall provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he delegates specific authority to give reasonable guarantee that it, other recipients, sub-grantees, contractors, subcontractors, transferees, successors in interest and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations and this assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and this assurance.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Recipient Department of Transportation under the City of Boyne City and is binding on it, other recipients, sub-grantees, contractors, subcontractors, transferees, successors in interest and other participants in the City of Boyne City. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Recipient.

DATED 3-14-12

The City of Boyne City, by:  CITY MANAGER
(Signature of Authorized Official)

**CITY OF BOYNE CITY
TITLE VI COMPLAINT FORM**

Title VI of the 1964 Civil Rights Act requires that “No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.” If you feel you have been discriminated against in city services, please provide the following information in order to assist us in processing your complaint and send it to the City of Boyne City’s Title VI Coordinator, Michael Cain, City Manager 319 N. Lake St. Boyne City, MI 49712 (231) 582-6597 or email: mcain@boynecity.com.

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.

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 _____ |
| _____ Limited English Proficiency _____ | _____ Age _____ |
| _____ Sex _____ | _____ Disability _____ |

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 Boyne City 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 Manager if you feel you were intimidated or experience perceived retaliation in relation to filing this complaint.*

Appendix A

[To be inserted into every Federal-aid contract]

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

1. **Compliance with Regulations:** For all federally assisted programs, the contractor shall comply with the nondiscrimination regulations set forth in 49 CFR Part 21, as may be amended from time to time (hereinafter referred to as the Regulations). Such Regulations are incorporated her3ein by reference and made a part of this contract.
2. **Nondiscrimination:** The contractor, with regard to the work performed under 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 and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices, when the contractor covers a program set forth in Appendix B of the Regulations.
3. **Solicitation for Subcontracts, Including Procurements of Materials and Equipment:** All solicitations made by the contractor, either by competitive bidding or by negotiation for subcontract work, including procurement of materials or leases of equipment, must include a notification to each potential subcontractor or supplier 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 issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and facilities as may be determined to be pertinent by the Department or the United States Department of Transportation (USDOT) in order to ascertain compliance with such Regulations or directives. If required information concerning the contractor is in the exclusive possession of another who fails or refuses to furnish the required information, the contractor shall certify to the Department or the USDOT, as appropriate, and shall set forth the efforts that it 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 Department shall impose such contract sanctions as it or the USDOT may determine to be appropriate, including, but not limited to, the following:
 - a. Withholding payments to the contractor until the contractor complies; and/or
 - b. Canceling, terminating, or suspending the contract, in whole or in part.

6. **Incorporation of Provisions:** The contractor shall include the provisions of Sections (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 Department or the USDOT may direct as a means of enforcing such provisions, including sanctions for non-compliance, provided, however, that in the event a contractor becomes involved in or is threatened with litigation from a subcontractor or supplier as a result of such direction, the contractor may request the Department to enter into such litigation to protect the interests of the state. In addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Revised June 2011

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 Michigan Department of Transportation, will accept title to the lands and maintain the project constructed thereon, in accordance with State of Michigan, the Regulations for the Administration of the State Transportation Program and the policies and procedures prescribed by the Federal Highway Administration of the Department of Transportation, 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 Michigan all the right, title and interest of the Department of Transportation in and to said lands described in Exhibit "A" attached hereto and made a part hereof.

(HABENDUM CLAUSE)*

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

The Michigan Department of Transportation, 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, sex, disability, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part, on, over, or under such lands hereby conveyed [,] [and]* (2) that the Michigan Department of Transportation shall use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, part 21, 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 instruction.*

*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes 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 Michigan Department of Transportation, pursuant to the provisions of Assurance 6(a).

The (grantee, licensee, lessee, permittee, etc., as appropriate) for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases, add, “as a covenant running with the land”] that 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 maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally assisted programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 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 non-discrimination covenants, the Michigan Department of Transportation 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 non-discrimination covenants, the Michigan Department of Transportation shall have the right to re-enter said lands and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of the Michigan Department of Transportation and its assigns.

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by the Michigan Department of Transportation pursuant to the provisions of Assurance 6(b).

The (grantee, licensee, lessee, permittee, etc., as appropriate) for himself, his personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds, and leases add “as a covenant running with the land”) that (1) no person on the grounds of race, color, sex, disability or national origin, shall be excluded from participation in, be denied the benefits of , or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the ground of race, color, or national origin shall be excluded from participation in, denied the benefits of, or

otherwise be subjected to discrimination, (3) that the grantee, licensee, lessee, permittee, etc.) shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964), and as said Regulations may be amended.

[Include in licenses, leases, permits, etc.]*

That in the event of breach of any of the above nondiscrimination covenants, the Michigan Department of Transportation 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 Michigan Department of Transportation shall have the right to re-enter said land and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of the Michigan Department of Transportation and 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 Title VI of the Civil Rights Act of 1964.

CITY OF BOYNE CITY

Limited English Proficiency Plan

City of Boyne City
319 N. Lake St.
Boyne City, MI 49712
(231) 582-6597

In August 11, 2000, President William J. Clinton signed an executive order, Executive Order 13166; Improving Access to Service for Persons with Limited English Proficiency, to clarify TITLE VI of the Civil Rights Act of 1964. It had as its purpose 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 encounter. These individuals are referred to as being limited English 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 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 non profits 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 Boyne City receives funds from the State of Michigan Department of Transportation.

The US Department of Transportation published *Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient Persons* in the December 14, 2005 Federal Register.

The Guidance implies Local Units of Government as 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 recipients 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
5. 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 City of Boyne City 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. The intent of DOT's guidance is to suggest 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 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 to 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 of an individualized assessment considering the four factors outlined above. Each of the following factors is examined to determine the level and extent of language assistance measures required to sufficiently ensure meaningful access to the City of Boyne City's services and activities that may affect their quality of life. Recommendations are then based on the result of the analysis.

Factor 1: Proportion, Numbers and Distribution of LEP Persons

The Census Bureau has a range of four 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. The total population reported for Boyne City is 3,037, and 43 (1.41%) of those persons are defined as speaking English "less than very well".

| Language Spoken at Home | |
|---|-------|
| POPULATION 5 YEARS and OVER | 3,037 |
| English only | 2,894 |
| Language other than English TOTAL | 143 |
| Of those that speak English 'less than very well' | 43 |
| Spanish - speak English less than 'very well' | 8 |
| Other Indo-European Languages - speak English less than 'very well' | 35 |

Factor 2: Frequency of Contact with LEP Individuals

Work performed includes work performed on the roadways and sidewalks and parks with large trucks and heavy equipment where operators have infrequent direct contact with the public; police, fire and ambulance services where if necessary, we would be able to make attempts to provide communication to LEP persons utilizing the services of a website entitled Google Translate that allows instant translation of several languages, an AT&T Translation telephone service line and the Translators Resource List (attachment 1). Administrative staff handles all telephone and citizen visits to City Hall where if necessary, the above services would also be utilized in order to assist LEP persons.

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

The City of Boyne City's main function is to provide services and activities through the City of Boyne City. Our services include providing parks and recreation, marina services, police, fire and emergency services, water and sewer utilities.

Factor 4: The Resources Available to the City of Boyne City 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 LEP persons or those with very limited resources, may choose not to develop a written LEP plan.* While the City

of Boyne City does serve very few LEP persons and has limited resources, it has decided not to include a LEP section in its Title VI Plan. However, we will provide services to LEP individuals if requested, on a case-by-case basis.

The City of Boyne City Commissioners meet twice monthly. The public is invited to attend and participate in the legislative process. Title VI statements are posted in all city facilities for public viewing. The City's LEP plan is posted on the City's website. Public hearings on all projects that involve State and/or Federal Financial Assistance are conducted and signs are placed in specific areas of anticipated construction projects notifying citizens of an impending project and inviting them to contact City Hall for further information regarding such project. If a request is made to translate material into another language, the City of Boyne City would do its best to find the resources to assist in translation and do so at little or no cost. Use of online translation tools along with utilizing the Translator Resource list (phone number available at www.michigan.gov along with list provided with this document) if necessary would be undertaken. If an individual requests notification of meetings in a language other than in English, the City of Boyne City will have the documents translated for that individual within a reasonable amount time in advance of said meetings. If proceeds of a public meeting or hearing are requested in a language other than in English, the City of Boyne City will have the documents translated for that individual within a reasonable amount of time following said meeting.

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 translations 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 obligation under 'safe harbor' includes providing written translations of vital documents for such eligible LEP language group that constitutes 5% or 1,000, whichever is less, of the population of persons 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.

No LEP language groups in the City of Boyne City jurisdictional area constitute the 5% or 1,000 persons of population threshold for which written translations of vital documents can be provided to meet the safe harbor standard. Given the small number of LEP language group members, the City of Boyne City budget, and the number of staff, it is deemed that written translations of core documents would be so burdensome as to defeat the legitimate objectives of our programs. It is more appropriate for the City of Boyne City 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 service of services provided 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.
4. Using automated telephone voice mail attendant or menu which can provide information about available language assistance services and how to get them.
5. Including notices in local newspapers in languages other than English.
6. Providing notices on non-English language radio and television stations about the available language assistance services and how to get them
7. Providing presentations and/or notices at schools and religious organizations;

The City of Boyne City 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 Boyne City.

Options and Proposed Actions

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

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

Considering the relatively small scale of the City of Boyne City, 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 Boyne City will do. What actions will the City of Boyne City take?

With advance notice of seven calendar days, the City of Boyne City will provide interpreter services at the public meetings. Interpreter to include foreign language and visually and/or hearing impaired.

The City of Boyne City will utilize the Translators Resources list as provided by MDOT for translation services and verbal interpretation (see appendix A).

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

Publications of the city's complaint form found on the website at www.boynecity.com and available at public meetings.

City of Boyne City Staff Training

It is important to ensure that all City employees are given proper LEP training. City employees should know their obligations to provide LEP individuals with meaningful access to City services, programs and activities. LEP Training on a city wide level will be planned and carried out by the City administration on an annual basis for all employees. New hires will be individually trained by City administration. All City employees will know about the City's LEP plan. All City employees who are in public contact positions will be trained to work effectively with in-person and telephone interpreters and translators.

LEP Plan Access

The City of Boyne City will post the LEP plan on its website at www.boynecity.com

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

Boyne City's Title VI Coordinator
Michael Cain, City Manager
319 N. Lake St.
Boyne City, MI 49712
(231) 582-6597 (telephone)
(231) 582-6506 (fax)
email: mcain@boynecity.com