



## *City of Wharton*

### *Title VI Plan*

120 E. Caney St.  
Wharton, TX 77488  
979-532-2491

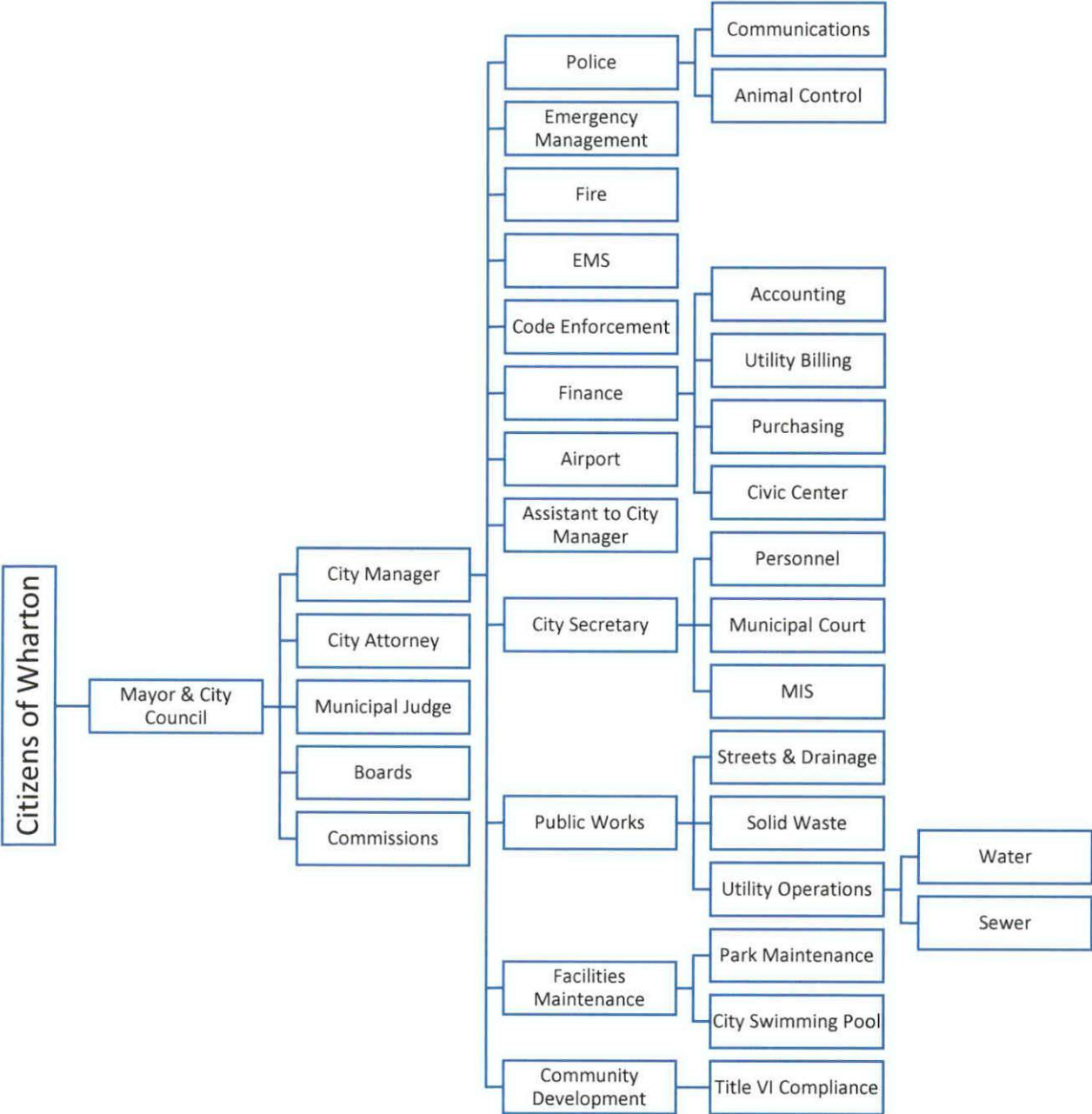
Gwyneth Teves  
Community Development Director  
Title VI Coordinator

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**Section 1: City of Wharton Organizational Chart**



## **Section 2: Administration**

Community Development Director Gwyneth Teves with the Community Development Department is the current Title VI Coordinator. The Title VI Coordinator shall have lead responsibility for coordinating the administration of the Title VI and related statutes program, plan and assurances for the City of Wharton.

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, he/she may exercise his/her right to file a complaint with the City's Title VI Coordinator. Every effort will be made to resolve complaints informally and at the lowest level first.

Data Collection: Statistical data on race, color, national origin, English language proficiency 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 Title VI Coordinator will work with all departments annually to verify that data collection is being conducted via documentation and record keeping and will annually gather and complete a report on the information for the report. The gathering procedures will be reviewed annually to ensure sufficiency of the data in meeting the requirements of the Title VI program.

Program Reviews: Special emphasis program reviews will be conducted based on the annual summary of Title VI activities, accomplishments and issues. The reviews will be conducted by the Office of the Coordinator to assure effectiveness in their compliance with Title VI provisions. The Title VI Coordinator will coordinate efforts to ensure equal participation in all programs and activities at all levels. The City will conduct reviews annually by the end of the fiscal year.

Title VI Reviews on Sub-Recipients: Title VI compliance reviews will be conducted annually by the Office of the Coordinator. Priority for conducting reviews will be given to those sub-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 sub-recipients' adherence to all Title VI requirements. The status of each review will be reported in the annual update.

Annual Reporting Form: The Title VI Coordinator will be responsible for coordination, compilation, and storage of the Annual Work Plan and Accomplishment Report in the event of a request from the Texas Department of Transportation, Office of Civil Rights to review.

Title VI Plan Updates: Once updated, a copy of the Title VI Plan will be made available. The City will automatically update and renew its Title VI Assurances every three years or when a new Mayor is appointed.

Public Dissemination: The City will disseminate Title VI Plan information to City employees and to the general public. Title VI Plan information will be distributed to sub-recipients, contractors and beneficiaries. Public dissemination will include Title VI language in contracts and publishing the Title VI Plan on the City's internet website, [www.cityofwharton.com](http://www.cityofwharton.com).

Remedial Action: The City, through the Office of the Coordinator, 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.

**Section 3: Title VI Plan Approval**

Title VI Plan  
Adopted on:   06/12/2017  

Adopted by:   City of Wharton City Council  

As Mayor of the City of Wharton and on behalf of the Wharton City Council, I hereby approve the Title VI Nondiscrimination Program.

  
\_\_\_\_\_  
Tim Barker, Mayor

Title VI Update is required every three years.

<b>Date</b>	<b>Section Revised</b>	<b>Summary of Revision</b>
06/12/2017	N/A	1 <sup>st</sup> Edition
11/13/2017	Data Collection, Notice to Public, Complaint Form, Complaint Log, Language Assistance Plan.	Changes made after TxDOT review
12/8/2020	Overall Document; Administration	3-year update; Changes to Titles

**Section 4: Introduction**

Title VI of the Civil Rights Act of 1964, is the overarching civil rights law that prohibits discrimination based on race, color, or national origin, in any program, service or activity that receives Federal assistance. Specifically, Title VI assures that, “No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefit of, or be otherwise subjected to discrimination under any program or activity receiving Federal assistance.” Title VI has been broadened by related statutes, regulations and executive orders. Discrimination based on sex is prohibited by Section 324 of the Federal-Aid Highway Act, which is the enabling legislation of the Federal Highway Administration (FHWA). The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 prohibits unfair and inequitable treatment of persons as a result of projects which are undertaken with Federal financial assistance. The Civil Rights Restoration Act of 1987 clarified the intent of Title VI

to include all programs and activities of Federal-aid recipients and contractors whether those programs and activities are federally funded or not.

In addition to statutory authorities, Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, signed in February of 1994, requires Federal agencies to achieve environmental justice as part of their mission by identifying disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations. Environmental justice Initiatives are accomplished by involving the potentially affected public in the development of transportation projects that fit within their communities without sacrificing safety or mobility. In 1997, the U.S. Department of Transportation (USDOT) issued its DOT Order to Address Environmental Justice in Minority Populations and Low-Income Populations to summarize and expand upon the requirements of Executive Order 12898 on Environmental Justice.

Also, Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (LEP), prohibits recipients of Federal financial assistance from discriminating based on national origin by failing to provide meaningful access to services to individuals who are LEP. As a recipient of Federal financial assistance in its transportation and other improvement projects, the City of Wharton (hereinafter “the City”) must provide access to individuals with limited ability to speak, write, or understand the English language.

The City must not restrict an individual in any way from the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under its programs or projects. Individuals may not be subjected to criteria or methods of administration which cause adverse impact because of their race, color, national origin, sex, age, English proficiency or disability or have the effect of defeating or substantially impairing accomplishment of the objectives of the program because of race, color, national origin, sex, age, English proficiency or disability. Therefore, the primary goals and objectives of City of Wharton’s Title VI Non-Discrimination Plan are:

1. To assign roles, responsibilities, and procedures for ensuring compliance with Title VI of the Civil Rights Act of 1964 and related regulations and directives.
2. To ensure that people affected by the City’s programs and projects receive the services, benefits, and opportunities to which they are entitled without regard to race, color, national origin, age, sex, or disability;
3. To prevent discrimination in City programs and activities, whether those programs and activities are federally funded or not;
4. To establish procedures for identifying impacts in any program, service, or activity that may create an illegal adverse impact on any person because of race, color, national origin, sex, age, English proficiency or disability; or on minority populations, low-income populations, the elderly, persons with disabilities, and all affected Title VI populations;
5. To establish procedures to annually review Title VI compliance of specific program areas within the City of Wharton;
6. To set forth procedures for filing and processing complaints by persons who believe they have been subjected to illegal discrimination under Title VI in a City-provided service, project, program or activity.

As the sub-recipient of Federal transportation funds, the City of Wharton must comply with Federal and State laws, and related statutes, to ensure equal access and opportunity to all persons, with respect to transportation services, facilities, activities, and programs without regard to race, color, national origin, sex, age, English proficiency or disability. Every effort will be made to prevent discrimination in any City-sponsored program or activity, whether those programs and activities are federally funded or not, as guaranteed by the Civil Rights Restoration Act of 1987.

The City of Wharton Title VI Plan also ensures that the City's sub-recipients adhere to Federal and State laws and include in all written agreements or contracts assurances that the sub-recipient must comply with Title VI and other related statutes. The City of Wharton, as a sub-recipient receiving Federal transportation funds, shall monitor its sub-recipients for voluntary compliance with Title VI. In the event that non-compliance is discovered, the City will make a good faith effort to ensure that the sub-recipient corrects any such deficiencies.

## Discrimination under Title VI

There are two types of illegal discrimination prohibited under Title VI and its related statutes. One type of discrimination which may or may not be intentional is "disparate treatment." Disparate treatment is defined as treating similarly situated persons differently because of their race, color, national origin, sex, age, English proficiency or disability.

The second type of illegal discrimination is "disparate impact." Disparate impact discrimination occurs when a "neutral procedure or practice" results in fewer services or benefits, or inferior services or benefits, to members of a protected group. With disparate impact, the focus is on the consequences of a decision, policy, or practice rather than the intent.

The City's efforts to prevent such discrimination must address, but not be limited to, a program's impacts, access, benefits, participation, treatment, services, contracting opportunities, training, investigation of complaints, allocation of funds, prioritization of projects, and the encompassing functions of planning, project development and delivery, right-of-way acquisition, construction, and research.

The City has developed this Title VI Plan to assure that services, programs, and activities are offered, conducted, and administered fairly, without regard to race, color, national origin, sex, age, English proficiency or disability of the participants or beneficiaries of Federally funded programs, services, or activities (see the City's Policy Statement).

### **Section 5: Title VI Policy Statement**

The City of Wharton is committed to compliance with Title VI of the Civil Rights Act of 1964, 49 CFR, part 21, and all related regulations and directives. City of Wharton assures that no person shall on the grounds of race, color, national origin, sex, age, English proficiency or disability be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any City of Wharton program, activity or service. The City of Wharton further assures every effort will be made to ensure non-discrimination in all of its programs, activities and services, whether those programs, activities and services are federally funded or not. In the event the City of Wharton distributes Federal aid funds to another entity, the City of Wharton will include Title VI language in all written agreements and will monitor for compliance. City of Wharton is also committed to assure every effort will be made to prevent the discrimination of low-income and minority populations as a result of any impact of its programs or activities in accordance with Executive Order 12898, Federal Actions to Address Environmental Justice in Minority

Populations and in Low-Income Populations. In addition, City of Wharton assures every effort will be made to provide meaningful access to persons that have Limited English Proficiency, in accordance with Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency. Definition of Federal Financial Assistance and Recipients Affected Federal financial assistance is defined as any Federal dollars that are assigned to the City of Wharton to support any program, activity or service by way of grant, loan or contract, other than a contract of insurance or guaranty. Specific Forms of Discrimination Prohibited City of Wharton efforts to prevent discrimination are, but are not limited to:

- An unlawful practice to discriminate against any person because of that person's age, race, color, English proficiency, gender, national origin, religion, physical or mental disability, medical condition, pregnancy, marital status or sexual orientation.
- The denial of services, financial aid, or other benefits provided under a program.
- Distinctions in the quality, quantity, or manner in which the benefit is provided.
- Segregation or separation of persons in any part of the program.
- Restriction in the enjoyment of any advantages, privileges, or other benefits provided to others.
- Different standards or requirements for participation.
- Methods of administration which directly or indirectly or through contractual relationships would defeat or impair the accomplishment of effective nondiscrimination.
- Discrimination in any activities or services related to a highway, infrastructure or facility built or repaired in whole or in part with Federal funds.
- Discrimination in any employment resulting from a program or services, the primary purpose of which is to provide employment.

City of Wharton Programs and Services Covered by Title VI City of Wharton Title VI Plan applies to all programs, activities and services, regardless of funding source. Some sections deal with specific requirements (e.g. FTA, FHWA and FAA funded programs).



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**Tim Barker, Mayor**



## Section 6: Notice to the Public

The City of Wharton's Notice to the Public is as follows:

### Notifying the Public of Rights Under Title VI

The City of Wharton operates its programs and services without regard to race, color, national origin, sex, age, English proficiency or disability in accordance with Title VI of the Civil Rights Act. Any person who believes she or he has been aggrieved by any unlawful discriminatory practice under Title VI may file a complaint with the City of Wharton.

For more information on the City of Wharton's civil rights program, the procedures to file a complaint, or to file a complaint contact 979-532-2491 x 238; email: [gteves@cityofwharton.com](mailto:gteves@cityofwharton.com); or visit our administrative office at 120 E. Caney St., Wharton, Texas 77488. For more information, visit [cityofwharton.com](http://cityofwharton.com).

If information is needed in another language, contact 979-532-2491. Si necesita informacion en otro idioma llame al 979-532-2491.

The City of Wharton's Notice to the Public is posted in the following locations:

- ✓ Agency website: [www.cityofwharton.com](http://www.cityofwharton.com)
- ✓ Human Resources
- ✓ Near Timeclocks
- ✓ Meeting rooms
- Other: \_\_\_\_\_

## Section 7: Title VI Complaint Procedure

The City of Wharton's Title VI Complaint Procedure is made available in the following locations:

- ✓ Agency website: [www.realinc.org](http://www.realinc.org)
- ✓ Hard copy in the central office
- ✓ Available in appropriate languages for LEP populations, meeting the Safe Harbor Threshold.
- Other, \_\_\_\_\_

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Any person who believes she or he has been discriminated against on the basis of race, color, national origin, sex, age, English proficiency or disability by the City of Wharton may file a Title VI complaint by completing and submitting the agency's Title VI Complaint Form. Complaint forms can be found at: [www.cityofwharton.com](http://www.cityofwharton.com), or requested at: 120 E. Caney St., Wharton, TX 77488.

The City of Wharton investigates complaints received no more than 180 days after the alleged incident. The City of Wharton will process complaints that are complete.

Once the complaint is received, the City of Wharton will review it to determine if our office has jurisdiction. (A copy of each Title VI transportation-related complaint received will be forwarded to TxDOT Civil Rights Division within ten (10) calendar days of receipt.) The complainant will receive an acknowledgement letter informing her/him whether the complaint will be investigated by our office.

The City of Wharton has 15 days to investigate the complaint. If more information is needed to resolve the case, the City of Wharton may contact the complainant.

The complainant has 10 business days from the date of the letter to send any requested information to the investigator assigned to the case.

If the investigator is not contacted by the complainant or does not receive the additional information within 10 business days, the City of Wharton can administratively close the case. A case can be administratively closed also if the complainant no longer wishes to pursue their case.

After the investigator reviews the complaint, she/he will issue one of two (2) letters to the complainant: a closure letter or a letter of finding (LOF).

- A closure letter summarizes the allegations and states that there was not a Title VI violation and that the case will be closed.
- A letter of finding (LOF) summarizes the allegations and the interviews regarding the alleged incident, and explains whether any disciplinary action, additional training of the staff member, or other action will occur.

If the complainant wishes to appeal the decision, she/he has 5 days after the date of the letter or the LOF to do so.

If information is needed in another language, contact 979-532-2491. Si necesita informacion en otro idioma llame al 979-532-2491.

**Section 8: Title VI Complaint Form**

The City of Wharton’s Title VI Complaint Procedure is made available in the following locations:

- ✓ Agency website
  - ✓ Hard copy in the central office
  - ✓ Available in appropriate languages for LEP populations, meeting the Safe Harbor Threshold.
- Other, \_\_\_\_\_

<b>Section I:</b>			
<b>Name:</b>			
<b>Address:</b>			
<b>Telephone (Home):</b>		<b>Telephone (Work):</b>	
<b>Email Address:</b>			
<b>Accessible Format Requirements?</b>	<b>Large Print</b>		<b>Audio Tape</b>
	<b>TDD</b>		<b>Other</b>

<b>Section II:</b>		
Are you filing this complaint on your own behalf?	Yes*	No
*If you answered "yes" to this question, go to Section III.		
If not, please supply the name and relationship of the person for whom you are complaining:		
Please explain why you have filed for a third party:		
Please confirm that you have obtained the permission of the aggrieved party if you are filing on behalf of a third party.	Yes	No
<b>Section III:</b>		
I believe the discrimination I experienced was based on:		
<input type="checkbox"/> Race _____ <input type="checkbox"/> Color _____ <input type="checkbox"/> National Origin _____ <input type="checkbox"/> Sex _____ <input type="checkbox"/> Age _____ <input type="checkbox"/> English proficiency _____ <input type="checkbox"/> Disability _____ <input type="checkbox"/> _____		
Date of Alleged Discrimination (Month, Day, Year): _____		
Explain as clearly as possible what happened and why you believe you were discriminated against. Describe all persons who were involved. Include the name and contact information of the person(s) who discriminated against you (if known) as well as names and contact information of any witnesses. If more space is needed, please use the back of this form.		
_____		
_____		
<b>Section IV</b>		
Have you previously filed a Title VI complaint with this agency?	Yes	No
<b>Section V</b>		
Have you filed this complaint with any other Federal, State, or local agency, or with any Federal or State court?		
<input type="checkbox"/> Yes <input type="checkbox"/> No		
If yes, check all that apply:		
<input type="checkbox"/> Federal Agency: _____ <input type="checkbox"/> Federal Court		
<input type="checkbox"/> State Agency: _____ <input type="checkbox"/> State Court <input type="checkbox"/> Local Agency		
Please provide information about a contact person at the agency/court where the complaint was filed.		
Name:		
Title:		
Agency:		
Address:		

<b>Telephone:</b>
<b>Section VI</b>
Name of agency complaint is against:
Contact person:
Title:
Telephone number:
You may attach any written materials or other information that you think is relevant to your complaint. Signature and date required below
_____
Signature
_____
Date

Please submit this form in person at the address below, or mail this form to:

**City of Wharton  
Gwyneth Teves  
Title VI Coordinator  
120 E. Caney St.  
Wharton, TX 77488**

**Formulario de Quejas Titulo VI**

**Section I:**

Nombre:			
Direccion:			
Telefono (Casa):		Telefono (Trabajo):	
Correo electronico:			
Requisito de Formato	Letra Grande		Cinta de Audio
Accesible:	TDD		Otro

**Section II:**

Esta llenando esta forma para usted mismo(a)?	Si*	No
*Si contesto "Si" en esta pregunta, por favor de seguir a la Section III.		
Que relacion tiene con la persona que esta haciendo la queja?		
Porfavor de explicar porque tiene que hacer la queja departe de otra persona.		
_____		
_____		
Por favor de confirmar que usted tiene permiso de llenar esta forma de la persona(s) agredida, si esta llenandola por la persona(s).	Si	No

**Section III:**

Yo creo que la discriminacion por la cual yo pase fue basado por (marque todo lo que coresponda):  
 Raza     Color     Origen Nacional     Sexo     Años     Dominio del Inglés     Discapacidad     \_\_\_\_\_

Fecha de la presunta discriminacion: (Dia, Mes, Año): \_\_\_\_\_

Por favor describa lo mas claro posible, que paso y porque usted piensa que fue discriminado(a). Describe todas las personas que estuvieron involucrados. Incluya el nombre y la informacion de la persona(s) que lo discriminaron (si lo sabe) y el nombre y la informacion de algun testigo. Si acaso necesita mas espacio, por favor de usar la parte de atras de esta forma.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Section IV**

¿Ha presentado previamente una queja Title VI con esta agencia?	Si	No
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**Section V**

¿Ha presentado previamente una queja con una agencia Federal, Estado, agencia local o cualquier Corte Federal o Corte Estatal?

Si                                     No

En caso afirmativo, marque todas las que corespondan:

Agencia Federal: \_\_\_\_\_

Corte Federal: \_\_\_\_\_                                     Agencia Estatal: \_\_\_\_\_

Corte Estatal: \_\_\_\_\_                                     Agencia Local: \_\_\_\_\_

**Formulario de Quejas Titulo VI**

Por favor de proveir informacion de la persona(s), de la agencia/corte donde la queja fue archivado

Nombre:				
Titulo:				
Agencia:				
Direccion:				
Telefono:				

**Section VI**

Nombre de la agencia le la cual tuvo la queja?				
Persona para contactar:				
Titulo:				
Numero de Telefono:				

Puede agregar cualquier material o otra informacion que usted piense que sea relevante a su queja.


Firma y Fecha requerida.				

Firma			Fecha	
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For favor de entregar esta forma en persona a la direccion que esta abajo, o mandela por coreo:


If information is needed in another language, then contact Gwyneth Teves, Title VI Coordinator, at 979-532-2491.

Si necesita information en otro idioma, comuniquese con Gwyn Teves, Cordinadora de Titulo VI, al 979-532-2491.

**Section 9: List of Title VI Investigations, Complaints and Lawsuits**

The City of Wharton maintains a list or log of all Title VI investigations, complaints and lawsuits, pertaining to its activities.

**Check One:**

- There have been no investigations, complaint and/or lawsuits filed against us since the last plan submission.
- There have been investigations, complaints and/or lawsuits filed against us. *See list below.*  
*Attach additional information as needed.*

	<b>Date Filed</b> (Month, Day, Year)	<b>Date Closed</b> (Month, Day, Year)	<b>Complainant Identification</b> (Race, color, sex or National Origin)	<b>Summary</b> (include basis of complaint, recipient, nature of complaint)	<b>Additional Information</b> (age, disability of complainant, etc.)
<b>Investigations</b>					
1.					
<b>Lawsuits</b>					
1.					
<b>Complaints</b>					
1.					

**Section 10: Public Participation Plan**

The Public Participation Plan (PPP) demonstrates how the City provides opportunities for public review and comment at key decision points. The process consists of open discussion of planning documents, public meetings, informational exhibits, published advertisements and, if required, a Public Hearing.

All City projects are discussed in open meetings to provide the public with information on the project and its likely impact on the project area. Then all projects pass through the Office of the Coordinator for review to ensure that the Public Participation requirements are incorporated into the project plan and are being followed.

Public Participation and Consultative Tools

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

- Newsletters and direct mailings
- Media releases
- Notices published in the local and regional newspapers
- Visualization presentations
- Exhibits

- Local community public meetings

#### Geographic Information System (GIS) Data

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

Long-Range Planning Documents:

- The City's Master Comprehensive Plan
- The Subdivision Ordinance

#### Public Participation Considerations

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

Public Participation considerations include:

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

#### *Types of Public Participation Procedures*

Early in the planning process, meetings to discuss the recommended projects are advertised allowing any interested citizen to provide input in the project planning process. In some instances, these meetings can be considered adequate public participation for minor projects. However, depending on the type and complexity of the project, public concerns, associated social, economic, and environmental factors, additional public participation may be required. Types of additional public participation efforts may include:

- Meetings with Affected Property Owners (MAPO) – MAPOs are held with property owners affected by minor or temporary projects. MAPOs may occur at any stage of the project development process. Due to the informal nature of MAPOs, the format and conduct will be tailored to the individual project, allowing for ample time for public questions and comment.
- Public Meetings – Public meetings are held to inform the public and provide a forum for a free exchange of project views and concerns. Public meetings occur as early as it is feasible to assure public input in project planning, location, and design alternatives. Public meetings include meetings with interested citizens, the general public, or local, neighborhood, or special interest groups.
- Opportunities for Public Hearing – An opportunity for public hearing is advertised to determine if any interested citizens desire to hold a public hearing for a proposed project. This is a minimum requirement for projects requiring acquisition of significant amounts of property, those requiring a substantial change in layout or function of the city, or requiring measurable adverse impact on



abutting real property. If no requests for public hearing are received by the deadline, the Coordinator will make note.

- Public Hearings – Public hearings are held to present project alternatives. They also serve to encourage and solicit public comment on the location, design, and environmental analyses of a project. The manual includes sections that describe various aspects of public hearings, including the format and procedures for conducting a public hearing.

#### *Specialized Public Participation – Cultural Resources*

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

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

#### *Public Participation Following Project Approvals*

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

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

#### *Notices and Media Releases*

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

- Publishing Notices – Official notices are published in local general circulation newspapers, regional newspapers (if there is no local newspaper) and special interest newspapers, such as neighborhood, ethnic, foreign language. If the predominant language of an area is not English, notices will be published in the predominant language.
- Publication Requirements – The opportunities for public hearing notice is published approximately 30 days prior to the deadline for submission of written requests for holding a public hearing and at a minimum, a public hearing notice will be published at least 30 days before the day of a public hearing. The Environmental Manual outlines the information and procedures that should be included in all notices.

- Other Forms of Publicity – Other forms of publicity include temporary signs, leaflets posted in public locations, media releases, notices mailed to residents, etc.
- Notices of Availability - Environmental Assessment (EA) and Final Environmental Impact Statement (FEIS) inform the public of the approval of an EA and required following approval of a FEIS; notice of availability is published in local newspapers.
- Media Releases – Media releases can be used at any time to publicize meetings or other information about projects. Once the public participation process is complete, project planning and development decisions are to be publicized through press releases to inform the public about the project. Any changes to a project may require additional public participation.
- Notice of Construction – The City will send a notice of impending project construction to landowners abutting the project limits and public officials. The notice is sent at least 90 days prior to the proposed letting date. Notice of Construction format is outlined in the manual.

## **Section 11: Environmental Justice Plan**

### **Introduction**

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.

The City of Wharton plans and executes its projects in accordance with the rules, regulations and procedures established by the Texas Department of Transportation’s (TxDOT) Environmental Manual and the National Environmental Policy Act (NEPA) process. The Environmental Manual provides procedures and practices related to environmental analysis and decision-making with project development work. The Manual provides a guide to clearing projects through the NEPA process. The process is updated and maintained by TxDOT’s Environmental Division (ENV).

The Environmental Manual includes the process involved in obtaining environmental clearance from TxDOT and the Federal Highway Administration (FHWA) for construction projects. The NEPA process, Title VI of the Civil Rights Act and related statutes, and Executive Order 12898 on Environmental Justice are incorporated in the processes to ensure nondiscrimination and identify and address any disproportionately high health and environmental impacts to minority populations and low-income populations. The following components lead to environmental clearance: preliminary survey, environmental documentation, public involvement, interagency coordination, permits, and environmental commitments

### **Plan/Process**

Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-income Populations, signed in February of 1994, requires a Federal agency to achieve Environmental Justice as a part of its mission by identifying disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations. FHWA requires TxDOT to carry out Environmental Justice responsibilities as part of its nondiscrimination program. In turn, the City executes the TxDOT environmental process through the procedures and practices identified below.

### Identification of Minority and Low-Income Populations

The City utilizes data from the U.S. Census Bureau, public outreach (scoping meetings, public meetings, and public hearings), information on poverty guidelines from the Department of Health and Human Services, and local agency coordination (including, but not limited to MPOs, local elected officials, county government, etc.) to establish demographic characteristics and trends. The data is used to identify and engage traditionally underserved populations, including those covered under existing Environmental Justice (EJ) policies, as well as populations with Limited English Proficiency (LEP).

## **Manuals and Guidance**

TxDOT's Environmental Affairs Division's Environmental Manual provides a collection of laws, regulations, guidelines, practices, and procedures that must be addressed as part of the project planning and development process and provides information relative to Title VI, EJ and LEP issues. The City utilizes this manual and its guidelines, practices and procedures in the production of the EIS required by TxDOT for each project receiving Federal or State funding assistance.

In addition to the Environmental Manual, TxDOT has produced several relevant stand-alone guidance documents including the Interim Guidance for Project Level Environmental Justice Analysis, Guidance on Environmental Justice for Toll Roads and the Socioeconomic Resources Standards of Uniformity (Added Capacity and No Added Capacity) for Projects without FHWA Involvement. TxDOT's Office of Civil Rights (OCR) also has produced a brochure entitled, "An Overview of Transportation and Environmental Justice." The City's design and environmental consultants refer to these documents in the preparation of the project EIS.

### Environmental Manual

The Environmental Manual provides procedures and practices related to environmental analysis and decision-making with TxDOT project development work. The manual provides a guide to clearing transportation projects through the National Environmental Policy Act (NEPA) process. The manual is updated and maintained by TxDOT's Environmental Division (ENV). The Environmental Manual includes the process involved in obtaining environmental clearance for a TxDOT construction project. The NEPA process, Title VI of the Civil Rights Act and related statutes, and Executive Order 12898 on environmental justice are incorporated in the processes to ensure nondiscrimination and identify and address any disproportionately high health and environmental impacts to minority populations and low-income populations. The following components lead to environmental clearance: preliminary survey, environmental documentation, public participation, interagency coordination, permits, and environmental commitments.

#### *Preliminary Survey*

A preliminary survey consists of fieldwork and gathering data from a variety of sources, including previous surveys, geographic information systems, and online information sources. Identifying all issues in the project development process early on allows time to address and, if need be, mitigate for environmental issues.

NEPA requires that projects be evaluated for impacts to the human environment. The Manual provides the tools and methods to effectively identify and evaluate social and economic impacts. Public Participation occurs as a part of social and economic impact analysis. The public assists the City by serving as an important resource in providing information for socio-economic analysis by:

- Helping to develop a project's purpose and need;
- Profiling the community's demographics;
- Identifying alternatives and impacts;
- Identifying community values and community landmarks; and

- Developing strategies and solutions for avoiding, mitigating, minimizing, or enhancing impacted resources.

### *Environmental Documentation*

Environmental documents provide a brief summary of the results of the environmental analysis and coordination, as well as information about of the social, economic, and environmental impacts of a project and what decision should be made on a project’s construction, location, and design. In addition, the document will describe early interagency coordination and preliminary Public Participation.

There are three types of environmental documentation – Categorical Exclusions (CEs), Environmental Assessments (EAs), and Environmental Impact Statements (EISs). Which one is used depends on the degree to which the project will impact the environment. The Manual includes information that assists in selecting the type of environmental document needed, suitable public participation, and any necessary interagency coordination and/or environmental permits.

EISs require a specific process with public participation components. Three EIS checklists have been developed as a tool to assist in following the EIS process and to ensure that all necessary topics are covered in the EIS as well as in the Record of Decision (ROD). The EIS checklists and their steps include:

#### **EIS Process Checklist (includes SAFETEA-LU Section 6002 Requirements)**

- Project Initiation Letter
- Notice of Intent (NOI) (may serve as Project Initiation Notice if it contains all the information required in Section 6002 of SAFETEA-LU)
- Invitation for Participating Agency Involvement
- Initial agency briefing and Kick-Off Meeting
- First Public Scoping Meeting
- Revision of Need and Purpose (this may be done as part of the Coordination Plan)
- Coordination Plan
- Second Public Scoping Meeting
- Second resource agency/FHWA/sponsor meeting
- Draft Environmental Impact Statement (DEIS) preparation
- DEIS submitted to FHWA for preliminary review?
- Notice of Approval (NOA) of DEIS
- DEIS circulation
- Public Hearing Notice
- Supplemental Environmental Impact Statement (SEIS) (if required)
- Checklist of topics covered in an EIS
- Need and purpose for action
- Alternatives
- Affected environment
- Environmental consequences (for each reasonable alternative are the following included?)
- Mitigation
- Indirect and cumulative impacts
- Comments and coordination
- Checklist of topics covered in a Record of Decision (ROD) and Submittal Process
- Record of Decision
- ROD submittal process

### *Public Participation Procedures*

The City’s efforts to ensure the participation of the identified minority and low-income populations are included in the City’s **Public Participation Plan**.

### *Interagency Coordination*

Early coordination with appropriate resource agencies, local governmental entities, and the public plays a vital role in project planning and environmental development of proposed projects. The City is responsible for interagency coordination during project planning and development. The City should initiate early coordination with the appropriate resource agencies.

### *Permits*

Permitting usually begins with the surveys and may end with environmental clearance or after right of way acquisition. The manual includes the different types of permits and procedures to obtain public input and publishing notice.

### *Environmental Commitments*

Environmental commitments begin at the earliest phase of project development, although completion of commitments may not occur until the operation and maintenance phase of a project. Because there is a substantial time gap between the beginning and end of a commitment, the City ensures that commitments are communicated from environmental clearance through detailed design, pre-bid conference, project letting, maintenance, and operation.

### **Geographic Information System (GIS) Data**

Information regarding mapping of the EJ populations using GIS software or equivalent/improved systems is included in the **Public Participation Plan**.

### **Language Assistance Plan (for LEP)**

Executive Order 13166: Improving Access to Services by Persons with Limited English Proficiency (LEP), requires Federal agencies to assess and address the needs of otherwise eligible persons seeking access to federally conducted programs and activities who, due to limited English proficiency, cannot fully and equally participate in or benefit from those programs and activities.

LEP individuals are those who do not speak English as their primary language and have a limited ability to read, write, speak, or understand English as a result of their national origin. These individuals may be entitled to language assistance with respect to a particular type of service, benefit, or encounter.

The U.S. Department of Justice LEP Guidance advises each Federal department or agency to "take reasonable steps to ensure 'meaningful' access to LEP individuals to the information and services they provide." It further explains that the identification of "reasonable steps to ensure meaningful access" will be contingent on a number of factors. Among the four factors to be considered are:

1. The number or proportion of LEP persons in the eligible service population,
2. The frequency with which LEP individuals come in contact with the program,
3. The importance of the service provided by the program,
4. The resources available to the agency.

The City's Language Assistance Plan was created in their efforts to ensure information and services are accessible to LEP individuals by providing guidance on translation, interpretation, and outreach services for LEP individuals seeking access to City programs.

The City has developed a plan to accommodate and provide for LEP assistance for individuals requiring translation or interpretation services in an effort to prevent a language barrier from becoming a discriminating factor in provision of City services to its citizens. This program is more fully defined in the **City's Language Assistance Plan**.

## **External Communication (Notification to Beneficiaries)**

The City of Wharton provides information to the public detailing its Title VI/Nondiscrimination obligations and notifies members of the public of the protections against discrimination afforded to them by Title VI and other nondiscrimination requirements.

### Dissemination of Information

Informational brochures have been distributed to Department Heads who also make them available at public meetings, and are available on the City of Wharton website at [www.cityofwharton.com](http://www.cityofwharton.com)

### Contents of Notification

The brochures provide the public with information regarding Title VI and related statutes and their rights under the law. The brochures include TxDOT's Nondiscrimination Policy, which assures the public that the City operates without regard to race, color, national origin, sex, age, or disability in all of its programs and activities and informs the public that additional information on nondiscrimination obligations can be obtained.

The brochure is periodically reviewed and revisions are made as needed.

## **NEPA Process and Public Involvement**

On January 1, 1970, the National Environmental Policy Act of 1969 (NEPA) was signed into law. NEPA established a national environmental policy intentionally focused on Federal activities and the desire for a sustainable environment balanced with other essential needs of present and future generations of Americans.

NEPA requires FHWA to examine and determine avoidance of potential impacts to the social and natural environment when considering approval of proposed transportation projects. In addition to evaluating the potential environmental effects, sponsors must also take into account the transportation needs of the public in reaching a decision that is in the best overall public interest. The FHWA NEPA project development process is an approach to balanced transportation decision-making that takes into account the potential impacts on both human (social, economic and cultural) and the natural environment and the public's need for safe and efficient transportation.

### **23 CFR § 771.105**

To the fullest extent possible, all environmental investigations, reviews, and consultations are coordinated as a single process, and the project's compliance with all applicable environmental requirements are identified and discussed in the environmental document, resulting in either a full Environmental Assessment or a Categorical Exclusion, as required by this regulation.

Alternative courses of action are evaluated, including multiple alternative alignments, and all decisions are made in the best overall public interest based upon a balanced consideration of the need for safe and efficient transportation; of social, economic and cultural impacts; local and regional natural environmental impacts of the proposed transportation improvement; and in keeping with national, state, and local environmental protection goals, such as air quality conformity.

Public involvement in the review of alternative alignments and the eventual selection of a proposed alignment is an essential part of the project development process. As early as practicable, the City sets up and invites stakeholders (i.e. TxDOT, local elected and public officials, the Drainage District, affected property owners and the public) to a Public Meeting. The City, through its design consultant, utilizes the standard invitation process which is supervised by the Title VI Coordinator. The time, date, location and project information is published in local and regional newspapers in both English and Spanish.

NEPA requires that projects be evaluated for impacts to the human environment. The TxDOT Environmental Manual provides the tools and methods to effectively identify and evaluate social and economic impacts. Public involvement occurs as a part of social and economic impact analysis. In this way, the public assists the City by serving as an important resource in providing information for socio-economic analysis by:

- Identifying alternatives and impacts;
- Identifying community values and community landmarks; and
- Developing strategies and solutions for avoiding, mitigating, minimizing, or enhancing impacted resources.

This obligation will be met by the City of Wharton 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.

The Title VI Coordinator, through its position as Community Development Director, oversees this process and reviews the final resulting project documents to ensure compliance with Federal regulations. Disproportionate effects are those effects which are appreciably more severe for one group or predominantly borne by a single group. The City uses U.S. Census data to identify low income and minority populations and their location with respect to the proposed project and its impacts. 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 Environmental Report will document how that 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 a project on minority and/or low-income population groups:

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

**STEP TWO:** Determine whether project impacts associated with the identified low income and minority populations are disproportionately high and adverse. In doing so, refer to the list of potential impacts defined in the City's Non-Discrimination Plan definitions, "Adverse Effects." If it is determined that there are disproportionately high and adverse impacts to minority and low-income populations, proceed to Step Three.

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

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

- **Question 1:** Are there further mitigation measures that could be employed to avoid or reduce the adverse effect to the minority or low-income population?
- **Question 2:** Are there other additional alternatives to the proposed action that would avoid or reduce the impacts to the low income or minority populations?
- **Question 3:** Considering the overall public interest, is there a substantial need for the project?
- **Question 4:** Will the alternatives that would satisfy the need for the project and have less impact on protected populations (a) have other social economic or environmental impacts that are more severe than those of the proposed action (b) have increased costs of extraordinary magnitude?

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

## **Section 12: Language Assistance Plan**

**Purpose:** In compliance with Executive Order 13166, the City of Wharton has developed the following Language Assistance Plan (LAP) for Limited English Proficiency (LEP) persons.

**History:** Title VI of the Civil Rights Act of 1964 is the federal law which protects individuals from discrimination on the basis of their race, color, or national origin in programs that receive federal financial assistance. In certain situations, failure to ensure that persons who have limited English proficiency can effectively participate in, or benefit from, federally assisted programs may violate Title VI's prohibition against national origin discrimination. Persons who, as a result of national origin, do not speak English as their primary language and who have limited ability to speak, read, write, or understand English may be entitled to language assistance under Title VI in order to receive a particular service, benefit, or encounter.

**The City of Wharton Four-Factor Analysis:** In order to prepare this Plan, the City of Wharton used the four-factor LEP analysis which considers the following factors:

1. The number or proportion of LEP persons in the service area who may be served by the City or its programs,
2. The frequency with which LEP persons come in contact with the City of Wharton's services,
3. The nature and importance of services provided by the City of Wharton to the LEP population,
4. The interpretation services available to the City of Wharton and overall cost to provide LEP assistance.

The City of Wharton currently employs several bilingual employees that can provide translation services as needed. The City also makes every attempt to provide translated forms and documents as needed or requested. As the City is aware of the current LEP population, we attempt to work with every citizen and make sure that every need is met.



### **Section 13: Standard Title VI/Nondiscrimination Assurances w/Appendices**

The City of Wharton (herein referred to as the "Recipient"), HEREBY AGREES THAT, as a condition to receiving any Federal financial assistance, is subject to and will comply with the following:

#### Statutory/Regulatory Authorities

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled Nondiscrimination in Federally-Assisted Programs of the Department of Transportation--Effectuation of Title VI of the Civil Rights Act of 1964);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory cites hereinafter are referred to as the "Acts" and "Regulations," respectively.

#### **General Assurances**

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

*"No person in the United States shall, on the grounds of race, color, national origin, sex, age, disability, low-income, or LEP be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance from DOT, including the FHWA."*

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these non-discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally-assisted.

#### **Specific Assurances**

More specifically, and without limiting the above General Assurances, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted DOT Programs:

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§21.23(b) and 21.23(e) of 49 C.F.R. §21 will be (with regard to an "activity") facilitated, or will be (with regard to a "facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations;
2. The Recipient will insert the following notification in all solicitations for bids, Request for Proposals for work, or material subject to the Acts and Regulations made in connection with all Department of Transportation Programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

"The City of Wharton, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (8 State. 252, 42 U.S.C. §§2000d to 2000d-4) and the Regulations, hereby notifies all bidders that

it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP in consideration for an award";

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient;
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith;
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property;
7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
  - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
  - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
  - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
  - b. The period during which the Recipient retains ownership of the property.
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the City of Wharton, also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the USDOT access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the USDOT. You must keep records, reports, and submit the material for review upon request to USDOT, or its designee, in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The City of Wharton gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal assistance extended after the date hereof to the recipient by the U. S. Department of Transportation under all DOT programs. This ASSURANCE is binding on Texas, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the DOT programs. The person(s) signed below is authorized to sign this ASSURANCE on behalf of the Recipient.



\_\_\_\_\_  
Tim Barker, Mayor  
City of Wharton

12.14.2020

\_\_\_\_\_  
Date

## APPENDIX A

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

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, the Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Nondiscrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the Federal Highway Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Nondiscrimination provisions of this contract, the Recipient will 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. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient

to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

## APPENDIX B

### CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the City of Wharton will accept title to the lands and maintain the project constructed thereon in accordance with all applicable federal statutes, the Regulations for the Administration of all Department of Transportation programs, and the policies and procedures prescribed by the Federal Highway Administration of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the (Title of Recipient) all the right, title and interest of the U.S. 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 City of Wharton and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the City of Wharton, its successors and assigns.

The City of Wharton, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, 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 City of Wharton will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended[, and (3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. 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 make clear the purpose of Title VI.)

## APPENDIX C

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

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the City of Wharton pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that:
  - 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Nondiscrimination covenants, the City of Wharton will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued. \*
- C. With respect to a deed, in the event of breach of any of the above Nondiscrimination covenants, the City of Wharton will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the City of Wharton 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 make clear the purpose of Title VI.)

## APPENDIX D

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

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by the City of Wharton pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Nondiscrimination covenants, the City of Wharton will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued. \*
- C. With respect to deeds, in the event of breach of any of the above Nondiscrimination covenants, the City of Wharton will there upon revert to and vest in and become the absolute property of the City of Wharton 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 make clear the purpose of Title VI.)



## APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees to comply with the following nondiscrimination statutes and authorities; including but not limited to:

### **Pertinent Nondiscrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex)
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age)
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 4 71, Section 4 7123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex)
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the federal-aid recipients, subrecipients and contractors, whether such programs or activities are federally funded or not)
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38
- The Federal Aviation Administration's Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex)
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100)
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq)

## Section 14: Definitions

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

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

1. **Significant Adverse Effects In Minority and Low Income Populations** – An adverse effect that:

- is predominantly borne by a minority population and/or a low-income population, or
- 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.

2. **Determine or Distinguish Significant/Non-Significant Effects**

a. “**Significant Effect**” requires considerations of both context and intensity:

- *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.
- *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. The following should be considered in evaluating intensity: Impacts that may be both beneficial and adverse. A significant effect may exist even if, on balance, the effect would be beneficial.

b. “**Non-Significant Effect**” means no substantial change to an environmental component and has 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 Manager.

**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.

**Limited English Proficiency** - Individuals with a primary or home language other than English who must, 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.

**Low-Income** – A person whose median household income is at or below the Department of Health and Human Service Poverty 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 America 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** – When 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, park or other infrastructure improvement 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 government, regional planning agency, education institution, for example, that received Federal Highway Administration (FHWA) funds through the State Department of Transportation and not directly from the FHWA. Other agencies, local governments, contractors, consultants that receive these funds are all considered.

**Section 15: Official Approval of Title VI Nondiscrimination Program**

As Title VI Coordinator, I hereby ascertain that the City of Wharton Title VI Nondiscrimination Program was reviewed by the Texas Department of Transportation Compliance Office and approved on

11.16.2017.

  
\_\_\_\_\_  
Gwyneth Teves, Title VI Coordinator

12.14.2020  
\_\_\_\_\_  
Date

As Mayor of the City of Wharton and on behalf of the Wharton City Council, I hereby ascertain that the City Council approved the above Title VI Nondiscrimination Program on 12.14.2020

  
\_\_\_\_\_  
Tim Barker, Mayor

12.14.2020  
\_\_\_\_\_  
Date