

## Title VI Plan for MnDOT FHWA Subrecipient

City of Bloomington, MN  
Public Works Department

October 10, 2022

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**APPROVED & ADOPTED**

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October 12, 2022

Date

## Title VI Plan Revision Log

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## **I. Introduction**

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin in any program or activity receiving federal financial assistance. Several other federal legal authorities supplement Title VI by extending protections based on age, sex, disability, limited English proficiency, and low-income status. In addition, the Civil Rights Restoration Act of 1987 clarified Title VI enforcement by mandating that Title VI requirements apply to *all* programs and activities of federal-aid recipients regardless of whether any particular program or activity involves federal funds. Taken together, these laws require recipients and subrecipients of federal funds to ensure all programs and services are delivered to the public without discrimination.

City of Bloomington, MN, as a recipient of federal financial assistance, will ensure full compliance with Title VI of the Civil Rights Act of 1964; 49 C.F.R. Part 21 (Department of Transportation Regulations for the Implementation of Title VI of the Civil Rights Act of 1964); 49 C.F.R. Part 21; and related statutes and regulations. City of Bloomington, MN acknowledges it is subject to and will comply with Federal Highway Administration Title VI Assurances.

This plan explains the how City of Bloomington, MN incorporates the requirements of Title VI and related legal authorities into its operations. The plan will be used a reference for the City of Bloomington, MN and an informational resource for the public. The plan will be updated every three years to reflect changes in Title VI compliance operations.

## II. Legal Authorities

City of Bloomington, MN Title VI compliance program is governed by many legal authorities, including, but not limited to, the list below.

Legal Authority	Summary
<a href="#"><u>Title VI of the Civil Rights Act of 1964</u></a> , 42 U.S.C. § 2000d <i>et seq.</i>	Prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance.
<a href="#"><u>Federal-Aid Highway Act of 1973</u></a> , 23 U.S.C. § 324.	Prohibits discrimination on the basis of sex in programs and activities receiving federal financial assistance.
<a href="#"><u>Age Discrimination Act of 1975</u></a> , 42 U.S.C. § 6101 <i>et seq.</i>	Prohibits discrimination on the basis of age in programs and activities receiving federal financial assistance.
<a href="#"><u>Section 504 of the Rehabilitation Act of 1973</u></a> , 29 U.S.C. § 794.	Prohibits discrimination on the basis of disability in programs and activities receiving federal financial assistance.
<a href="#"><u>Uniform Relocation Act of 1970</u></a> , 42 U.S.C. § 4601 <i>et seq.</i>	Requires fair treatment of persons displaced by federal-aid programs and projects.
<a href="#"><u>Environmental Justice Executive Order (Exec. Order No. 12898, 59 Fed. Reg. 7629 (Feb. 11, 1994).)</u></a>	Requires federal agencies and federal-aid recipients to identify and address “disproportionately high and adverse human health or environmental effects of its programs, policies and activities on minority populations and low-income populations.”
<a href="#"><u>Limited English Proficiency Executive Order (Exec. Order No. 13166, 65 Fed. Reg. 50121 (Aug. 11, 2000).)</u></a>	Recipients of federal financial assistance must provide meaningful access to limited English proficiency (LEP) applicants and beneficiaries.
<a href="#"><u>49 C.F.R. Part 21</u></a>	Nondiscrimination in Federally-Assisted Programs of the Department of Transportation.
<a href="#"><u>23 C.F.R. Part 200</u></a>	Title VI Program and Related Statutes - Implementation and Review Procedures.

### **III. Title VI and Non-Discrimination Policy Statement**

It is the policy of City of Bloomington, MN that no person shall on the grounds of race, color, national origin, sex, disability, or age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in any operation of City of Bloomington, MN as provided by Title VI of the Civil Rights Act of 1964 and related statutes.

In addition, Executive Order No. 12898, 59 Fed. Reg. 7629 (Feb. 11, 1994) requires City of Bloomington, MN to ensure fair treatment and meaningful involvement of low income populations in all programs and activities, and Executive Order No. 13166, 65 Fed. Reg. 50121 (Aug. 11, 2000) requires agency programs to incorporate access for people with limited English proficiency.

This policy applies to all operations of City of Bloomington, MN, including its contractors and anyone who acts on behalf of City of Bloomington, MN. This policy also applies to the operations of any department or agency to which City of Bloomington, MN extends federal financial assistance. Federal financial assistance includes grants, training, use of equipment, donations of surplus property, and other assistance.

The Minnesota Human Rights Act prohibits discrimination in the provision of public services on the basis of race, color, creed, religion, national origin, sex, marital status, disability, gender identity, sexual orientation, and status with regard to public assistance. Public services are defined to include any department or agency managed by any city or county in Minnesota.

Prohibited discrimination may be intentional or unintentional. Seemingly neutral acts that have disparate impacts on individuals of a protected group and lack a substantial legitimate justification are a form of prohibited discrimination. Harassment and retaliation are also prohibited forms of discrimination.

Examples of prohibited types of discrimination based on race, color, national origin, sex, disability, or age include: Denial to an individual any service, financial aid, or other benefit; Distinctions in the quality, quantity, or manner in which a benefit is provided; Segregation or separate treatment; Restriction in the enjoyment of any advantages, privileges, or other benefits provided; and Discrimination in any activities related to highway and infrastructure or facility built or repaired.

Title VI compliance is a condition of receipt of federal funds. The Title VI Coordinator is authorized to ensure compliance with this policy, Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d *et seq.* and related statutes, and the requirements of 23 C.F.R. Part 200 and 49 C.F.R. Part 21.

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(Top Agency or Department Official)

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Date

## **IV. Title VI Assurances**

The U.S. DOT requires that federal financial assistance be provided on the condition that the recipient provides an assurance that its programs and activities will be conducted in compliance with Title VI of the Civil Rights Act of 1964. The requirement is located at 49 CFR 21.7(a). To support the implementation of this requirement, the U.S. DOT provided an assurances agreement in U.S. DOT Order 1050.2A that federal fund recipients and subrecipients must sign as a condition of receiving federal financial assistance.

The assurances agreement provides specific non-discrimination language the City of Bloomington, MN is required to include in bid solicitations or requests for proposal, contracts, and real estate agreements. The City of Bloomington, MN is committed to ensuring the necessary language is used as prescribed in the assurances agreement.

In accordance with this requirement, the City of Bloomington, MN has signed the U.S. DOT Standard Title VI/Non-Discrimination Assurances. The document is attached as **Appendix A**.

## **V. Organization, Staffing, and Structure**

The Bloomington City Manager is ultimately responsible for assuring full compliance with the provisions of Title VI of the Civil Rights Act of 1964 and related statutes and has directed that non-discrimination is required of all agency employees, contractors, and agents pursuant to 23 C.F.R. Part 200 and 49 C.F.R. Part 21.

City of Bloomington, MN has assigned the Public Works Outreach and Engagement Coordinator, to perform the duties of the Title VI Coordinator and ensure implementation of the agency's Title VI program. The position of Public Works Outreach and Engagement Coordinator is located within Community Outreach and Engagement Division of the Community Services Department.

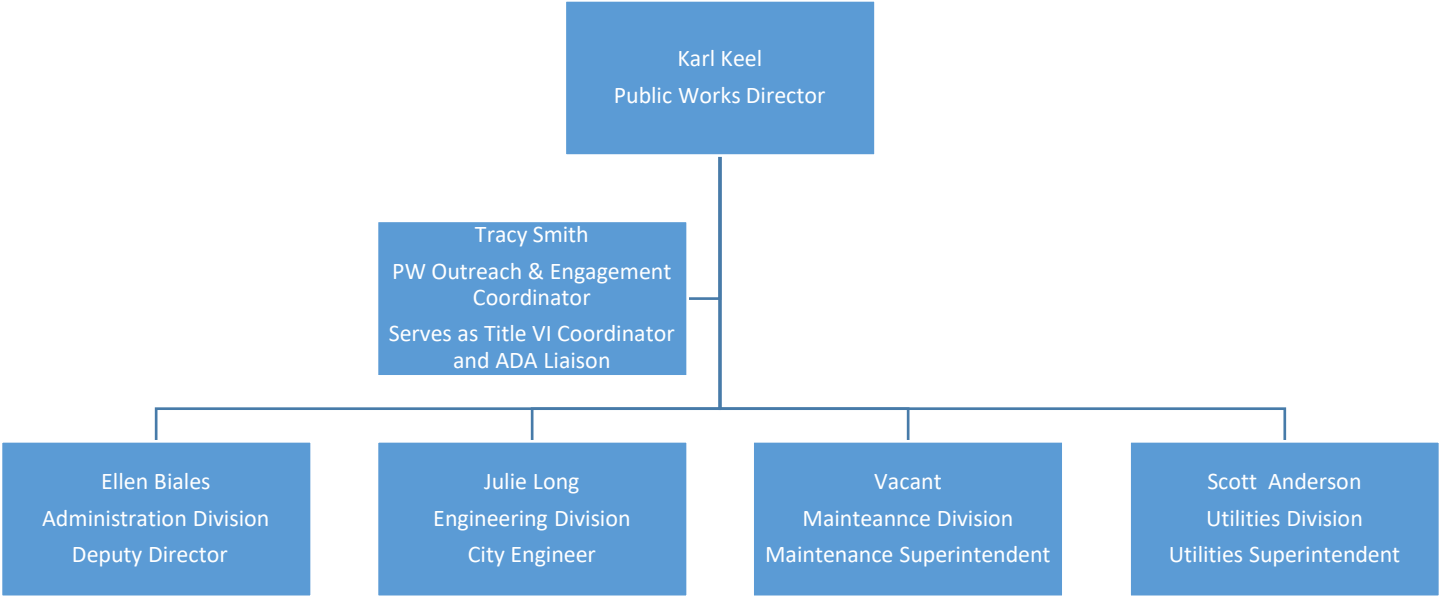
The Title VI Coordinator is responsible for:

- Maintaining and updating the Title VI plan on the agency's behalf;
- Ensuring relevant agency staff receive necessary Title VI training;
- Ensuring prompt processing of Title VI complaints and referral to Minnesota Department of Transportation;
- Developing procedures for the collection and analysis of statistical data;
- Developing a program to conduct Title VI reviews of program areas; and
- Developing Title VI information for dissemination internally and externally;



# Bloomington Public Works Department

## Organizational Chart



## **VI. Training**

City of Bloomington, MN will ensure that its staff understand Title VI of the Civil Rights Act of 1964 and how it may apply to their work. The following options are available for providing training:

- Review of the City of Bloomington, MN Title VI Plan
- Attendance at any available Title VI trainings provided by the Minnesota Department of Transportation, U.S. Department of Transportation or its applicable operating administrations, or the U.S. Department of Justice.
- Viewing the video [Understanding and Abiding by Title VI of the Civil Rights Act of 1964](#) produced by the U.S. Department of Justice

City of Bloomington, MN will maintain records indicating that staff have received sufficient training on a periodic basis.

## VII. Primary Program Area Descriptions & Review Procedures

The City of Bloomington, MN engages in the following program areas:

Program Area	General Description	Title VI/Non-Discrimination Concerns and Responsibilities	Review Procedures for Ensuring Non-Discrimination
<b>Right of Way</b>	<p>Issues public right of way permits for obstruction, driveways and other activities like vacations and encroachments.</p> <p>Coordinates relocation of citizens whose property has been acquired for a right of way.</p>	<p>Public right of way permits and relocations should not create unfair burdens for environmental justice communities.</p> <p>Working with software vendor to enable the collecting of demographic data from property owners who may be subject to right of way activities.</p> <p>Ensuring property owners impacted by right of way activities are made aware of their right to be free from discrimination on the basis of race, color, or national origin under Title IV of the Civil Rights Act of 1964. Also use interpreters and translators as necessary to ensure that those with LEP needs receiving meaningful communication and access to services.</p>	<p>Reviewing permits and relocations to ensure nondiscrimination.</p> <p>Ensure demographic data is part of necessary right of way templates or forms.</p> <p>Ensure Title IV notice is consistently provided to property owners impacted by right of way activities.</p> <p>Review appraisal contracts to ensure inclusion of required nondiscrimination provisions (see below in contracting)</p>
<b>Contracting</b>	Develops and manages contracts and contracting opportunities, including specifications, bidding process, and contract execution.	<p>Maintaining an open and fair bidding process for all contracts.</p> <p>Ensure Title VI Assurances</p>	<p>Reviewing contracts for necessary Title VI language.</p> <p>Reviewing any available data on</p>

Program Area	General Description	Title VI/Non-Discrimination Concerns and Responsibilities	Review Procedures for Ensuring Non-Discrimination
		<p>appendices are included in contracts as specified within the assurances document.</p>	<p>contract recipients to ensure nondiscrimination in contracting.</p> <p>Reviewing bidding procedures to ensure nondiscrimination and equal opportunity.</p>
<b>Planning</b>	Short-term and long-term planning of transportation projects	<p>Using equity-based analysis as part of planning process.</p> <p>Ensuring comprehensive public participation to meet environmental justice requirements.</p> <p>Collecting demographic data from public engagement activities regarding demographics of public participants. Providing language access as needed.</p>	<p>Review planning decisions through equity lens to ensure nondiscrimination.</p> <p>Reviewing public engagement activities periodically to determine whether engagement opportunities were offered to all communities. Documenting language access requests.</p>
<b>Public Engagement</b>	Coordinates public engagement activities for planning and project development, as well as relationship-building engagement activities.	<p>Comprehensive public participation to meet environmental justice requires.</p> <p>Collecting demographic data from public engagement activities regarding demographics of public participants.</p> <p>Providing language access as needed.</p> <p>Disseminating Title VI information to the public to ensure they are aware of</p>	<p>Reviewing public engagement activities periodically to determine whether engagement opportunities were offered to all communities.</p> <p>Review methods for collecting demographic data to ensures methods don't discourage participation in public engagement activities.</p> <p>Documenting language access</p>

<b>Program Area</b>	<b>General Description</b>	<b>Title VI/Non-Discrimination Concerns and Responsibilities</b>	<b>Review Procedures for Ensuring Non-Discrimination</b>
		their rights to be free from discrimination.	requests. Review language access program to ensure it is reflective of languages spoken in the community.
<b>Maintenance</b>	Services roadways and right of ways, including, but not limited to, providing: <ul style="list-style-type: none"><li>• Repair</li><li>• Signage</li><li>• Drainage</li><li>• Snow and ice removal</li></ul>	Ensuring no communities are subject to a disparate lack of maintenance services based on a protected class.	Reviewing resources provided to the community and determining whether any protected class communities have disproportionately benefited or been harmed by the delivery of maintenance services.

## VIII. Data Collection

Program Area	Type of Data Collected & Process for Collecting	Intended Outcome of Data Analysis (i.e. Title VI Purpose for Collecting the Data)
<b>Right of Way</b>	Collecting demographic data from property owners who may be subject to right of way activities by including inputs for demographic data on the field title report form.	Ensuring right of way activities do not disproportionately affect individuals or groups based on a protected class status.
<b>Contracting</b>	<p>Identifying contractors who are a:</p> <ul style="list-style-type: none"> <li>• Disadvantaged Business Enterprise (DBE) by the Minnesota Unified Certification Program</li> <li>• Targeted Group Business (TGB) by the Minnesota Department of Administration</li> <li>• Veteran-Owned/Service-Disabled Business by the United States Department of Veterans Affairs</li> </ul> <p>Bloomington is also working on a Supplier Diversity Program to roll out to the entire City for other procurement needs.</p>	Ensuring equal opportunity in contracting to all individuals and groups.
<b>Planning</b>	Reviewing data from the U.S. Census Bureau and other credible sources to determine demographic make-up of the local community.	Ensuring project impacts do not disproportionately impact any individuals or groups based on a protected class status.

<b>Public Engagement</b>	<p>Reviewing data from the U.S. Census Bureau and other credible sources to determine demographic make-up of the local community.</p> <p>Providing demographic questionnaires to public engagement participants and including demographic questions in public surveys. Some demographic questions are optional as they may discourage participation in public engagement.</p> <p>Targeted public engagement through BIPOC community leaders helps ensure all demographics are reached when demographic questionnaires are not advised.</p>	<p>Ensuring communications and interactions with the public sufficiently reach all local demographics.</p>
<b>Maintenance</b>	<p>Reviewing maintenance activities by geography and demographic makeup of communities receiving the maintenance services</p>	<p>Ensuring no communities are subject to a disparate lack of maintenance services based on a protected class.</p>

## IX. Title VI Complaint Procedures

### Scope of Title VI Complaints

No person or groups of persons shall, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs, services, or activities administered by City of Bloomington, MN, and its contractors on the grounds of race, color, national origin, sex, age, disability, or low-income status.

The scope of Title VI covers all internal and external activities of City of Bloomington, MN.

The following types of actions are prohibited under Title VI protections (See [49 C.F.R. 21.5](#)):

- Excluding individuals or groups from participation in programs or activities
- Denying program services or benefits to individuals or groups
- Providing a different service or benefit or providing them in a manner different from what is provided to others
- Denying an opportunity to participate as a member of a planning, advisory or similar body that is an integral part of the program
- Retaliation for making a complaint or otherwise participating in any manner in an investigation or proceeding related to Title VI of the Civil Rights Act of 1964

The complaint procedure below is available from the Minnesota Department of Transportation (MnDOT) in [Spanish](#), [Somali](#), and [Hmong](#).

### How to File a Formal Title VI Complaint

Any person(s) or organization(s) believing they have been discriminated against on the basis of the protected classes state above by City of Bloomington, MN or its contractors may file a Title VI complaint.

Discrimination complaints **must be received no more than 180 days after the alleged incident** unless the time for filing is extended by the processing agency.

Complaints should be in writing and signed and may be filed by mail, fax, in person, or e-mail. A complaint should contain the following information:

- A written explanation of the alleged discriminatory actions;
- The complainant's contact information, including, if available: full name, postal address, phone number, and email address;
- The basis of the complaint (e.g., race, color, national origin, etc.);
- The names of specific persons and respondents (e.g., agencies/organizations) alleged to have discriminated;



- Sufficient information to understand the facts that led the complainant to believe that discrimination occurred in a program or activity that receives Federal financial assistance; and
- The date(s) of the alleged discriminatory act(s) and whether the alleged discrimination is on-going.

Complainants are encouraged to submit complaints directly to Minnesota Department of Transportation (MnDOT) via its online complaint form available here:

<https://www.dot.state.mn.us/civilrights/nondiscrimination-complaint-form.html>.

Complaints can also be filed by completing and submitting City of Bloomington, MN's Title VI Complaint Form available at Appendix B or by sending an email or letter with the necessary information to:

City of Bloomington, MN  
Human Rights Commission  
1800 West Old Shakopee Road  
Bloomington, MN 55431  
**Email:** [hrc@bloomingtonmn.gov](mailto:hrc@bloomingtonmn.gov)  
**Phone:** 952-563-8733

The complaint form is also available in hard copy at both the Bloomington City Hall -COED/HRC Office, 1800 W. Old Shakopee Road, Bloomington, MN 55431 and Bloomington Public Works, 1700 W. 98<sup>th</sup> Street, Bloomington, MN 55431. Language assistance is available for limited English proficient individuals. MnDOT has hard copy complaint forms available in [Spanish](#), [Somali](#), and [Hmong](#). Other languages can be accommodated as needed.

If necessary, the complainant may the phone number above and provide the allegations by telephone. The Title VI Coordinator will transcribe the allegations of the complaint as provided over the telephone and send a written complaint to the complainant for correction and signature.

Complaints can also be filed directly with the following agencies:

Federal Highway Administration  
U.S. Department of Transportation Office of Civil Rights  
1200 New Jersey Avenue, SE  
8th Floor E81-105  
Washington, DC 20590  
**Email:** [CivilRights.FHWA@dot.gov](mailto:CivilRights.FHWA@dot.gov)  
**Fax:** 202-366-1599  
**Phone:** 202-366-0693

Minnesota Department of Transportation  
Office of Civil Rights

385 John Ireland Boulevard, Mail Stop 170

St. Paul, MN 55105

**Online:** [Complaint Form](#)

**Fax:** 651-366-3129

**Phone:** 651-366-3073

Minnesota Department of Human Rights

540 Fairview Avenue North, Suite 201

St. Paul, MN 55104

**Email:** [info.mdhr@state.mn.us](mailto:info.mdhr@state.mn.us)

**Phone:** 651-539-1100

**MN Relay:** 711 or 1-800-627-3529

**Online:** [Complaint Form](#)

After submitting a complaint, the complainant will receive a correspondence informing them of the status of the complaint within ten (10) business days of City of Bloomington, MN or other agency receiving the complaint.

Complaints received by City of Bloomington, MN's Title VI Coordinator are forwarded to the MnDOT Office of Civil Rights (OCR). MnDOT OCR will forward the complaint to the FHWA Minnesota Division Office, along with a preliminary processing recommendation. The FHWA Minnesota Division Office will forward the complaint to FHWA Headquarters Office of Civil Rights (HCR).

FHWA HCR is responsible for all determinations regarding whether to accept, dismiss, or transfer Title VI complaints. There are four potential outcomes for processing complaints:

- **Accept:** if a complaint is timely filed, contains sufficient information to support a claim under Title VI, and concerns matters under the FHWA's jurisdiction, then HCR will send to the complainant, the respondent agency, and the FHWA Minnesota Division Office a written notice that it has accepted the complaint for investigation.
- **Preliminary review:** if it is unclear whether the complaint allegations are sufficient to support a claim under Title VI, then HCR may (1) dismiss it or (2) engage in a preliminary review to acquire additional information from the complainant and/or respondent before deciding whether to accept, dismiss, or refer the complaint.
- **Procedural Dismissal:** if a complaint is not timely filed, is not in writing and signed, or features other procedural/practical defects, then HCR will send the complainant, respondent, and FHWA Minnesota Division Office a written notice that it is dismissing the complaint.
- **Referral\Dismissal:** if the complaint is procedurally sufficient but FHWA (1) lacks jurisdiction over the subject matter or (2) lacks jurisdiction over the respondent entity,

then HCR will either dismiss the complaint or refer it to another agency that does have jurisdiction. If HCR dismisses the complaint, it will send the complainant, respondent, and FHWA Division Office a copy of the written dismissal notice. For referrals, FHWA will send a written referral notice with a copy of the complaint to the proper Federal agency and a copy to the USDOT Departmental Office of Civil Rights.

Complaints are not investigated by City of Bloomington, MN. FHWA HCR is responsible for investigating all complaints. FHWA HCR may also delegate the investigation to MnDOT OCR, who would then conduct all data requests, interviews, and analysis and create a Report of Investigation (ROI). MnDOT OCR will have sixty (60) business days from the date the investigation is delegated to prepare the ROI and send it to HCR. HCR will review the ROI and compose a Letter of Finding based on the ROI.

For further information about the FHWA investigation process and potential complaint outcomes, please visit the [Questions and Answers for Complaints Alleging Violations of Title VI of the Civil Rights Act of 1964](#).

## **X. Environmental Justice**

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, requires federal agencies to make achieving environmental justice a part of its mission by identifying and addressing disproportionately high and adverse human health and environmental effects of their programs, policies, and activities on minority and low-income populations. The requirements are to be carried out to the greatest extent practicable and permitted by law.

In May 2012, USDOT issued an update to DOT Order 5610.2(a), DOT Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which was originally published in April 1997. The revised Order continues to be a key component of DOT's environmental justice strategy. It updates and clarifies certain aspects of the original Order while maintaining its general framework and procedures and DOT's commitment to promote the principles of environmental justice in all DOT programs, policies, and activities.

Similarly, City of Bloomington, MN will institutionalize the same key components of DOT's environmental justice strategy and commitment to promote the principles of environmental justice in all City of Bloomington, MN's programs, policies, and activities. These policies outline actions and factors to address environmental justice in order to identify and avoid discrimination and disproportionality high and adverse effects on minority and low-income populations:

1. Identify and evaluate environmental, public health, and interrelated social and economic effects of City of Bloomington, MN programs, policies, and activities;
2. Propose measures to avoid, minimize, and/or mitigate disproportionately high and adverse environmental and public health effects and interrelated social and economic effects, and provide offsetting benefits and opportunities to enhance communities, neighborhoods, and individuals affected by City of Bloomington, MN programs, policies, and activities, where permitted by law and consistent with Executive Order 12898;
3. Consider alternatives to proposed programs, policies, and activities where such alternatives would result in avoiding and/or minimizing disproportionately high and adverse human health or environmental impacts, consistent with Executive Order 12898; and
4. Elicit public involvement opportunities and consider the results thereof, including soliciting input from affected minority populations and low-income populations in considering alternatives.

City of Bloomington, MN supports environmental justice through every stage of the planning, construction and maintenance processes, consistent with the factors outlined above. This ensures City of Bloomington, MN gains input from the community that will help shape how City of Bloomington, MN builds and maintains roads, bridges, and parks and trails.

Some ways in which the City of Bloomington, MN accomplishes this include:

- Ensuring the full and fair participation by all potentially affected communities in the transportation decision-making process;
- Avoiding, minimizing or mitigating disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority populations and low-income populations;
- Providing timely information to area residents and businesses affected by transportation plans and projects;
- Performing periodic reviews of public involvement process to gauge effectiveness, making revisions as necessary; and
- Preventing the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations.

## **XI. Public Participation**

Public participation techniques such as open houses, City Council meeting public hearings, digital engagement surveys and idea boards have been shown to typically reach a middle class, white population. In order to receive feedback from the from the 32 % (US Census) black, indigenous, people of color (BIPOC) population in Bloomington, the Community Outreach and Engagement Division has developed relationships with leaders in BIPOC communities. Working with these leaders special messages and marketing are distributed to encourage feedback or set up special engagement sessions. The COED coordinator also assists the Department in connecting with individuals and families who are low-income, people with disabilities and older adult populations where projects impact those populations.

The City of Bloomington recently engaged the public in strategic planning. A data book was assembled to inform the planning process. Demographic data and mapping of data is included beginning on page 103, section VI. [Bloomington By the Numbers: The Data Story](#). Related data maps include:

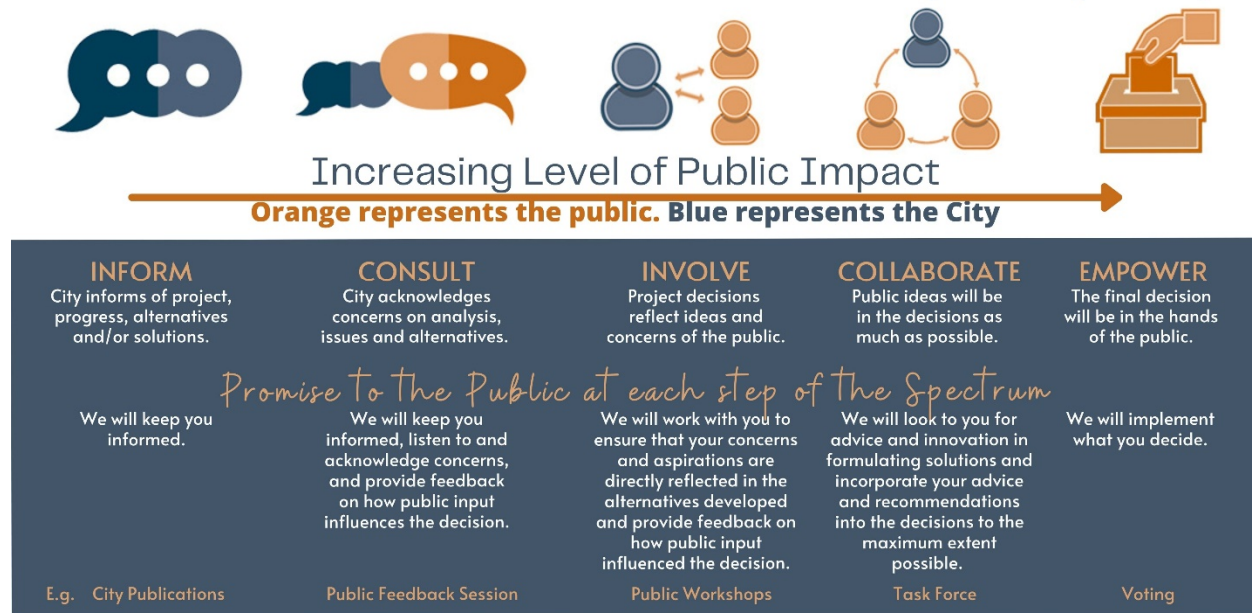
- Percentage of Bloomington's non-white population 1970 – 2020.
- Change in BIPOC population 2010 to 2020 totals and percentages mapped by census tract area.
- % of non-English speaking households mapped by census tract areas
- % of Limited English Proficiency

Trust is the number one factor to communicating with underserved communities. The City's COED team works with leaders in underserved communities to determine methods that work best for them. Traditional methods of communication in the City such as the City's newspaper, the Briefing, the City's website and most social media don't historically reach the BIPOC population. They are more helpful in reaching people with disabilities and older adults.

Developed relationship with BIPOC leaders create a bridge of trust that the information to be shared or feedback requested is safe and will be utilized to create a better solution to the project.

The City of Bloomington utilizes the International Association of Public Participation (IAP2) [Spectrum of Engagement](#) to conduct public participation (below). Included in this spectrum is a promise to the public for each level of engagement on the spectrum. The promise can be customized for each project to identify to the public who the information gathered will be considered in the project outcomes.

## International Association of Public Participation (IAP2)



Public engagement is tracked by project. Long term or more complicated projects requiring public participation may utilize a spreadsheet designed to layout which area of the IAP2 spectrum an activity falls under and how the activity is planned and implemented. See example in Appendix C.

## **XII. Limited English Proficiency (LEP) & Language Access**

The City of Bloomington is currently developing a Language Access Plan. This plan identifies and priorities LEP communities using the four-factor analysis. Under this analysis, Spanish is the only identified language that must be provided.

The City does however aim to go beyond this where situation demonstrate a need. For example, if a particular project were in an area where a larger Somali population lived or worked, engagement would reach out to both Spanish and Somali populations in the language and format requested.

The City works with community leaders to determine best practices. For example, Somali is more so is more oral than written, so whether or not a document is translated in Somali, depends on the project, location and input from Somali/East African leaders.

The City of Bloomington currently contracts with Language Line (phone interpretation and written translation) and Propio and ARCH Intelligere (phone and in person interpretation and written translation). When needed the City uses simultaneous translation technology and American Sign Language interpreters.

The City of Bloomington is in the process of identifying vital documents which include federally funded programs and other program, service or activity documentation or registration forms identified by each department. This effort is being organized by the Office of Racial Equity, Inclusion and Belonging.

### **Legal Background**

[Executive Order 13166](#), “Improving Access to Services for Persons with Limited English Proficiency,” reprinted at 65 FR 50121, August 16, 2000, directs each Federal agency to examine the services it provides and to develop and implement a system by which LEP individuals can meaningfully access those services. Federal agencies were instructed to publish guidance to assist states and local governments who receive federal funds with their obligations to LEP individuals under Title VI. The Executive Order states that federal fund recipients, like City of Bloomington, MN, must take reasonable steps to ensure meaningful access to their programs and activities for LEP individuals.

Section 601 of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, provides that no person shall “on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” Courts have interpreted Title VI's prohibition of discrimination on the basis of national origin to include discrimination based on English proficiency. Under Title VI,



recipients of federal financial assistance are required to provide LEP individuals with meaningful access to their programs and services.

The U.S. Department of Transportation (DOT) published [revised guidance](#) for its recipients on December 14, 2005. This document states that Title VI and its implementing regulations require that U.S. DOT recipients take reasonable steps to ensure meaningful access to the benefits, services, information, and other important portions of their programs and activities for LEP individuals. Recipients use the DOT LEP Guidance to determine how best to comply with statutory and regulatory LEP obligations.

### **Identifying Limited English Proficient Populations (Four-Factor Analysis)**

Title VI and its regulations require City of Bloomington, MN to take reasonable steps to ensure meaningful access to its information and services. What constitutes reasonable steps to ensure meaningful access is flexible, fact-dependent, and contingent on a four-factor analysis established by the U.S. Department of Justice. The four-factor analysis is an individualized assessment that should be applied to determine what reasonable steps must be taken to ensure meaningful access for LEP individuals. **The analysis below is updated at least once every five years.**

#### ***FACTOR #1: THE NUMBER OR PROPORTION OF LEP INDIVIDUALS ELIGIBLE TO BE SERVED OR LIKELY TO BE ENCOUNTERED***

The greater the number or proportion of LEP individuals from a particular language group served or encountered in the eligible service population, the more likely language assistance services are necessary. Ordinarily, “individuals eligible to be served or likely to be encountered” by a program or activity are those who are in fact, served or encountered in the eligible service population. This population will be program-specific and includes people who are in the program’s geographic area.

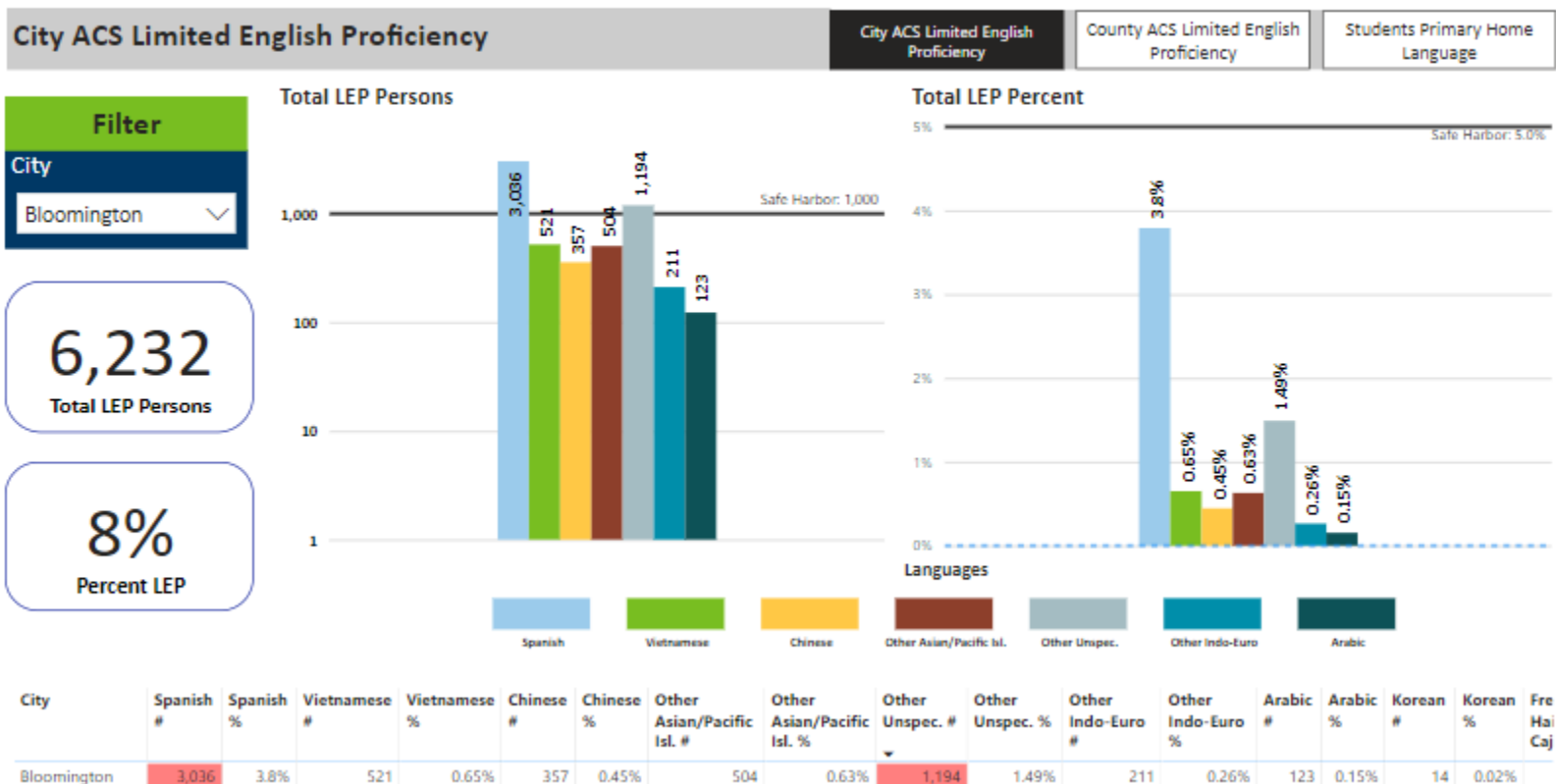
City of Bloomington, MN should first examine their prior experiences with LEP individuals and determine the breadth and scope of language assistance services needed. It is also important to include LEP populations that are eligible beneficiaries of programs, activities, or services but may be underserved because of existing language barriers.

Generally, City of Bloomington, MN will use reliable external data sources to determine the number or proportion of LEP individuals likely to be served or encountered.

City of Bloomington, MN relies on [MnDOT’s LEP Data Tool](#) to provide the necessary data. **In the most recent analysis conducted in April 2022, the findings on the next two pages were documented.**

## American Community Survey (5-Year Estimate 2015-2019, Table ID C16001)

## Limited English Proficiency Data Tool



Minnesota Department of Education: Primary Home Language for Students

# Limited English Proficiency Data Tool

Students Primary Home Language

City ACS Limited English Proficiency

County ACS Limited English Proficiency

Students Primary Home Language

Filter

County & School District

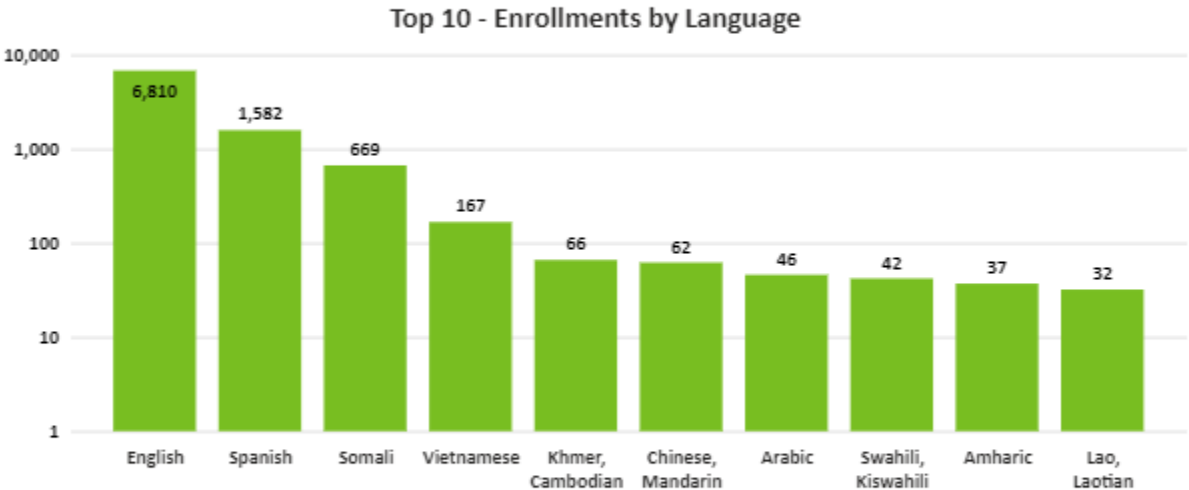
☐ Select All

☒ Hennepin

☒ BLOOMINGTON PUBLIC SC...

☐ Steele

☐ BLOOMING PRAIRIE PUBLI...



*Safe Harbor Provision (Written Documents)*

U.S. DOT LEP Guidance provides a “safe harbor” to help ensure greater clarity regarding whether City of Bloomington, MN is meeting its obligation to provide written translations. These safe harbor provisions only apply to the translation of written documents and do not affect the requirement to provide meaningful access to LEP individuals through competent oral interpreters where oral language assistance services are needed and reasonable.

The following actions are considered strong evidence of compliance with the Department's written-translation obligations:

(a) Providing written translations of vital documents for **each eligible LEP language group that constitutes 5% or 1,000 people** of the population of individuals eligible to be served or likely to be affected or encountered. Translation of non-vital documents, if needed, can be provided orally; or

(b) If there are fewer than 50 individuals in a language group that reaches the 5% trigger in (a), the vital written materials are not translated, but written notice of the right to receive free, competent oral interpretation of those vital written materials in the primary language of the LEP language group of is provided.

**The above findings from the graphs on the preceding pages indicate the following LEP language group meet the safe harbor threshold: Spanish. Therefore,** City of Bloomington, MN will prioritize written document translation of vital information into that language.

***FACTOR #2: THE FREQUENCY WITH WHICH LEP INDIVIDUALS COME IN CONTACT WITH THE PROGRAM, ACTIVITY, OR SERVICE***

City of Bloomington, MN should assess, as accurately as possible, the frequency with which they have or should have contact with LEP individuals from different language groups seeking assistance. If LEP individuals access a program or service on a regular, consistent basis, then that program or service provider has greater language access duties than a program or service whose contact with LEP individuals is unpredictable or infrequent.

However, even if there are infrequent or unpredictable interactions with LEP individuals, City of Bloomington, MN must be prepared to provide language assistance services to LEP individuals.

In applying this factor City of Bloomington, MN should also consider whether outreach to LEP individuals could increase the frequency of contact with LEP language groups and remain mindful of the data analysis conducted under Factor #1 to identify the proportion of LEP population present in the service area.

LEP persons may interact in several ways with City of Bloomington, MN, including but not limited to:

- Public meetings
- Community events
- Project-specific meetings, events, and discussions
- Online engagement
- Walk-in requests for information
- Phone communications
- Customer service interactions
- Surveys for information
- Requests for permits, licenses, or materials
- Real estate transactions (i.e., right of way)

**In its most recent review conducted in April 2022, City of Bloomington Public Works noted it has anecdotally had interactions with the following LEP language groups in the past 3 years: Spanish, Somali, Vietnamese, Russian. City wide the LEP Language groups have been Spanish, Somali, Vietnamese, Khmer/Cambodian and Mandarin Chinese.**

**The frequency of those interactions has been low.**

City of Bloomington, MN will assess, as accurately as possible over the next 5-year period, the frequency with which LEP persons from different language groups come into contact with City of Bloomington, MN programs and activities.

***FACTOR #3: THE NATURE AND IMPORTANCE OF THE PROGRAM, ACTIVITY, OR SERVICE TO PEOPLE'S LIVES***

The more important the activity, information, service, or program, or the greater the possible consequences of the contact to the LEP individuals, the greater the need for language assistance services. City of Bloomington, MN must determine whether denial or delay of access to services or information could have serious implications for the LEP individual. Generally, programs providing information and services related to accessing benefits, opportunities, or rights are considered high importance.

Activities that involve the general public:

- Right of way interactions with LEP property owners
- Public surveys that impact local government decision-making
- Notice of public hearings
- Permitting, encroachments and other work in the right-of-way
- Solid waste
- Water and Sanitary Utility Services

**Vital Documents**

As part of its analysis, a district, office, or program may determine that necessary language assistance measures include the translation of vital documents into the language of each LEP group that is frequently encountered, eligible to be served, or likely to be affected. Vital documents are paper or electronic written material containing information that is (1) critical for accessing programs, services, benefits, or activities, (2) directly and substantially related to public safety, or (3) required by law. Whether a document (or the information it solicits) is “vital” may depend upon the importance of the program, information, encounter, or service involved, and the consequence to the LEP person if the information in question is neither accurate nor timely.

Examples of vital documents in the U.S. DOT LEP Guidance include:

- Emergency transportation information
- Notices of public hearings regarding proposed transportation plans or projects
- Notices advising LEP individuals of free language assistance
- Applications or instructions on how to participate in a program or activity or receive benefits or services
- Consent forms

Sometimes a large document may include both vital and non-vital information. For these documents, vital information may include providing notice in the necessary non-English languages explaining where an LEP individual can obtain an interpretation or translation of the document.

Below is a LEP notice that can be placed on the cover of large documents in English, Spanish, Hmong, and Somali.

To request this document in another language, please send e-mail and attach document to INSERT EMAIL ADDRESS.

Para pedir este documento en otro idioma, envíe un correo electrónico y adjunte el documento a INSERT EMAIL ADDRESS.

Yog xav kom muab daim ntawv no sau ua lwm hom lwm, thov sau ntawv nrog daim ntawv tuaj rau ntawm INSERT EMAIL ADDRESS.

Si aad u codsato dukumeentigan oo ku qoran luqad kale, fadlan e-mail u soo dir oo ku soo lifaaq dukumiintiga INSERT EMAIL ADDRESS.

**As noted under Factor #1, the following language meet the safe harbor threshold for translating vital written materials: Spanish. The following document types have been identified as vital and subject to translation in accordance with this analysis and federal guidance:**

**Priority to translate full documents:**

- **Public Notice of Rights Under Title VI (S)**
- **PMP Brochure (S)**
- **Hardship deferral program handout**
- **Driveway Approach Handout (S)**
- **Photo notice (S/So)**
- **Encroachment Applications**
- **Vacation Application**
- **Acquisition Information for Property Owners**
- **Utility permit FAQ**
- **Sanitary Sewer handout**
- **Toilet handout**
- **Performance bond requirements**
- **Utility permit info**
- **Residential water meter info**
- **City of Bloomington Reasonable Accommodation Policy for Members of the Public**

**Provide Language Assistance Notices until translated:**

- **Language assistance notice on public engagement invitations**
  - **Language assistance notice on large public-facing documents**
  - **Door Step Service**
  - **Garbage Opt Out**
  - **Notice of Public Hearing (Improvement)**
  - **Street Ordered Postcard**
  - **Notice of Public Hearing (Assessment Roll)**
  - **Survey Coming Letter**
  - **Driveway Permits (Cityview)---Need to provide notice on website**
  - **ROW Obstruction Permits (Cityview) – Need to provide notice on website**
  - **Guidelines – Clearview Triangle Handout**
  - **Clearview Triangle Handout**
  - **Public On Street Parking Policy – February 2013**
  - **Temp shut off notice**
  - **Bulk water info**
  - **Bulk water use app**
  - **Portable water tank inspection**
  - **Back siphonage info**
  - **Shielded couplings info**
- Note: An (S) means it has been translated into Spanish and (So) means it has been translated into Somali as of August 2022. The City of Bloomington is developing a plan to translate the rest of the documents in the coming months and has prioritized the translations as listed above.

## **FACTOR #4: THE RESOURCES AVAILABLE TO City of Bloomington, MN AND THE COST OF LANGUAGE ASSISTANCE**

The resources available to City of Bloomington, MN and the costs of providing language assistance services may impact the steps taken to provide meaningful access to LEP individuals. Additionally, reasonable steps may cease to be reasonable where the costs imposed substantially exceed the benefits. City of Bloomington, MN will determine on a case-by-case basis whether language assistance costs outweigh the benefits.

The four-factor analysis necessarily implicates a spectrum of language assistance measures. For instance, written translations can range from translation of an entire document to translation of a short description of the document, and interpretation services may range from using telephone-based interpretation services to providing in-person interpretation at a public event. Language assistance measures should be based on what is necessary and reasonable after considering the four-factor analysis. City of Bloomington, MN will proactively identify how to provide language assistance services efficiently and cost-effectively while ensuring meaningful access to LEP individuals.

### **Language Services**

There are two types of language services:

- *Translation* is the replacement of a word, phrase, or text in one language (source language) with an equivalent-meaning word, phrase, or text in another language (target language). This is written language assistance.
- *Interpretation* is the act of listening to a communication in one language (source language) and orally converting it to another language (target language) while retaining the same meaning. This is oral language assistance.

Currently, City of Bloomington, MN has the following language services available:

- Language Line: Provides telephone-based, on-demand access to language interpreters 24 hours a day, 7 days a week, year-round. The service assists staff in communicating effectively with LEP individuals. Also provides translation services.
- Propio and ARCH Intelligere: Provides in person/and or virtual interpreting services which may include video remote interpreting and over the phone interpreting. The service assists staff in communicating effectively with LEP individuals as well as American Sign Language and Deaf/Blind Tactile

Further information for staff is available on CityBiz



### **XIII. Notice of Rights**

The City of Bloomington has posted both the English version and the Spanish version of Your Rights Against Discrimination under Title VI of the Civil Rights Act of 1964 in the lobby of the Public Works Facility located at 1700 W. 98<sup>th</sup> Street, Bloomington, MN and posted on the website.

#### **Your Rights Against Discrimination under Title VI of the Civil Rights Act of 1964**

The City of Bloomington is committed to ensuring that no person is excluded from participation in, denied the benefits of, or otherwise subjected to discrimination on the basis of race, color, national origin, sex, age, disability, limited English proficiency or low-income status in any and all programs, activities, or services administered by the City in accordance with Title VI of the Civil Rights Act of 1964 and related nondiscrimination legal authorities.

In addition, the Minnesota Human Rights Act prohibits discrimination in the provision of public services on the basis of race, color, creed, religion, national origin, sex, marital status, disability, gender identity, sexual orientation, and status with regard to public assistance.

If you believe you have been aggrieved by an unlawful discriminatory practice, or wish to request more information about the City's obligations under Title VI, please contact us at the following address and telephone number:

City of Bloomington  
Human Rights Commission  
Human Rights Commission Liaison  
1800 West Old Shakopee Road  
Bloomington, MN 55431  
[hrc@bloomingtonmn.gov](mailto:hrc@bloomingtonmn.gov)  
952-563-8733  
MN Relay 711

A Title VI complaint may also be submitted to MnDOT online at <https://www.dot.state.mn.us/civilrights/nondiscrimination-complaint-form.html> or using the contact information:

Minnesota Department of Transportation  
Office of Civil Rights  
395 John Ireland Blvd, Mail Stop 170  
St. Paul, MN 55155  
Phone: (651)-366-3073  
Fax: (651)-366-3129

## **Sus derechos contra la discriminación bajo el Título VI de la Ley de Derechos Civiles de 1964**

La ciudad de Bloomington tiene el compromiso de garantizar que ninguna persona sea excluida de la participación, se le nieguen los beneficios o sufra cualquier otro tipo de discriminación por motivos de raza, color, nacionalidad de origen, sexo, edad, discapacidad, dominio limitado del inglés o ingresos bajos en ninguno de los programas, actividades o servicios administrados por la ciudad de acuerdo con el Título VI de la Ley de Derechos Civiles de 1964 y con las autoridades jurídicas de no discriminación relacionadas.

Además, la Ley de Derechos Humanos de Minnesota prohíbe la discriminación en la prestación de servicios públicos por motivos de raza, color, credo, religión, nacionalidad de origen, sexo, estado civil, discapacidad, identidad de género, orientación sexual y situación con respecto a la asistencia pública.

Si cree que ha sido perjudicado por una práctica discriminatoria ilegal o desea pedir más información sobre las obligaciones de la ciudad previstas en el Título VI, comuníquese con nosotros a la dirección y al número de teléfono siguientes:

City of Bloomington  
Human Rights Commission  
Human Rights Commission Liaison  
1800 West Old Shakopee Road  
Bloomington, MN 55431  
[hrc@bloomingtonmn.gov](mailto:hrc@bloomingtonmn.gov)  
(952) 563-8733  
Retransmisión de MN 711

Las quejas referidas al Título VI también pueden enviarse a MnDOT en línea, en <https://www.dot.state.mn.us/civilrights/nondiscrimination-complaint-form.html> o por medio de la información de contacto:

Minnesota Department of Transportation  
Office of Civil Rights  
395 John Ireland Blvd, Mail Stop 170  
St. Paul, MN 55155  
Teléfono: (651) 366-3073  
Fax: (651) 366-3129

**Appendix A**

Title VI Assurances

**The United States Department of Transportation (USDOT)**

**Standard Title VI/Non-Discrimination Assurances**

**DOT Order No. 1050.2A**

The \_\_\_\_\_ City of Bloomington, Minnesota \_\_\_\_\_ (herein referred to as the “Recipient”), **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through the **Federal Highway Administration (FHWA)**, 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 *Non-discrimination 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);

***Modal Operating Administration may include additional Statutory/Regulatory Authorities here.***

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, 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 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.

***Modal Operating Administration may include additional General Assurances in this section, or reference an addendum here.***

**Specific Assurances**

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted **FHWA Program**:

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, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with all **FHWA Programs** and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

*“The \_\_\_\_\_ City of Bloomington, Minnesota \_\_\_\_\_, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 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, or national origin 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 or possession 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.

***Modal Operating Administration may include additional Specific Assurances in this section.***

By signing this ASSURANCE, City of Bloomington, Minnesota 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 FHWA 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 FHWA. You must keep records, reports, and submit the material for review upon request to FHWA, 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.

City of Bloomington, Minnesota 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 financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the FHWA. This ASSURANCE is binding on

City of Bloomington, Minnesota, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in its programs. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

City of Bloomington, Minnesota  
 DocuSigned by: **(Name of Recipient)**  
**James D. Verbrugge** City Manager  
 by 46BAC1F46820460...  
**(Signature of Authorized Official)**

DATED September 20, 2021

## 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 Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, **Federal Highway Administration (FHWA)**, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** 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. *[Include Modal Operating Administration specific program requirements.]*
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 Non-discrimination on the grounds of race, color, or national origin. *[Include Modal Operating Administration specific program requirements.]*
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 **FHWA** 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 **FHWA**, 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 Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the **FHWA** 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 **FHWA** 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 Bloomington, Minnesota will accept title to the lands and maintain the project constructed thereon in accordance with the Regulations for the Administration of **Federal Highway Administration (FHWA)**, and the policies and procedures prescribed by the **FHWA** 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, Non-discrimination 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 City of Bloomington, Minnesota 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 City of Bloomington, Minnesota 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 Bloomington, Minnesota, its successors and assigns.

The City of Bloomington, Minnesota, 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 Bloomington, Minnesota 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, Non-discrimination 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 non-discrimination 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 Bloomington, Minnesota \_\_\_\_\_ 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 Non-discrimination covenants, \_\_\_\_\_ City of Bloomington, Minnesota \_\_\_\_\_ 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 Non-discrimination covenants, the \_\_\_\_\_ City of Bloomington, Minnesota \_\_\_\_\_ 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 Bloomington, Minnesota \_\_\_\_\_ and its assigns.\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary 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 City of Bloomington, Minnesota 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 Non-discrimination covenants, City of Bloomington, Minnesota 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 Non-discrimination covenants, City of Bloomington, Minnesota will there upon revert to and vest in and become the absolute property of City of Bloomington, Minnesota and its assigns.\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary 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 non-discrimination statutes and authorities; including but not limited to:

### **Pertinent Non-Discrimination 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.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- 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 USC § 471, Section 47123), 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, sub-recipients 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 Non-discrimination 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 discrimination 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.*).



\_\_\_\_\_

*Where did the discrimination occur?*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*When did the discrimination occur?*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*Were there any other witnesses to the discrimination?*

Name	Organization/Title	Work Telephone	Home Telephone

*How would you like to see this situation resolved?*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*Have you filed your complaint, grievance, or lawsuit with any other agency or court?*

Who \_\_\_\_\_ When \_\_\_\_\_

Status (pending, resolved, etc.) \_\_\_\_\_ Result, if known \_\_\_\_\_

Complaint or case number, if known \_\_\_\_\_

*If you have an attorney in this matter, please provide their contact information:*

Name \_\_\_\_\_ Phone \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ Zip \_\_\_\_\_

**Privacy notice:** The City of Bloomington is asking you to provide information in this complaint form which includes private and/or confidential information under the Minnesota Government Data Practices Act. This private/confidential information is being requested so that all allegations of discrimination can be investigated and addressed properly. You are not legally required to provide this information. However, if you do not provide sufficient information, your complaint may not be able to be adequately investigated. The information you provide will be used by the City of Bloomington, Minnesota Department of Transportation and Federal Highway Administration employees whose job assignments reasonably require access to the information. The following also have a legal right to access the information: exclusive representative for any MnDOT or City of Bloomington employee who becomes the subject of investigation in connection with your complaint; the arbitrator if discipline imposed on any such employee is appealed to arbitration; the MN Attorney General's Office; the MN Legislative Auditor's Office; law enforcement agencies and prosecutorial authorities; persons/entities named pursuant to court order; persons/entities whom you authorize; and any other person or entity authorized by state or federal law.

Signed \_\_\_\_\_ Date \_\_\_\_\_

**Appendix C**

Project P2 Plan Spreadsheet

## Projects Proposed P2 Plan - DRAFT

**List VISION, MISSION and OBJECTIVES of the public participation:**

Level of Engagement	Brief Engagement Description	Staff and Partner Responsibility	Major Stakeholders	Resources Required	Potential Roadblocks	Key Date	April	May	June	July	August	September	October	November	December
		LIST POTENTIAL STAFF AND PARTNERS	LIST MAJOR STAKEHOLDERS. BE SPECIFIC												
Inform	Share Information/Education: City shares information with the public.														
EXAMPLE:	Signs in Parks with QR Code to the Let's Talk	Brett/Renae	Neighbors around parks (10 block radius)	Printing of signs Coordinate with other departments (PW) - If multiple in one neighborhood, consider "Changes are happening in your neighborhood. Check it out at Let's Talk Bloomington." QR Code	Weather Vandalism City Code - verify location of signage - re: far enough from street	Through summer									
Consult	Collect and Compile Input: Public responds to issues and idease presented by the City.														
EXAMPLE	Let's Talk Bloomington (all inclusive)  Create two concept drawings and representative ideas, get input on options.	Tracy, Renae, Consultants	Residents (Neighborhood residents - 10 miles?) Renters Faith organziations Office of Equity and Education Bloomington Public Schools Community Leaders Business around the parks Non-profits Park specific user groups	Let's Talk Bloomington Page Project Description Whose listening Survey(ies) Mapping / Pin Drop Engagement	To reach families and youth, info needs to be distributed before June 9, when school ends. Graduation is May 31, and June 1. Ideally info is distributed prior to then.	Up prior to school getting out?									
Involve	Bring People Together: The City works directly with the public to ensure concerns are understood and considered.														
EXAMPLE	9, 90-minute on-site meetings (various parks) - related to the development of the concept design for the park	City Staff Consultant	Users of Bryant Park Neighbors of Bryant Park Neighboring business, faith, schools, etc	The Proposer is expected to provide community engagement graphic materials and assist with the program planning and design of the engagement events. On-site events will be conducted by City staff with attendance and participation by Proposer's team.	Under represented populations - hold communication conversations with BIPOC, seniors, people with disabilities Weather People could be on vacations Does the project stay on schedule	June and August									
Collaborate	Bring People Together in Partnership: The City and public partner on development of each decision/solution.														
Empower	Bring Decide on the Outcome: The final decision is in the hands of the public.														