

Town of Bethlehem, New York Title VI & Civil Rights Compliance Plan

Prepared for the New York State Department of Transportation
May, 2018

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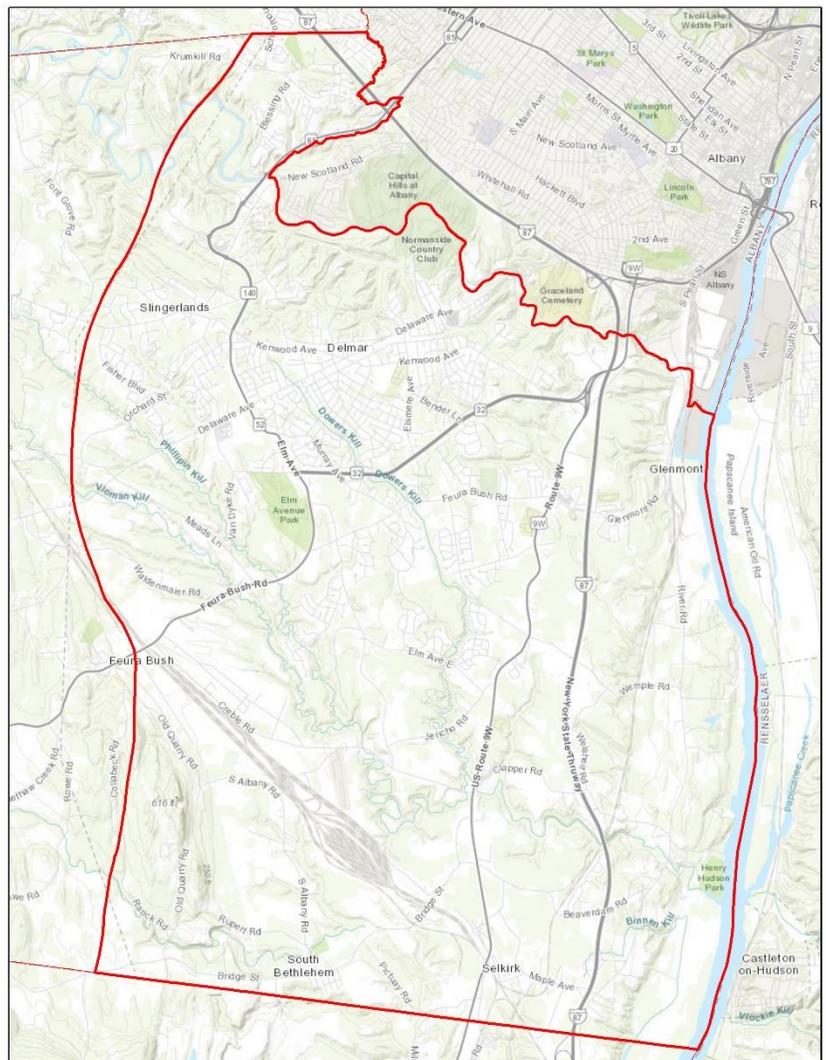
COMMUNITY DESCRIPTION

The Town of Bethlehem is located in Albany County in New York's Capital Region. The town spans roughly 53 square miles and has a population of approximately 34,000.

According to the U.S. Census, the town's racial makeup is 91.9% white, 2.6% black or African American, 3.2% Asian, 1.6% two or more races, and 0.6% American Indian or some other race. Residents of different racial ethnic backgrounds are evenly intermingled throughout the town – there are no neighborhoods where racial or ethnic minorities are concentrated.

The NYS Dept. of Health listed a household income of \$37,777 as the poverty line for a family of three in 2017. According to the U.S. Census, the town's median household income is \$92,708 while the average is \$120,094. Approximately 15% of all Bethlehem households earned less than \$35,000 annually, 39% earned \$35,000-\$100,000, and 46% earned more than \$100,000.

Roads in Bethlehem are collaboratively managed by the Town, Albany County, and the State of New York. In 2017, approximately 183 miles were managed by the Town Highway Department, 16 miles by the Albany County Department of Public Works, and 64 miles by the New York State Department of Transportation and Thruway Authority. In addition, Bethlehem maintains approximately 57 miles of sidewalks throughout town.

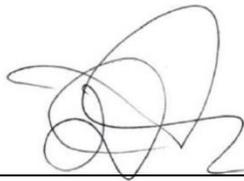


TITLE VI/NONDISCRIMINATION PROGRAM POLICY STATEMENT

The Town of Bethlehem is committed to ensuring that no person shall, on the grounds of race, color, national origin, or gender as provided by Title VI of the Civil Rights Act of 1964 and the Civil Rights Restoration Act of 1987 (P.L. 100.259), be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity. Further, the Town of Bethlehem will make every effort to ensure nondiscrimination in all of its programs and activities, whether or not those programs and activities are federally funded.

In the event that the Town of Bethlehem distributes federal aid funds to another governmental entity, the Town of Bethlehem will include Title VI language in all written agreements and will monitor for compliance. The Town of Bethlehem is responsible for initiating and monitoring Title VI activities, preparing required reports, and other Town of Bethlehem responsibilities as required by 23 CFR 200 and 49 CFR 21.

Title VI of the 1964 Civil Rights Act provides that no person in the United States shall, on the grounds of race, color, national origin, or gender be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance (please refer to 23 CFR 200.9 and 49 CFR 21). The Civil Rights Restoration Act of 1987 broadened the scope of Title VI coverage by expanding the definition of terms "programs or activities" to include all programs or activities of Federal Aid recipients, sub-recipients, and contractors, whether such programs and activities are federally assisted or not (Public Law 100-259 [S. 557] March 22, 1988). Additional authorities and citations include: Title VI of the Civil Rights Act of 1964; 42 USC 2000d to 2000d-4; 42 USC 4601 to 4655; 23 USC 109(h); 23 USC 324; DOT Order 1050.2; EO 12250; EO 12898; 28 CFR 50.3; EO 13166.



David VanLuven
Town Supervisor

May 23, 2018

Date

Standard Title VI/Non-Discrimination Assurances are provided in Appendix 2.

TITLE VI COORDINATOR & CIVIL RIGHTS OVERSIGHT

The Town of Bethlehem will designate a Title VI Coordinator to coordinate monitoring and compliance with Title VI in collaboration with other Town staff. Because the Town of Bethlehem is a small municipality, it does not have a separate Civil Rights Unit. Instead, civil rights mandates and responsibilities are integrated into the regular work of the Town staff who oversee contracting, procurement, planning, and project implementation, with particular attention given by all to the eight special emphasis areas.

Title VI Coordinator

The Title VI Coordinator is the Town Comptroller, who reports directly to the Town Supervisor.

Michael Cohen, Comptroller

Bethlehem Town Hall, 445 Delaware Ave, Delmar, NY 12054

Telephone: 518-439-4955 x1123

mcohen@townofbethlehem.org

The Title VI Coordinator's key responsibilities are as follow.

1. DATA COLLECTION REPORTING/ANALYSIS

Work with appropriate Town staff to use U.S. Census data to summarize race, household income, and gender trends at the Town scale. The Town will adopt finer scale data on these trends if the necessary data are provided by the State of New York.

2. SPECIAL EMPHASIS PROGRAM AREAS

Work with appropriate Town staff to review Town activities in the context of the eight special emphasis program areas with the goal of ensuring they are in compliance with Title VI provisions. More details are provided in the Special Emphasis Program Areas section below.

3. ENVIRONMENTAL JUSTICE

Work with Town staff overseeing projects, contracts, and procurements with the goal of ensuring these activities meet the fundamental principles of environmental justice that are described in the Environmental Justice Commitment & Plan section below.

4. LIMITED ENGLISH PROFICIENCY

Work with appropriate Town staff with the goal of ensuring Town programs, projects, activities, and services meet the fundamental commitments set forth in the Limited English Proficiency Commitment & Plan section below.

5. TITLE VI TRAINING

Work with appropriate Town Staff to provide training on Title VI statutes for Town employees. The training will be incorporated into the Town's annual workplace violence and sexual harassment training program (conducted each winter), and will provide information on Title VI provisions and the process for investigating and resolving complaints. Title VI information will also be integrated into the Town employee handbook and be posted on

workplace bulletin boards in Town Hall, the Town highway garage, the Town public works garage, and the Town parks and recreation administrative offices.

6. DISSEMINATION OF TITLE VI INFORMATION

Work with appropriate Town staff to help ensure that:

- Town employees are provided with information on their Title VI rights and responsibilities through training and the employee handbook;
- contractors and consultants are provided with information on their Title VI obligations through required language that is included as part of contracts; and
- the public is provided with Title VI information on its rights and complaint procedures through information posted on the Town website.

7. COMPLAINT PROCEDURES

Work with appropriate Town staff to identify and eliminate discrimination in Town programs, projects, or workplaces by promptly investigating and resolving Title VI complaints in accordance with the Title VI Complaint Procedures section below.

8. SUB-RECIPIENT REVIEW PROCEDURES

Work with appropriate Town staff to conduct Title VI reviews of contractors and other sub-recipients of federal aid highway funds in accordance with the Contracting Disadvantaged Business Enterprises and Minority & Women-Owned Business Enterprises section below.

9. COMPLIANCE & ENFORCEMENT PROCEDURES

Work with appropriate Town staff to promptly resolve Title VI deficiencies and violations by sub-recipients of federal funds. Sub-recipients placed in a deficiency status will be given a reasonable time, not to exceed 90 days after receipt of the deficiency letter, to voluntarily correct deficiencies. The Town will seek the cooperation of the sub-recipient in correcting deficiencies found during Title VI compliance reviews. When a sub-recipient fails or refuses to voluntarily comply with requirements within the allotted time frame, the Town will submit a copy of the case file to NYSDOT's Office of Civil Rights and a recommendation that the sub-recipient be found in noncompliance. The Town will conduct a follow-up review within 180 days of the initial review to ensure that the sub-recipient has corrected the Title VI deficiencies.

10. REVIEW OF TITLE VI DIRECTIVES

Work with appropriate Town staff to integrate updated Title VI legislative and procedural information provided by NYSDOT's Office of Civil Rights into the Town's Title VI Plan.

SPECIAL EMPHASIS PROGRAM AREAS

NYSDOT notes eight special emphasis program areas that require particular attention for the Town's federally funded transportation projects. The Town of Bethlehem will assess potential trends or patterns of discrimination in each area by:

- Conferring with leaders in churches and other neighborhood community centers to see if they are hearing complaints or concerns about possible discrimination.

- Tracking public comments at community forums, Town meetings, and other public venues for concerns that could be indicative of discriminatory practices.
- Implementing the Environmental Justice Plan, Limited English Proficiency Plan, and Public Participation Plan with the goal of ensuring that all community members – regardless of race, color, national origin, or gender – have full access to information, can participate and be heard, know their rights, and are not subject to discrimination.
- Implementing the compliance and enforcement procedures, and the complaint procedures, whenever allegations of discrimination are raised.

The special emphasis program areas are described below. For each, we note key actions and lead staff who are responsible for Title VI requirements. All of the lead staff report directly to the Town Supervisor except for the Town Engineer, who reports to the Commissioner of Public Works, but nonetheless regularly communicates with the Town Supervisor on Town project issues. All lead staff can be reached by telephone at 518-439-4955 or at Town of Bethlehem, 445 Delaware Ave, Delmar, NY 12054.

Planning

Actions to achieve Title VI responsibilities include:

- Apply the Limited English Proficiency Plan and the Public Participation Plan with the goal of ensuring the full participation of all social, economic, and ethnic populations impacted by Town planning processes.

Lead staff: Director of Planning

Construction

Actions to achieve Title VI responsibilities include:

- Include Title VI language in contract advertisements and award letters to encourage the utilization of Disadvantaged Business Enterprise firms.
- Award construction contracts on the basis of the lowest responsive bidder, including Disadvantaged Business Enterprise requirements.
- Require prime contractors who sub-contract work to Disadvantaged Business Enterprises to follow through and actually have the Disadvantaged Business Enterprises perform commercially useful functions.
- Include Title VI language provided by NYSDOT in contracts involving federal transportation funds.

Lead staff: Highway Superintendent, Town Engineer, Commissioner of Public Works

Environmental Services

Actions to achieve Title VI responsibilities include:

- Apply the Limited English Proficiency Plan and the Public Participation Plan with the goal of ensuring the full participation of all social, economic, and ethnic populations impacted by Town environmental service processes.
- Include Title VI language provided by NYSDOT in contracts involving federal transportation funds.

Lead staff: Highway Superintendent, Town Engineer, Commissioner of Public Works

Maintenance

Actions to achieve Title VI responsibilities include:

- Apply the Limited English Proficiency Plan and the Public Participation Plan with the goal of ensuring the full participation of all social, economic, and ethnic populations impacted by Town maintenance processes.
- Include Title VI language provided by NYSDOT in contracts involving federal transportation funds.

Lead staff: Highway Superintendent, Town Engineer, Commissioner of Public Works

Design

Actions to achieve Title VI responsibilities include:

- Apply the Limited English Proficiency Plan and the Public Participation Plan with the goal of ensuring the full participation of all social, economic, and ethnic populations impacted by Town design processes.
- Include Title VI language provided by NYSDOT in contracts involving federal transportation funds.
- Review and update operational manuals and directives to include Title VI language and provisions.

Lead staff: Highway Superintendent, Town Engineer, Director of Planning, Commissioner of Public Works

Traffic Safety

Actions to achieve Title VI responsibilities include:

- Apply the Limited English Proficiency Plan and the Public Participation Plan with the goal of ensuring the full participation of all social, economic, and ethnic populations impacted by Town traffic safety processes.
- Include Title VI language provided by NYSDOT in contracts involving federal transportation funds.

Lead staff: Highway Superintendent, Town Engineer, Director of Planning

Right-Of-Way

Actions to achieve Title VI responsibilities include:

- Provide equal access to Minority/Women/Disadvantaged Business Enterprises (as identified by the Office of Minority and Women's Business Enterprises) to personal services contracts.
- Include the Title VI clauses (listed in Appendix 2, Assurance Appendices B and C) as appropriate in deeds, permits, and leases.

Lead staff: Town Engineer

Research

As a small municipality, the Town of Bethlehem does not undertake research.

ENVIRONMENTAL JUSTICE COMMITMENT & PLAN

The Town of Bethlehem is committed to avoiding, minimizing, and (when necessary) mitigating disproportionately high and adverse human health and environmental effects, including social

and economic effects, on minority populations and low-income populations. This commitment includes providing for full and fair participation by all residents affected by proposed projects and striving to prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations.

To help ensure implementation of this commitment in Town programs, projects activities, and services, the Town will:

- Implement a Public Participation Plan to provide opportunities for full and fair participation by all potentially affected communities in the transportation decision-making process;
- Meet State Environmental Quality Review guidelines and requirements; and
- Integrate data provided by the State of New York regarding race, household income, and gender trends at the neighborhood scale.

LIMITED ENGLISH PROFICIENCY COMMITMENT & PLAN

The Town of Bethlehem is committed to ensuring meaningful access by all individuals to Town programs, projects, activities, and services. Recognizing that special services may be required to meet this commitment for individuals with limited English proficiency, the Town will:

- Provide language translation services during all court hearings, trials, and motions (in 2018, the Town utilized Language Line Solutions, in addition to police officers who were fluent in Spanish and Russian); and
- Provide language translation for public hearings and meetings when there is evidence that 5% or more of a neighborhood potentially affected by a federally funded transportation project has limited English proficiency and requires special language assistance.

PUBLIC PARTICIPATION COMMITMENT & PLAN

The Town of Bethlehem is committed to public participation in Town programs, projects, activities, and services. To engage the public in discussions about Town projects, and in turn to benefit from their insights into issues, opportunities, and concerns, the Town will continue to:

- Reach out to the Town's two primary newspapers (the *Spotlight* and the *Times Union*) to encourage coverage of issues and projects;
- Post meeting agendas on the Town website prior to scheduled meeting dates;
- Provide a "Notify Me" option on the Town website through which individuals can sign up to receive notices on upcoming meetings by email or text;
- Provide real-time and on-demand video online-streaming of all Town Board, Planning Board, Zoning Board of Appeals, and Industrial Development Agency meetings;
- Post meeting and public forum announcements on the Town's Facebook page;
- Provide time for public comment in all own Town Board, Planning Board, and Zoning Board of Appeals meetings;
- Post meeting notices outside the Town Clerk's office in Town Hall; and
- Hold public hearings at Town Board, Planning Board, and Zoning Board of Appeals meetings.

In addition, for transportation projects receiving federal funding, the Town will:

- Hold public forums at Town Hall and in community centers near the project areas; and
- Schedule public forums at different times of day and at various locations to facilitate access and participation by different community members; and

The goals of these public participation strategies are to (a) inform the community about proposed projects, (b) gain insights on ways to improve proposed projects, (c) address neighborhood and community concerns, and (d) identify needs and opportunities for future projects.

CONTRACTING DISADVANTAGED BUSINESS ENTERPRISES AND MINORITY & WOMEN-OWNED BUSINESS ENTERPRISES

The Town of Bethlehem is committed to complying with the provisions of New York State law and other federal requirements prescribed by government agencies relating to the participation of disadvantaged business enterprises (DBE) and of minority- and women-owned business enterprises (MWBE) throughout the lives of its federally funded transportation projects.

The Town's goals for DBEs and MWBEs will comply with the requirements of each federal and state funding award received. The Town will monitor, or work with consultants to monitor, compliance with DBE and MWBE goals on federally funded projects, and submit all required reports in a timely manner. For funds from or through NYSDOT, the Town and its consultants will use the Equitable Business Opportunities system to track and report on DBE and MWBE activity.

TITLE VI COMPLAINT PROCEDURES

The Title VI Complaint Form is provided in Appendix 1.

These procedures were developed by the U.S. Department of Transportation to cover all complaints filed under Title VI of the Civil Rights Act of 1964 as amended, (including its Disadvantaged Business Enterprises (DBE)), Section 504 of the Rehabilitation Act of 1973, Civil Rights Restoration Act of 1987, and the Americans with Disabilities Act of 1990, relating to any transportation or Public Works program or activity administered a municipality, as well as to sub-recipients, consultants, and contractors. These procedures apply to complaints filed against a program or activity funded by either the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), or the Federal Aviation Administration (FAA).

Intimidation or retaliation of any kind is prohibited per Title 49, Code of Federal Regulations, Part 21.11(e).

These procedures do not deny the right of the complainant to file formal complaints with state or federal agencies or to seek private counsel for complaints alleging discrimination.

These procedures are part of an administrative process which does not provide for remedies that include punitive damages or compensatory remuneration for the complainant. Every effort will be made to obtain early resolution of complaints at the lowest managerial/administrative level possible. The option of informal mediation meeting(s) between the affected parties and the investigator may

be used for resolution at any stage of the process. The investigator will make every effort to pursue a resolution of the complaint. Initial interviews with the complainant and the respondent will request information regarding specifically requested relief and settlement opportunities.

Any person who believes that they or any specific class of persons has been subjected to discrimination or retaliation prohibited by any of the Civil Rights authorities prohibited under Title VI based upon race, color, gender, age, national origin, or disability for programs or activities receiving federal funding may file a written complaint with the Town of Bethlehem and/or the NYS Department of Transportation.

Time Limits for Filing

A formal complaint must be filed within 180 days after:

- The date of the alleged act of discrimination; or
- The date when the person became aware of the alleged discrimination; or
- There has been a continuing or the latest instance of the discriminatory conduct.

Form of Complaints

A formal complaint must meet the following requirements:

- Must be in writing and signed by the person or their representative and include the complainant's name, address, and telephone number. A formal complaint of discrimination will also be acknowledged and processed if received by fax or e-mail. A formal complaint of discrimination received by telephone will be written down and provided to the complainant for confirmation or revision before processing.
- Must provide a detailed description of the issues including names, dates, and job titles of witnesses or those individuals perceived as parties in the complained of incident.

Upon receipt of the complaint, the Town of Bethlehem will determine its jurisdiction, acceptability, need for additional information, and the investigative merit of the complaint. Complaints against the Town of Bethlehem will be referred to the New York State Department of Transportation's Office of Civil Rights for proper disposition. In special situations warranting intervention to ensure equity, the New York State Department of Transportation's Office of Civil Rights may assume jurisdiction and either complete or obtain services to review or investigate matters.

Acceptance of a complaint will be determined by:

- Whether the complaint is timely filed;
- Whether the allegations involve a covered basis such as race, color, national origin, gender, disability, or retaliation;
- Whether the allegations involve a program or activity of a Federal-aid recipient, sub-recipient, or contractor; or, in the case of ADA allegations, an entity open to the public;
- The complainant(s) acceptance of reasonable resolution based on the New York State Department of Transportation's administrative authority.

A complaint may be dismissed for the following reasons:

- The complainant requests the withdrawal of the complaint;

- The complainant fails to respond to repeated requests for additional information needed to process complaint;
- The complainant cannot be located after reasonable attempts.

The Town of Bethlehem has sole authority for accepting complaints for investigation. Once the Town decides to proceed with the investigation, the complainant and the respondent will be notified in writing of the determination within ten (10) calendar days. The complaint will receive a case number and be logged into the Town's records identifying its basis, alleged harm, the race, color, national origin, and gender of the complainant(s).

In cases where the Town assumes investigation of the complaint, it will provide the respondent with the opportunity to respond to the allegations in writing. The respondent will have ten (10) calendar days from the date of the Town's written notification of acceptance of the complaint to furnish their response to the allegations.

Within 40 calendar days of the acceptance of the complaint, the Town of Bethlehem or NYSDOT investigator will prepare an investigative report for the Town's Title VI Coordinator and the Town Supervisor. The report will include a narrative description of the incident, identification of persons interviewed, findings, and recommendations for disposition. The Title VI Coordinator and Town Supervisor will have 10 calendar days to review and provide comments to the investigator.

Once the investigator addresses any comments to the preliminary investigative report, the report and its findings will be forwarded to the Town Attorney for review. The Town Attorney will review the report and associated documentation and will provide input within 10 calendar days.

Any comments or recommendations from the Town Attorney will be reviewed by the Town Supervisor. There will be a period of 10 calendar days for the Town Supervisor to discuss the report and any recommendations with the Title VI Coordinator, and to have the Title VI Coordinator address any modifications before the report's release to the corresponding United States Department of Transportation (USDOT) modality (FHWA, FTA, FAA).

The Town of Bethlehem final investigative report and a copy of the complaint will be forwarded to either NYSDOT, FHWA, FTA, or FAA within 60 calendar days of the acceptance of the complaint.

The Town of Bethlehem will notify the parties of its preliminary findings which are subject to the corresponding USDOT modality's concurrence.

The corresponding USDOT modality will issue the final decision to the Town of Bethlehem based on the investigative report.

USDOT will analyze the facts of the case and will issue its conclusion to the complainant according to their procedures. Once the corresponding USDOT modality issues its final decision, the Town of Bethlehem will notify all parties involved about such determination. USDOT's final determination is not subject to an appeal.

APPENDIX 1: TITLE VI COMPLAINT FORM

Name _____

Address _____ City _____ Zip _____

Telephone: Home _____ Work _____ Cell _____

Basis of Complaint

- Race
- Color
- Gender
- National Origin
- Age
- Disability (ADA)
- Low-Income
- Limited English Proficiency

Who allegedly discriminated against you?

If an individual:

Name _____

Address _____ City _____ Zip _____

Telephone _____

If a company or organization:

Company or Organization Name _____

Address _____ City _____ Zip _____

How were you discriminated against?

Where did the alleged discrimination occur?

Date/s and times the alleged discrimination occurred?

First time _____

Second time _____

Third time _____

Were there any other witnesses to the alleged discrimination?

Name	Title	Work Telephone	Home Telephone

What can the Town of Bethlehem do to resolve the complaint?

Have you filed your complaint with anyone else?

Who _____

When _____

Complaint number, if known _____

Do you have an attorney in this matter?

Name _____

Address _____ City _____ Zip _____

Telephone _____

When did you engage? _____

Signed _____ **Date** _____

You may submit your complaint to the Town of Bethlehem:

In Person: Bethlehem Town Hall Room 207, 445 Delaware Ave, Delmar, NY

By Mail: Bethlehem Town Hall, 445 Delaware Ave, Delmar, NY 12054

By Email: mtremblay@townofbethlehem.org

By Fax: 518-439-2125

By Phone: 518-439-4955 x1127

You may also submit your complaint to the NYS Dept. of Transportation Office of Civil Rights:

By Mail: Title VI Coordinator, NYS Dept. of Transportation Office of Civil Rights,
50 Wolf Rd, Albany, NY 12232

By Email: OCR-Title VI @dot.ny.gov

By Phone: 518-457-1129

APPENDIX 2: Standard Title VI/Non-Discrimination Assurances

The Town of Bethlehem (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 New York State Department of Transportation (NYSDOT), 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.P.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.P.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, 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 NYSDOT.

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 nondiscrimination 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 Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted (*Name of Appropriate 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 (*Name of Appropriate Program*) and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

"The Town of Bethlehem in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 US. 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.”

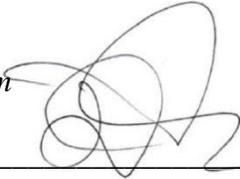
3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting 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.

By signing this ASSURANCE, Town of Bethlehem 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 (*insert Agency name*) 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 (*insert Agency name*). You must keep records, reports, and submit the material for review upon request to (*insert Agency name*), 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 Town of Bethlehem 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 *(Name of Appropriate Program)*. This ASSURANCE is binding on the State of New York, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the *(Name of Appropriate Program)*. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

Town of Bethlehem



by _____
(Signature of Authorized Official)

DATED May 23, 2018

ASSURANCE 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, 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.
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.
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 (*Title of Modal Operating 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 (*Title of Modal Operating 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 (*Title of Modal Operating 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 (*Title of modal Operating 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.

ASSURANCE 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 (*Title of Recipient*) will accept title to the lands and maintain the project constructed thereon in accordance with (*Name of Appropriate Legislative Authority*), the Regulations for the Administration of (*Name of Appropriate Program*), and the policies and procedures prescribed by the (*Title of Modal Operating 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, 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 (*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 (*Title of Recipient*) 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 (*Title of Recipient*), its successors and assignees.

The (*Title of Recipient*), 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 (*Title of Recipient*) 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 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.)

ASSURANCE 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 (*Title of Recipient*) 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, (*Title of Recipient*) 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 (*Title of Recipient*) 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 (*Title of Recipient*) 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.)

ASSURANCE 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 *(Title of Recipient)* 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, *(Title of Recipient)* 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, *(Title of Recipient)* will there upon revert to and vest in and become the absolute property of *(Title of Recipient)* 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.)

ASSURANCE 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 § 4 71, 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.P.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.*).