



## Non-Discrimination Policy Statement

It is the policy of the Colorado Department of Public Safety (CDPS) to prohibit discrimination on the basis of race, color, creed, national origin, disability, age, sex (including pregnancy, sexual orientation, gender identity), religion, low-income, limited English proficiency (LEP), and environmental justice. The Recipient has appointed the CDPS Director of Civil Rights as the Title VI Coordinator. The Title VI Coordinator provides administrative direction necessary to ensure that policies and procedures relating to Title VI are implemented. The Title VI Coordinator reports directly to the CDPS Deputy Executive Director and the Title VI Coordinator work with the Directors of the CDPS Divisions including: Colorado State Patrol; Colorado Bureau of Investigation; Division of Criminal Justice; Division of Fire Prevention and Control; Division of Homeland Security and Emergency Management. The Coordinator has the authority to:

- Provide technical assistance to all levels of management on the Title VI program.
- Implement procedures for the prompt processing and resolution of Title VI complaints.
- Coordinate the Title VI and Nondiscrimination Program with selected support staff.
- Review procedures and guidelines as they relate to various program directives, manuals, and other regulations to determine whether Title VI provisions are contained. Where corrections are necessary, the Title VI Coordinator will coordinate revisions.
- Update the Title VI and Nondiscrimination Program Plan.
- Coordinate Title VI Program training.
- Monitor inclusion of the Title VI Program Assurances in all applicable documents.
- Assist in conducting sub-recipient reviews to assure their compliance with the Title VI Program requirements.

As referenced in the Non-Discrimination Assurance, each program, service, activity, and facility as defined at 49 CFR Part 21 and 49 CFR Part 303, U.S. Department of Homeland Security regulation 6 C.F.R. Part 19, and the Civil Rights Restoration Act of 1987 will be (with regard to a program, service or activity) conducted, or will be (with regard to a facility) operated in compliance with the nondiscriminatory requirements imposed by, or pursuant to, this agreement.

A handwritten signature in blue ink, appearing to read "Dan Wilkey", is written above a horizontal line.

**CDPS Executive Director**

**DATE** 1/6/2023

## **Civil Rights Act of 1964 Title VI Assurance and Implementation Plan**

### **FHWA Only**

CDPS is committed to achieving full compliance with Title VI of the 1964 Civil Rights Act and all related non-discrimination laws. The Colorado State Patrol, a Division of CDPS, hereinafter referred to as the “Recipient” assures that no person shall on the grounds of race, color, national origin, or sex, 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, service or activity. The Recipient further assures every effort will be made to ensure non-discrimination in all of its programs, services and activities.

The Civil Rights Restoration Act of 1987, broadened the scope of Title VI coverage by expanding the definition of terms “programs, services or activities” to include all programs, services or activities of Federal Aid recipients, sub-recipients, and contractors/consultants, whether such programs, services and activities are federally assisted or not (Public Law 100259 [S.557] March 22, 1988.)

The Recipient’s, Title VI Coordinator, is responsible for monitoring Title VI activities, preparing reports and other responsibilities.

### **Authorities**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- Federal-Aid Highway Act of 1973, (23 U.S.C. §324 *et seq.*), (prohibits discrimination on the basis of sex);
- Title IX of the Education Amendments of 1972, as amended: Prohibits discrimination on the basis of sex in education programs, services or activities;
- 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);
- Americans with Disabilities Act of 1990, as amended: Prohibits discrimination on the basis of disability;
- 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, services or activities” to include all of the programs, services or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs, services 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;

- 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).

### **FMCSA Title VI Program Assurance**

**Please see signed Assurance at the end of the Plan.**

### **Training**

#### **Title VI Training for program areas.**

- a. The Title VI Coordinator will advise appropriate staff about available training in support of the Title VI Program. It will be the responsibility of the Title VI Coordinator to schedule training in such a way that appropriate notices and announcements are made to CDPS staff.
- b. The Title VI Coordinator will offer a Title VI Program training orchestrated by the Title VI Coordinator in accordance with Title VI Program requirements. This training will be provided in electronic form for any staff to review Title VI Program requirements. This training will be reviewed and updated as necessary by the Title VI Coordinator. It will be a requirement for current CDPS staff to participate and refresh themselves in the Title VI Program training annually. It will also be a requirement for new employees to participate in the Title VI Program training or watch the training video within 60 days of hire with the CDPS.
- c. This training will be made available to CDPS staff on an ongoing basis to ensure up to date knowledge of Title VI and other nondiscrimination statutes.
- d. On or before, January 1<sup>st</sup> of each year, the Title VI Coordinator will provide the FMCAS National Title VI Program Manager with a list of employees that have completed the Title VI Program training.
- e. Specific training will be provided to CSP/MCSAP personnel conducting safety investigations, audits, and inspections of commercial motor vehicles regarding English Language Proficiency. This training will be conducted in accordance with the English Language Proficiency Testing and Enforcement Policy (MC-ECE-2016-006). The following are points that will be conducted during training:
  - i. Recipient that conduct enforcement activities (to include inspection activities) are to be implemented in a non-discriminatory manner that comports with the National Origin protection under Title VI generally and affording reasonable accommodation to LEP drivers specifically.
  - ii. Formal driver interviews to confirm ELP will not be conducted during roadside inspections.
  - iii. If the driver can communicate sufficiently to complete the inspection or investigation, he/she should not be cited for violations of 391.11(b)(2).

- iv. Tools to facilitate communication such as interpreters, I-Speak cards, cue cards, smart phone applications, and On-Call Telephone Interpretation Service may be used when interacting with drivers. Use of these devices does not constitute a violation of 391.11 (b)(2).
- v. If a deaf or hard-of-hearing driver has obtained an exemption from the hearing standard under 49 CFR 391.41(b)(11), the deaf or hard-of-hearing driver satisfies the English language requirement, if they can read and write English sufficiently to communicate.
- vi. If a non-English speaking driver acknowledges that he/she does not speak English, the driver should be cited for a violation of Section 391.11(b)(2). However, this is no longer an OOS violation.
- vii. If a driver is cited for a violation of the ELP requirements and the employing motor carrier provides information advising that the employee has completed English language training, it should be considered sufficient documentation for addressing this violation.
- viii. If during an investigation, there is a pattern of violations discovered and the motor carrier is also identified for prioritization by the Safety Measurement System through an Alert in the Driver Fitness BASIC, enforcement action on these violations may be considered.
- ix. To give the CSP/MCSAP personnel an opportunity to see how the guidelines apply in context they will be presented with Case Studies.

### **Complaint Disposition Process**

Any individual, group of individuals, or entity that believes they have been subjected to discrimination prohibited by nondiscrimination requirements may file a written complaint with the Colorado Department of Public Safety, Title VI Coordinator.

**Step 1:** The complainant completes a written complaint.

**Step 2:** The complainant submits the written complaint to CDPS Title VI Coordinator. The Title VI Coordinator will sign and date the written complaint to document the date of receipt. A copy of the formal complaint procedure will be attached to the complainant's copy of the written complaint. A Complaints Log is maintained and minimally includes the following information for each Title VI Program related complaint received by CDPS: name of complainant, identification by demography (i.e., race, color, national origin, etc.), allegation(s), complaint date, date of Report of Investigation, determination made and date, and any other relevant information as deemed appropriate. The Applicant shall make the Complaint Log available to the FMCSA upon request.

**Step 3:** The investigator, provides written notification of the complaint to the person or persons identified in the complaint. All parties who are notified about the problem or complaint will be provided a copy of the written complaint and the attached written statement of complaint. Any sanctions resulting from this complaint will be applied only after the complaint has been fully investigated as described in the following steps. During this process, the complainant and all parties identified as sources of the problem are not to contact each other about the complaint, unless this is arranged as part of the resolution.

Retaliation against the complainant is expressly forbidden. Sanctions will be applied for all violations of this rule.

**Step 4:** The investigator undertakes a complete and full review of the complaint. They may, in their sole discretion, designate an administrator of their choice to be the decision-maker for a particular matter. In that case the designated decision maker will take the role of investigator in the formal complaint process. The investigator or designated decision maker will investigate the issue, problem or complaint. In some circumstances an additional investigator may also be designated. That person's role will be limited to fact finding. Decisions about findings will remain the responsibility of the investigator and/or or designated decision maker.

Individuals having first-hand knowledge of the incidents involved will be interviewed. Other evidence will be reviewed as determined appropriate by the investigator and/or designated decision maker. If an additional investigator is involved then that person will produce an executive summary of the facts for the investigator. If additional investigation is required, there may be an extension of up to 10 working days beyond the 20 working days provided for investigation. Everyone involved will be notified if this is the case. Statements of parties to the complaint will be kept as confidential as possible.

**Step 5:** The investigator and/or designated decision maker will notify the complainant and all persons identified as sources of the complaint or problem of the findings in writing. The written findings will include recommended steps to resolve the allegation(s) of discrimination.

Written notice of findings will be provided. The notice of findings will include an explanation of the basis for the investigator's or designee's decision and will be kept as confidential as possible. Copies will be distributed only to those individuals who have a legitimate need to know the results. After notification is completed, the investigator or designee will forward the official complaint file to Compliance and Professional Standards Office.

### **Access to Records**

The Recipient shall permit access during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance. Where any information required of a Recipient is in the exclusive possession of any other agency, institution, or person and this agency, institution, or person fails or refuses to furnish this information, the recipient shall so certify in its report and shall set forth what efforts it has made to obtain the information.

### **Description of Federal-Aid Programs**

#### **Motor Carrier Safety Assistance Program**

The Motor Carrier Safety Assistance Program (MCSAP) was introduced as a Federal grant program in 1984 to provide financial assistance to States to reduce the number and severity of crashes and hazardous materials incidents involving commercial motor vehicles (CMVs). The goal of the MCSAP is to reduce CMV-involved crashes, fatalities, and injuries through consistent, uniform, and effective CMV safety programs.

### **New Entrant Assurance Program**

The New Entrant program provides funds to conduct mandatory safety audits on all interstate New Entrant carriers in the State of Colorado. The goal is to reduce commercial motor vehicle accidents by educating these carriers through the safety audit program.

### **Colorado Vehicle Information Systems and Networks**

The State of Colorado has been certified by the Federal Motor Carrier Safety Administration (FMCSA) as compliant with the core requirements of the Commercial Vehicle Information Systems and Networks (CVISN) Program. The CVISN program is a key component of the Colorado State Patrol's drive to improve commercial motor vehicle safety. The program is aligned with the FMCSA and the FMCSA's performance goals that have been established in five (5) areas. The areas are highway vehicle safety; hazardous materials safety; homeland and national security; transportation reliability and productivity; and, organizational excellence. This funding effects the public by ensuring safety on the highways by focusing safety enforcement on high-risk carriers; enabling more effective hazardous materials (HazMat) safety compliance and enforcement; integrating systems to improve the accuracy, integrity, and verifiability of credentials; and enabling online applications and issuance of credentials.

### **Notification to Beneficiaries/Participants**

The Recipient posts non-discrimination policies and reports on the CDPS intranet and website at [Colorado Department of Public Safety Equity Diversity and Inclusion](#).

The Recipient posts non-discrimination policies and reports in all Colorado Department of Public Safety publically accessed facilities.

### **Community Participation Process**

THIS SECTION DOES NOT APPLY as we do not provide/conduct motorist licensure/vehicle registration activities.

### **Sub-Recipient Compliance Reports**

The CDPS does not Sub-award FMCSA funds

### **Status of Corrective Actions Implemented by Applicant to Address Deficiencies Previously Identified During a Title VI Program Compliance Review**

The Recipient does not have any deficiencies to address at this time.

### **Commercial Motor Vehicle Inspection Selection & Unbiased Enforcement Policies**

The requirements for these policies are dispersed across multiple policies within the organization.

The Title VI Program references which will be added to the existing Unbiased Enforcement policies. Minimally, these are as follows:

**Policy** – Identify the protected groups included in the FMCSA Title VI Program Assurance;

**Public Notice of Title VI Program Rights** – Reference the Public Notice and include the weblink;

**Training** – Reference to the Agency’s commitment to provide Title VI Program training (including an emphasis on the FMCSA Enforcement Memorandum MC-ECE-2016-006) to employees responsible for conducting CMV safety inspections and traffic enforcement activities;

**Complaint Disposition** – Reference CDPS’ Complaint Disposition Process detailed in the Plan and the role of the Title VI Program Coordinator in the disposition of complaints filed by members of the Public (to include drivers);

**Annual Review** – Indicate how CDPS annually monitors the accomplishment of these commitments.

In the coming months, as the combined CMV Inspection Selection and Unbiased Enforcement policy is developed, drafts will be presented to the FMCSA's National Title VI Program Manager for review.

The final policy will be submitted for approval by February 28, 2023.

## **Implementation Plan**

1. This policy shall be effective immediately upon approval by the Authorized Official.
2. The Director of Civil Rights shall implement this policy and will coordinate education and training to ensure compliance with this policy. All CDPS employees, its contractors, and anyone who acts on behalf of CDPS, including any department or agency to which CDPS extends federal financial assistance, shall be responsible for assuring that the proscribed discrimination does not occur. Should the potential for discrimination be discovered, action to eliminate the potential shall be taken.
3. Notices informing individual of their rights under this policy will be posted on CDPS's internal and external webpages, and be displayed in public office areas.
4. As required by federal law, the OCR shall be responsible for acquiring non-discrimination assurances, investigating Title VI discrimination complaints, conducting reviews of program areas, and preparing required reports.

## **Review Date**

This policy shall be review on or before August 2023.

# The United States Department of Transportation Standard Title VI/Non-Discrimination Assurances

## DOT Order No. 1050.2A

The Colorado Department of Public Safety (herein referred to as the “Recipient”), **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the United States Department of Transportation (DOT), through the **Federal Motor Carrier Safety Administration (FMCSA)**, 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);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Title IX of the Education Amendments of 1972, as amended, (20 U.S.C. § 1681 *et seq.*), (prohibits discrimination on the basis of sex in education programs or activities);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability);
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 *et seq.*), (prohibits discrimination on the basis of disability);
- 49 C.F.R. Part 21 (entitled *Nondiscrimination In Federally-Assisted Programs Of The Department Of Transportation—Effectuation Of Title VI Of The Civil Rights Act Of 1964*);
- 49 C.F.R. Part 27 (entitled *Nondiscrimination On The Basis Of Disability In Programs Or Activities Receiving Federal Financial Assistance*);
- 49 C.F.R. Part 28 (entitled *Enforcement Of Nondiscrimination On The Basis Of Handicap In Programs Or Activities Conducted By The Department Of Transportation*);
- 49 C.F.R. Part 37 (entitled *Transportation Services For Individuals With Disabilities (ADA)*);
- 49 C.F.R. Part 303 (FMCSA’s Title VI/Nondiscrimination Regulation);
- 28 C.F.R. Part 35 (entitled *Discrimination On The Basis Of Disability In State And Local Government Services*);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

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

Although not applicable to Recipients directly, there are certain Executive Orders and relevant guidance that direct action by Federal agencies regarding their federally assisted programs, services and activities to which compliance is required by Recipients to ensure Federal agencies carry out

their responsibilities. Executive Order 12898, 3 C.F.R. 859 (1995), entitled “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” emphasizes that Federal agencies should use existing laws to achieve Environmental Justice, in particular Title VI, to ensure nondiscrimination against minority populations. Recipients should be aware that certain Title VI matters raise Environmental Justice concerns and FMCSA intends that all Recipients evaluate and revise existing procedures (as appropriate) to address and implement Environmental Justice considerations. See the following FHWA website for more information and facts about Environmental Justice:

[https://www.fhwa.dot.gov/environment/environmental\\_justice](https://www.fhwa.dot.gov/environment/environmental_justice)

Additionally, Executive Order 13166, 3 C.F.R. 289 (2001) on Limited English Proficiency, according to the U.S. Department of Justice in its Policy Guidance Document dated August 16, 2000 (65 Fed. Reg. at 50123), clarifies the responsibilities associated with the “*application of Title VI’s prohibition on national origin discrimination when information is provided only in English to persons with limited English proficiency.*” When receiving Federal funds Recipients are expected to conduct a Four-Factor Analysis to prevent discrimination based on National Origin. (See also U.S. DOT’s “*Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient (LEP) Persons,*” dated December 14, 2005, (70 Fed. Reg. at 74087 to 74100); the Guidance is a useful resource when performing a Four-Factor Analysis).

## **General Assurances**

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

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

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, services and activities of the Recipient, so long as any portion of the program is Federally-assisted.

## **Specific Assurances**

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

1. The Recipient agrees that each “activity,” “facility,” “service,” 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 Federal Highway Programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

*“The **Colorado Department of Public Safety**, 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, all contractors will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of the owner’s race, color, national origin, sex, age, disability, income-level, or LEP in consideration for an award.”;*

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations;

4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient;

5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith;

6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property;

7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:

- a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
- b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.

8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:

- a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
- b. the period during which the Recipient retains ownership or possession of the

property.

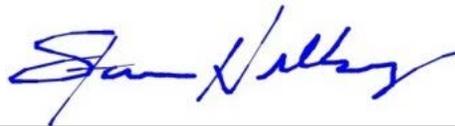
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, 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, the Recipient 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 **FMCSA** access to records, accounts, documents, information, facilities, and staff. You also recognize that we must comply with any program or compliance reviews, and/or complaint investigations conducted by the **FMCSA**. You must keep records, reports, and submit the material for review upon request to **FMCSA**, 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.

Colorado Department of Public Safety 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 Department of Transportation under the **FMCSA Program**. This ASSURANCE is binding on Colorado, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the **FMCSA Program**. The person (s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

*Colorado Department of Public Safety*



\_\_\_\_\_  
(Signature of Authorized Official)

DATED 1/6/2023

## APPENDIX A

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

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin, disability, age, sex (including pregnancy, sexual orientation, gender identity), religion, low-income, limited English proficiency (LEP), and environmental justice 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 as set forth in Appendix E, including employment practices when the contract covers any activity, project, service 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, national origin, disability, age, sex (including pregnancy, sexual orientation, gender identity), religion, low-income, limited English proficiency (LEP), and environmental justice.
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 FMCSA 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 FMCSA, 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 FMCSA 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 FMCSA 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 TRANSFERING 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 Department of Transportation as authorized by law and upon the condition that the Colorado Department of Public Safety 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 **Federal Motor Carrier Safety Administration (FMCSA) Program**, and the policies and procedures prescribed by the **FMCSA** of the Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the 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 Colorado Department of Public Safety all the right, title and interest of the Department of Transportation in and to said lands described in Exhibit "A" attached hereto and made a part hereof.

### (HABENDUM CLAUSE)

**TO HAVE AND TO HOLD** said lands and interests therein unto Colorado Department of Public Safety 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 Colorado Department of Public Safety, its successors and assigns.

The Colorado Department of Public Safety, 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, national origin, disability, age, sex (including pregnancy, sexual orientation, gender identity), religion, low-income, limited English proficiency (LEP), and environmental justice 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 Colorado Department of Public Safety 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, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the 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 Department of Transportation and its assigns as such interest existed prior to this instruction.\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the 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 Colorado Department of Public Safety 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 Department of Transportation activity, service, 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, national origin, disability, age, sex (including pregnancy, sexual orientation, gender identity), religion, low-income, limited English proficiency (LEP), and environmental justice 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, Colorado Department of Public Safety 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 Colorado Department of Public Safety 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 Colorado Department of Public Safety and its assigns.\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary to effectuate 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 Colorado Department of Public Safety 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, national origin, disability, age, sex (including pregnancy, sexual orientation, gender identity), religion, low-income, limited English proficiency (LEP), and environmental justice 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, national origin, disability, age, sex (including pregnancy, sexual orientation, gender identity), religion, low-income, limited English proficiency (LEP), and environmental justice 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, Colorado Department of Public Safety 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, Colorado Department of Public Safety will there upon revert to and vest in and become the absolute property of Colorado Department of Public Safety and its assigns.\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary to effectuate 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:

- 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), as implemented by [49 C.F.R. § 21.1 et seq.](#) and 49 C.F.R. § 303;
- 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, ([102 Stat. 28.](#)), (“...which restore[d] the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964.”);
- 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 Justice regulations at 28 C.F.R. parts 35 and 36, and 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 non-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, services or activities (20 U.S.C. 1681 et seq), as implemented by 49 C.F.R. § 25.1 et seq