



# 2023 Title VI Program

Merrimack Valley Metropolitan Planning Organization

December 31, 2022

Revised December 13, 2023 per MassDOT Comment (see Appendix D)

Prepared by  
Merrimack Valley Planning Commission  
160 Main Street  
Haverhill, MA 01830  
[www.mvpc.org](http://www.mvpc.org)

## Merrimack Valley MPO 2023 Title VI Report

The Merrimack Valley Planning Commission (MVPC) Complies with Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color or national origin (including limited English proficiency). Related federal and state nondiscrimination laws prohibit discrimination on the basis of age, sex, disability, and additional protected characteristics. MVPC is committed to nondiscrimination in all activities.

Individuals who believe they have been discriminated against may file a complaint with MVPC at:

Title VI Program Coordinator

MVPC

160 Main Street

Haverhill, MA 01830

Email: [transportation@mvpc.org](mailto:transportation@mvpc.org) (this address directs to the Transportation Program Manager)

Discrimination is prohibited at MVPC. If you believe discrimination has occurred you have the right to file a complaint. For translations of this notice, visit <https://mvpc.org/title-vi/>.

This document was prepared by the Merrimack Valley Planning Commission under Contract #118972 with the Massachusetts Department of Transportation (MassDOT) and with the assistance of the Merrimack Valley Regional Transit Authority (MVRTA), MassDOT, the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA). Its contents do not necessarily reflect the official views or policies of the U.S. DOT.



## **Merrimack Valley Metropolitan Planning Organization Endorsement Sheet**

The signature below signifies that all members of the Merrimack Valley Metropolitan Planning Organization, or their designees, have met on February 22, 2023 and discussed the following item for endorsement: **Merrimack Valley 2023 Title VI Program.**

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Jamey Tesler, Secretary and Chief Executive Officer  
Massachusetts Department of Transportation  
Chair, Merrimack Valley MPO

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## I. Program Description

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Title VI of the Civil Rights Act of 1964 provides that no person in the United States shall, on the grounds of race, color, or national origin (including limited English proficiency), be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program proactively receiving Federal financial assistance. Equal opportunity connects all people and communities to transportation programs that receive Federal financial assistance from U.S. DOT. [DOT 1000.12C, June 2021]

This document contains the Merrimack Valley Metropolitan Planning Organization (MVMPO) Title VI Program. First created in 1972, the MVMPO is a cooperative body comprised of ten voting members designated to carry out the metropolitan transportation planning process for 15 communities.

The MVMPO's Title VI Program assures that Title VI requirements are fully met and that the MVMPO is compliant with federal guidelines and is responsive to the needs of Title VI beneficiaries.

## II. General Requirements

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### A. Title VI Certifications and Assurances



# TITLE VI/NONDISCRIMINATION ASSURANCES

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*The United States Department of Transportation (U.S. DOT) Order No. 1050.2A*

The Massachusetts Department of Transportation (MassDOT) (hereinafter referred to as the “Recipient”) hereby agrees that, as a condition to receiving any Federal financial assistance from the U. S. Department of Transportation (DOT), through the Federal Highway Administration (FHWA), is subject to and will comply with the following:

## STATUTORY/REGULATORY AUTHORITIES

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- 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 (including limited English proficiency));
- 49 C.F.R. Part 21 (entitled *Non-discrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964*);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

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

## GENERAL ASSURANCES

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In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurances that:

*No person in the United States shall, on the grounds of race, color, 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 U. S. DOT, including FHWA.*

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

## SPECIFIC ASSURANCES

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More specifically, and without limiting the above general Assurance, the Recipient gives the following Assurances:

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 its programs and activities and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

*The Massachusetts Department of Transportation, in accordance with Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby affirmatively ensures that for any contract entered into pursuant to this advertisement, all bidders, including disadvantaged business enterprises, will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin 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 the 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 for the duration of Recipient ownership of the facility and future deeds, leases, licenses, permits, or similar transfers where the use of the facility remains transportation related (see Specific Assurance #8, below).
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 (Appendix C); 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 (Appendix D).
  
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 by 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 Massachusetts Department of Transportation also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the FHWA's 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 FHWA. You must keep records, reports, and submit the material for review upon request to FHWA, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The Massachusetts Department of Transportation 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 Federal-aid Highway Program. This Assurance is binding on the Massachusetts Department of Transportation, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors, transferees, successors in interest, and any other participants in the Federal-aid Highway Program. The person signing below is authorized to sign this Assurance on behalf of the Recipient.

**SIGNED FOR THE RECIPIENT:**

  
\_\_\_\_\_  
Gina Fiandaca  
Secretary/CEO  
Massachusetts Department of Transportation

*3/10/2023*  
\_\_\_\_\_  
Date

## **SUBRECIPIENT TITLE VI/NONDISCRIMINATION ASSURANCES**

The Merrimack Valley MPO (hereinafter referred to as the "Sub-Recipient"), hereby agrees that, as a condition of receiving any Federal financial assistance from the United States Department of Transportation (U. S. DOT), Federal Highway Administration (FHWA), from the Commonwealth of Massachusetts, through its Department of Transportation (Recipient), it is subject to and must comply with the Acts and Regulations detailed in this document.

This Assurance is given in consideration of and for the purpose of obtaining any and all 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 FHWA Program and is binding on it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the FHWA Programs. The person or persons whose signature appears below are authorized to sign this assurance on behalf of the Sub-Recipient.

### **SIGNED FOR THE SUB-RECIPIENT:**

 12/5/2022

(Signature & Date)

GERARDO WHITTEN, EXECUTIVE DIRECTOR

(Print Name & Title)

**POLICY DIRECTIVE**



Gina Fiandaca, Secretary and CEO

Supersedes Policy CR-001h (2-22)

All MassDOT employees;  
subrecipients and contractors  
receiving federal financial  
assistance through MassDOT

**Applicability**

**TITLE VI/NONDISCRIMINATION POLICY STATEMENT**

The Massachusetts Department of Transportation (MassDOT) assures that no person shall, on the basis of race, color, national origin, 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, as required by Title VI of the Civil Rights Act of 1964 (Title VI), as amended (42 U.S.C. § 2000d et seq.), and the Civil Rights Restoration Act of 1987 (P.L. 100.259).<sup>1</sup> Title VI prohibits discrimination based on race, color, and national origin (including limited English proficiency). Related federal nondiscrimination authorities add the protected categories of sex, 23 U.S.C. 324; age, 42 U.S.C. 6101; disability, 29 U.S.C. 790; low-income, federal Executive Order 12898; and limited English proficiency, federal Executive Order 13166.

MassDOT also upholds the Massachusetts Public Accommodation Law, M.G.L. c 272 §§92a, 98, 98a, Articles CVI & CXIV of the Massachusetts Constitution, and the Governor's Executive Order 592, section 4 which provide that access to programs, services and benefits be provided without regard to religion, creed, sexual orientation, gender identity or expression, veteran's status, ancestry, and/or background, along with the bases previously referenced. In addition, MassDOT will facilitate meaningful and nondiscriminatory public participation in transportation programs, services, and activities, including the transportation planning and project development process.

The Assistant Secretary for Civil Rights and Director of the Office of Diversity and Civil Rights (ODCR) is designated as MassDOT's Title VI Coordinator. The authority to develop, implement, and manage the agency's Title VI Program is delegated to ODCR's Director of Title VI and Accessibility and MassDOT's Title VI Specialist.

To obtain additional information on MassDOT and/or its subrecipients' nondiscrimination obligations, to request a copy of the Department's Title VI program, including the agency's Title VI Assurance, or to request such materials in alternative formats (large-print, braille, audio, etc.) or translated, please contact MassDOT's Title VI Specialist at (857) 368-8580 or via e-mail at [MASSDOT.CivilRights@state.ma.us](mailto:MASSDOT.CivilRights@state.ma.us).

To file a complaint of alleged violation of nondiscrimination obligations, complaint forms and further information may be obtained from MassDOT by calling (857) 368-8580, or via our website at <https://www.mass.gov/nondiscrimination-in-transportation-program>. Any such complaint should be in writing and staff is available to assist individuals who cannot provide a written complaint. Complaints must be filed with MassDOT's Office of Diversity and Civil Rights within one hundred eighty (180) days following the date of the alleged discriminatory occurrence.

<sup>1</sup> This includes relevant federal regulatory requirements of 49 C.F.R part 21 and 49 C.F.R. part 303.

If this information is needed in another language, please contact the MassDOT Title VI Specialist at 857-368-8580.

Caso esta informação seja necessária em outro idioma, favor contar o Especialista em Título VI do MassDOT pelo telefone 857-368-8580.

Si necesita esta información en otro idioma, por favor contacte al especialista de MassDOT del Título VI al 857-368-8580.

如果需要使用其它语言了解信息，请联系马萨诸塞州交通部（MassDOT）《民权法案》第六章专员，电话857-368-8580。

如果需要使用其它语言了解信息，請聯繫馬薩諸塞州交通部（MassDOT）《民權法案》第六章專員，電話857-368-8580。

Если Вам необходима данная информация на любом другом языке, пожалуйста, свяжитесь со специалистом по Титулу VI Департамента Транспорта штата Массачусетс (MassDOT) по тел: 857-368-8580.

Si yon moun vle genyen enfòmasyon sa yo nan yon lòt lang, tanpri kontakte Espesyalis MassDOT Title VI la nan nimewo 857-368-8580.

Nếu quý vị cần thông tin này bằng tiếng khác, vui lòng liên hệ Chuyên viên Luật VI của MassDOT theo số điện thoại 857-368-8580.

Si vous avez besoin d'obtenir une copie de la présente dans une autre langue, veuillez contacter le spécialiste du Titre VI de MassDOT en composant le 857-368-8580.

Se ha bisogno di ricevere queste informazioni in un'altra lingua si prega di contattare lo Specialista MassDOT del Titolo VI al numero 857-368-8580.

**ប្រសិនបើលោក-អ្នកត្រូវការបកប្រែព័ត៌មាននេះ**

**សូមទាក់ទងអ្នកឯកទេសលើជំពូកទី៦ របស់MassDot តាមរយៈលេខទូរស័ព្ទ 857-368-8580**

إن كنت بحاجة إلى هذه المعلومات بلغة أخرى، يُرجى الاتصال بأخصائي الفقرة السادسة على الهاتف 857-368-8580

## APPENDIX A

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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 Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), age, sex, disability, or low-income status 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 Subcontractors, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor’s obligations under this contract and the Acts and the Regulations relative to nondiscrimination on the grounds of race, color, national origin (including limited English proficiency), age, sex, disability, or low-income status.
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 Massachusetts Department of Transportation (MassDOT) or FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor will so certify to MassDOT or FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor’s noncompliance with the Nondiscrimination provisions of this contract, MassDOT will impose such contract sanctions as it or FHWA may determine to be appropriate, including, but not limited to:
  - a. withholding payments to the contractor under the contract until the contractor complies; and/or



b. cancelling, terminating, or suspending a control, 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 MassDOT or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request MassDOT to enter into any litigation to protect the interests of MassDOT. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

## APPENDIX B

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### 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 (hereinafter referred to as “U.S. DOT”), as authorized by law, and upon the condition that the Massachusetts Department of Transportation will accept title to the lands and maintain the project constructed thereon in accordance with Title 23, U.S.C., the Regulations for the Administration of the above statute, and the policies and procedures prescribed by the Federal Highway Administration (hereinafter referred to as “FHWA”) of the U.S. DOT in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the U.S. DOT 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 Massachusetts Department of Transportation all the right, title and interest of the U.S. DOT in and to said lands described in Exhibit A attached hereto and made a part hereof.”*

### (HABENDUM CLAUSE)

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

*The Massachusetts Department of Transportation, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that:*

*(1) no person will on the grounds of race, color, national origin (including limited English proficiency), age, sex, disability, or low-income status 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 Massachusetts Department of Transportation will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended, and;*

*(3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, U.S. DOT 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. DOT and its assigns as such interest existed prior to this instruction.\**

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\* 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

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

The following clauses will be included in all deeds, licenses, leases, permits, or similar agreements entered into by the Massachusetts Department of Transportation, pursuant to the provisions of Assurance 7a:

1. *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:*
  - a. *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, 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 (including limited English proficiency), age, sex, disability, or low-income status will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.*
2. *With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, the Massachusetts Department of Transportation 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.\**

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\* 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.

3. *With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the Massachusetts Department of Transportation 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 Massachusetts Department of Transportation and its assigns.\**

## APPENDIX D

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

The following clauses will be included in all deeds, licenses, leases, permits, or similar instruments/agreements entered into by the Massachusetts Department of Transportation pursuant to the provisions of Assurance 7b.

1. *“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 (including limited English proficiency), age, sex, disability, or low-income status will be excluded from participation in, denied the benefits of, or otherwise be 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 (including limited English proficiency), age, sex, disability, or low-income status will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, and (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.*
2. *With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above non-discrimination covenants, the Massachusetts Department of Transportation 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.\**

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\* 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.

3. *With respect to deeds, in the event of breach of any of the non-discrimination covenants, the [description of the property] will there upon revert to and vest in and become the absolute property of the Massachusetts Department of Transportation and its assigns.\**

## **APPENDIX E**

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During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor,” which includes consultants) 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 U.S.C. § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex)
- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage, and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of 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 (42 U.S.C. §§ 12131-12189), as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38 (prohibits 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)
- 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 (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 People 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 Act of 1972, as amended (20 U.S.C. 1681 *et seq.*) (prohibits discrimination on the basis of sex in education programs or activities)



*Not every provision of every certification will apply to every applicant or award. If a provision of a certification does not apply to the applicant or its award, FTA will not enforce that provision. Refer to FTA's accompanying Instructions document for more information.*

*Text in italics is guidance to the public. It does not have the force and effect of law, and is not meant to bind the public in any way. It is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.*

## **CATEGORY 1. CERTIFICATIONS AND ASSURANCES REQUIRED OF EVERY APPLICANT.**

*All applicants must make the certifications in this category.*

### **1.1. Standard Assurances.**

*The certifications in this subcategory appear as part of the applicant's registration or annual registration renewal in the System for Award Management (SAM.gov) and on the Office of Management and Budget's standard form 424B "Assurances—Non-Construction Programs". This certification has been modified in places to include analogous certifications required by U.S. DOT statutes or regulations.*

As the duly authorized representative of the applicant, you certify that the applicant:

- (a) Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.
- (b) Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
- (c) Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
- (d) Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
- (e) Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 CFR 900, Subpart F).

- (f) Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to:
- (1) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin, as effectuated by U.S. DOT regulation 49 CFR Part 21;
  - (2) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex, as effectuated by U.S. DOT regulation 49 CFR Part 25;
  - (3) Section 5332 of the Federal Transit Law (49 U.S.C. § 5332), which prohibits any person being excluded from participating in, denied a benefit of, or discriminated against under, a project, program, or activity receiving financial assistance from FTA because of race, color, religion, national origin, sex, disability, or age.
  - (4) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps, as effectuated by U.S. DOT regulation 49 CFR Part 27;
  - (5) The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101–6107), which prohibits discrimination on the basis of age;
  - (6) The Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse;
  - (7) The comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
  - (8) Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records;
  - (9) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental, or financing of housing;
  - (10) Any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and,
  - (11) the requirements of any other nondiscrimination statute(s) which may apply to the application.
- (g) Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (“Uniform Act”) (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases. The requirements of the Uniform Act are effectuated by U.S. DOT regulation 49 CFR Part 24.

- (h) Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§ 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
- (i) Will comply, as applicable, with the provisions of the Davis–Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. § 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally assisted construction subagreements.
- (j) Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
- (k) Will comply with environmental standards which may be prescribed pursuant to the following:
  - (1) Institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514;
  - (2) Notification of violating facilities pursuant to EO 11738;
  - (3) Protection of wetlands pursuant to EO 11990;
  - (4) Evaluation of flood hazards in floodplains in accordance with EO 11988;
  - (5) Assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.);
  - (6) Conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§ 7401 et seq.);
  - (7) Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and
  - (8) Protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93–205).
- (l) Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
- (m) Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. § 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§ 469a-1 et seq.).
- (n) Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
- (o) Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§ 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded

animals held for research, teaching, or other activities supported by this award of assistance.

- (p) Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
- (q) Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and 2 CFR Part 200, Subpart F, “Audit Requirements”, as adopted and implemented by U.S. DOT at 2 CFR Part 1201.
- (r) Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing the program under which it is applying for assistance.
- (s) Will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. § 7104) which prohibits grant award recipients or a subrecipient from:
  - (1) Engaging in severe forms of trafficking in persons during the period of time that the award is in effect;
  - (2) Procuring a commercial sex act during the period of time that the award is in effect; or
  - (3) Using forced labor in the performance of the award or subawards under the award.

## **1.2. Standard Assurances: Additional Assurances for Construction Projects.**

*This certification appears on the Office of Management and Budget’s standard form 424D “Assurances—Construction Programs” and applies specifically to federally assisted projects for construction. This certification has been modified in places to include analogous certifications required by U.S. DOT statutes or regulations.*

As the duly authorized representative of the applicant, you certify that the applicant:

- (a) Will not dispose of, modify the use of, or change the terms of the real property title or other interest in the site and facilities without permission and instructions from the awarding agency; will record the Federal awarding agency directives; and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure nondiscrimination during the useful life of the project.
- (b) Will comply with the requirements of the assistance awarding agency with regard to the drafting, review, and approval of construction plans and specifications.
- (c) Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work confirms with the approved plans and specifications, and will furnish progressive reports and such other information as may be required by the assistance awarding agency or State.

### **1.3. Procurement.**

*The Uniform Administrative Requirements, 2 CFR § 200.324, allow a recipient to self-certify that its procurement system complies with Federal requirements, in lieu of submitting to certain pre-procurement reviews.*

The applicant certifies that its procurement system complies with:

- (a) U.S. DOT regulations, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” 2 CFR Part 1201, which incorporates by reference U.S. OMB regulatory guidance, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” 2 CFR Part 200, particularly 2 CFR §§ 200.317–200.326 “Procurement Standards;
- (b) Federal laws, regulations, and requirements applicable to FTA procurements; and
- (c) The latest edition of FTA Circular 4220.1 and other applicable Federal guidance.

### **1.4. Suspension and Debarment.**

*Pursuant to Executive Order 12549, as implemented at 2 CFR Parts 180 and 1200, prior to entering into a covered transaction with an applicant, FTA must determine whether the applicant is excluded from participating in covered non-procurement transactions. For this purpose, FTA is authorized to collect a certification from each applicant regarding the applicant’s exclusion status. 2 CFR § 180.300. Additionally, each applicant must disclose any information required by 2 CFR § 180.335 about the applicant and the applicant’s principals prior to entering into an award agreement with FTA. This certification serves both purposes.*

The applicant certifies, to the best of its knowledge and belief, that the applicant and each of its principals:

- (a) Is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily or involuntarily excluded from covered transactions by any Federal department or agency;
- (b) Has not, within the preceding three years, been convicted of or had a civil judgment rendered against him or her for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty;

- (c) Is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any offense described in paragraph (b) of this certification;
- (d) Has not, within the preceding three years, had one or more public transactions (Federal, State, or local) terminated for cause or default.

**1.5. Coronavirus Response and Relief Supplemental Appropriations Act, 2021, and CARES Act Funding.**

The applicant certifies:

- (a) To the maximum extent possible, funds made available under title IV of division M of the Consolidated Appropriations Act, 2021 (Public Law 116–260), and in title XII of division B of the CARES Act (Public Law 116–136; 134 Stat. 599) shall be directed to payroll and operations of public transit (including payroll and expenses of private providers of public transportation); or
- (a) The applicant certifies that the applicant has not furloughed any employees.

**1.6. American Rescue Plan Act Funding.**

The applicant certifies:

- (a) Funds made available by Section 3401(a)(2)(A) of the American Rescue Plan Act of 2021 (Public Law 117-2) shall be directed to payroll and operations of public transportation (including payroll and expenses of private providers of public transportation); or
- (b) The applicant certifies that the applicant has not furloughed any employees.

**CATEGORY 2. PUBLIC TRANSPORTATION AGENCY SAFETY PLANS**

*This certification is required of each applicant under the Urbanized Area Formula Grants Program (49 U.S.C. § 5307), each rail operator that is subject to FTA’s state safety oversight programs, and each State that is required to draft and certify a public transportation agency safety plan on behalf of a small public transportation provider pursuant to 49 CFR § 673.11(d). This certification is required by 49 U.S.C. § 5329(d)(1) and 49 CFR § 673.13.*

*This certification does not apply to any applicant that receives financial assistance from FTA exclusively under the Formula Grants for the Enhanced Mobility of Seniors Program (49 U.S.C. § 5310), the Formula Grants for Rural Areas Program (49 U.S.C. § 5311), or combination of these two programs.*

If the applicant is an operator, the applicant certifies that it has established a public transportation agency safety plan meeting the requirements of 49 U.S.C. § 5329(d)(1) and 49 CFR Part 673.

If the applicant is a State, the applicant certifies that:

- (a) It has drafted a public transportation agency safety plan for each small public transportation provider within the State, unless the small public transportation provider provided notification to the State that it was opting out of the State-drafted plan and drafting its own public transportation agency safety plan; and
- (b) Each small public transportation provider within the State has a public transportation agency safety plan that has been approved by the provider's Accountable Executive (as that term is defined at 49 CFR § 673.5) and Board of Directors or Equivalent Authority (as that term is defined at 49 CFR § 673.5).

### **CATEGORY 3. TAX LIABILITY AND FELONY CONVICTIONS.**

*If the applicant is a business association (regardless of for-profit, not for-profit, or tax exempt status), it must make this certification. Federal appropriations acts since at least 2014 have prohibited FTA from using funds to enter into an agreement with any corporation that has unpaid Federal tax liabilities or recent felony convictions without first considering the corporation for debarment. E.g., Consolidated Appropriations Act, 2021, Pub. L. 116-260, div. E, title VII, §§ 744–745. U.S. DOT Order 4200.6 defines a “corporation” as “any private corporation, partnership, trust, joint-stock company, sole proprietorship, or other business association”, and applies the restriction to all tiers of subawards. As prescribed by U.S. DOT Order 4200.6, FTA requires each business association applicant to certify as to its tax and felony status.*

If the applicant is a private corporation, partnership, trust, joint-stock company, sole proprietorship, or other business association, the applicant certifies that:

- (a) It has no unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and
- (b) It has not been convicted of a felony criminal violation under any Federal law within the preceding 24 months.

### **CATEGORY 4. LOBBYING.**

*If the applicant will apply for a grant or cooperative agreement exceeding \$100,000, or a loan, line of credit, loan guarantee, or loan insurance exceeding \$150,000, it must make the following certification and, if applicable, make a disclosure regarding the applicant's lobbying activities. This certification is required by 49 CFR § 20.110 and app. A to that part.*

*This certification does not apply to an applicant that is an Indian Tribe, Indian organization, or an Indian tribal organization exempt from the requirements of 49 CFR Part 20.*

#### **4.1. Certification for Contracts, Grants, Loans, and Cooperative Agreements.**

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

#### **4.2. Statement for Loan Guarantees and Loan Insurance.**

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.



Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

## **CATEGORY 5. PRIVATE SECTOR PROTECTIONS.**

*If the applicant will apply for funds that it will use to acquire or operate public transportation facilities or equipment, the applicant must make the following certification regarding protections for the private sector.*

### **5.1. Charter Service Agreement.**

*To enforce the provisions of 49 U.S.C. § 5323(d), FTA's charter service regulation requires each applicant seeking assistance from FTA for the purpose of acquiring or operating any public transportation equipment or facilities to make the following Charter Service Agreement. 49 CFR § 604.4.*

The applicant agrees that it, and each of its subrecipients, and third party contractors at any level who use FTA-funded vehicles, may provide charter service using equipment or facilities acquired with Federal assistance authorized under the Federal Transit Laws only in compliance with the regulations set out in 49 CFR Part 604, the terms and conditions of which are incorporated herein by reference.

### **5.2. School Bus Agreement.**

*To enforce the provisions of 49 U.S.C. § 5323(f), FTA's school bus regulation requires each applicant seeking assistance from FTA for the purpose of acquiring or operating any public transportation equipment or facilities to make the following agreement regarding the provision of school bus services. 49 CFR § 605.15.*

- (a) If the applicant is not authorized by the FTA Administrator under 49 CFR § 605.11 to engage in school bus operations, the applicant agrees and certifies as follows:
  - (1) The applicant and any operator of project equipment agrees that it will not engage in school bus operations in competition with private school bus operators.
  - (2) The applicant agrees that it will not engage in any practice which constitutes a means of avoiding the requirements of this agreement, part 605 of the Federal Mass Transit Regulations, or section 164(b) of the Federal-Aid Highway Act of 1973 (49 U.S.C. 1602a(b)).
- (b) If the applicant is authorized or obtains authorization from the FTA Administrator to engage in school bus operations under 49 CFR § 605.11, the applicant agrees as follows:

- (1) The applicant agrees that neither it nor any operator of project equipment will engage in school bus operations in competition with private school bus operators except as provided herein.
- (2) The applicant, or any operator of project equipment, agrees to promptly notify the FTA Administrator of any changes in its operations which might jeopardize the continuation of an exemption under § 605.11.
- (3) The applicant agrees that it will not engage in any practice which constitutes a means of avoiding the requirements of this agreement, part 605 of the Federal Transit Administration regulations or section 164(b) of the Federal-Aid Highway Act of 1973 (49 U.S.C. 1602a(b)).
- (4) The applicant agrees that the project facilities and equipment shall be used for the provision of mass transportation services within its urban area and that any other use of project facilities and equipment will be incidental to and shall not interfere with the use of such facilities and equipment in mass transportation service to the public.

#### **CATEGORY 6. TRANSIT ASSET MANAGEMENT PLAN.**

*If the applicant owns, operates, or manages capital assets used to provide public transportation, the following certification is required by 49 U.S.C. § 5326(a).*

The applicant certifies that it is in compliance with 49 CFR Part 625.

#### **CATEGORY 7. ROLLING STOCK BUY AMERICA REVIEWS AND BUS TESTING.**

##### **7.1. Rolling Stock Buy America Reviews.**

*If the applicant will apply for an award to acquire rolling stock for use in revenue service, it must make this certification. This certification is required by 49 CFR § 663.7.*

The applicant certifies that it will conduct or cause to be conducted the pre-award and post-delivery audits prescribed by 49 CFR Part 663 and will maintain on file the certifications required by Subparts B, C, and D of 49 CFR Part 663.

##### **7.2. Bus Testing.**

*If the applicant will apply for funds for the purchase or lease of any new bus model, or any bus model with a major change in configuration or components, the applicant must make this certification. This certification is required by 49 CFR § 665.7.*

The applicant certifies that the bus was tested at the Bus Testing Facility and that the bus received a passing test score as required by 49 CFR Part 665. The applicant has received or will

receive the appropriate full Bus Testing Report and any applicable partial testing reports before final acceptance of the first vehicle.

### **CATEGORY 8. URBANIZED AREA FORMULA GRANTS PROGRAM.**

*If the applicant will apply for an award under the Urbanized Area Formula Grants Program (49 U.S.C. § 5307), or any other program or award that is subject to the requirements of 49 U.S.C. § 5307, including the Formula Grants for the Enhanced Mobility of Seniors Program (49 U.S.C. § 5310); “flex funds” from infrastructure programs administered by the Federal Highways Administration (see 49 U.S.C. § 5334(i)); projects that will receive an award authorized by the Transportation Infrastructure Finance and Innovation Act (“TIFIA”) (23 U.S.C. §§ 601–609) or State Infrastructure Bank Program (23 U.S.C. § 610) (see 49 U.S.C. § 5323(o)); formula awards or competitive awards to urbanized areas under the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339(a) and (b)); or low or no emission awards to any area under the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339(c)), the applicant must make the following certification. This certification is required by 49 U.S.C. § 5307(c)(1).*

The applicant certifies that it:

- (a) Has or will have the legal, financial, and technical capacity to carry out the program of projects (developed pursuant 49 U.S.C. § 5307(b)), including safety and security aspects of the program;
- (b) Has or will have satisfactory continuing control over the use of equipment and facilities;
- (c) Will maintain equipment and facilities in accordance with the applicant’s transit asset management plan;
- (d) Will ensure that, during non-peak hours for transportation using or involving a facility or equipment of a project financed under this section, a fare that is not more than 50 percent of the peak hour fare will be charged for any—
  - (1) Senior;
  - (2) Individual who, because of illness, injury, age, congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), cannot use a public transportation service or a public transportation facility effectively without special facilities, planning, or design; and
  - (3) Individual presenting a Medicare card issued to that individual under title II or XVIII of the Social Security Act (42 U.S.C. §§ 401 et seq., and 1395 et seq.);
- (e) In carrying out a procurement under 49 U.S.C. § 5307, will comply with 49 U.S.C. §§ 5323 (general provisions) and 5325 (contract requirements);
- (f) Has complied with 49 U.S.C. § 5307(b) (program of projects requirements);

- (g) Has available and will provide the required amounts as provided by 49 U.S.C. § 5307(d) (cost sharing);
- (h) Will comply with 49 U.S.C. §§ 5303 (metropolitan transportation planning) and 5304 (statewide and nonmetropolitan transportation planning);
- (i) Has a locally developed process to solicit and consider public comment before raising a fare or carrying out a major reduction of transportation;
- (j) Either—
  - (1) Will expend for each fiscal year for public transportation security projects, including increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages), increased camera surveillance of an area in or adjacent to that system, providing an emergency telephone line to contact law enforcement or security personnel in an area in or adjacent to that system, and any other project intended to increase the security and safety of an existing or planned public transportation system, at least 1 percent of the amount the recipient receives for each fiscal year under 49 U.S.C. § 5336; or
  - (2) Has decided that the expenditure for security projects is not necessary;
- (k) In the case of an applicant for an urbanized area with a population of not fewer than 200,000 individuals, as determined by the Bureau of the Census, will submit an annual report listing projects carried out in the preceding fiscal year under 49 U.S.C. § 5307 for associated transit improvements as defined in 49 U.S.C. § 5302; and
- (l) Will comply with 49 U.S.C. § 5329(d) (public transportation agency safety plan).

#### **CATEGORY 9. FORMULA GRANTS FOR RURAL AREAS.**

*If the applicant will apply for funds made available to it under the Formula Grants for Rural Areas Program (49 U.S.C. § 5311), it must make this certification. Paragraph (a) of this certification helps FTA make the determinations required by 49 U.S.C. § 5310(b)(2)(C). Paragraph (b) of this certification is required by 49 U.S.C. § 5311(f)(2). Paragraph (c) of this certification, which applies to funds apportioned for the Appalachian Development Public Transportation Assistance Program, is necessary to enforce the conditions of 49 U.S.C. § 5311(c)(2)(D).*

- (a) The applicant certifies that its State program for public transportation service projects, including agreements with private providers for public transportation service—
  - (1) Provides a fair distribution of amounts in the State, including Indian reservations; and
  - (2) Provides the maximum feasible coordination of public transportation service assisted under 49 U.S.C. § 5311 with transportation service assisted by other Federal sources; and

- (b) If the applicant will in any fiscal year expend less than 15% of the total amount made available to it under 49 U.S.C. § 5311 to carry out a program to develop and support intercity bus transportation, the applicant certifies that it has consulted with affected intercity bus service providers, and the intercity bus service needs of the State are being met adequately.
- (c) If the applicant will use for a highway project amounts that cannot be used for operating expenses authorized under 49 U.S.C. § 5311(c)(2) (Appalachian Development Public Transportation Assistance Program), the applicant certifies that—
  - (1) It has approved the use in writing only after providing appropriate notice and an opportunity for comment and appeal to affected public transportation providers; and
  - (2) It has determined that otherwise eligible local transit needs are being addressed.

**CATEGORY 10. FIXED GUIDEWAY CAPITAL INVESTMENT GRANTS AND THE EXPEDITED PROJECT DELIVERY FOR CAPITAL INVESTMENT GRANTS PILOT PROGRAM.**

*If the applicant will apply for an award under any subsection of the Fixed Guideway Capital Investment Program (49 U.S.C. § 5309), including an award made pursuant to the FAST Act’s Expedited Project Delivery for Capital Investment Grants Pilot Program (Pub. L. 114-94, div. A, title III, § 3005(b)), the applicant must make the following certification. This certification is required by 49 U.S.C. § 5309(c)(2) and Pub. L. 114-94, div. A, title III, § 3005(b)(3)(B).*

The applicant certifies that it:

- (a) Has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award,
- (b) Has or will have satisfactory continuing control over the use of equipment and facilities acquired or improved under its Award.
- (c) Will maintain equipment and facilities acquired or improved under its Award in accordance with its transit asset management plan; and
- (d) Will comply with 49 U.S.C. §§ 5303 (metropolitan transportation planning) and 5304 (statewide and nonmetropolitan transportation planning).

**CATEGORY 11. GRANTS FOR BUSES AND BUS FACILITIES AND LOW OR NO EMISSION VEHICLE DEPLOYMENT GRANT PROGRAMS.**

*If the applicant is in an urbanized area and will apply for an award under subsection (a) (formula grants), subsection (b) (buses and bus facilities competitive grants), or subsection (c) (low or no emissions grants) of the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339), the applicant must make the certification in Category 8 for Urbanized Area Formula*

*Grants (49 U.S.C. § 5307). This certification is required by 49 U.S.C. § 5339(a)(3), (b)(6), and (c)(3), respectively.*

*If the applicant is in a rural area and will apply for an award under subsection (a) (formula grants), subsection (b) (bus and bus facilities competitive grants), or subsection (c) (low or no emissions grants) of the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339), the applicant must make the certification in Category 9 for Formula Grants for Rural Areas (49 U.S.C. § 5311). This certification is required by 49 U.S.C. § 5339(a)(3), (b)(6), and (c)(3), respectively.*

*Making this certification will incorporate by reference the applicable certifications in Category 8 or Category 9.*

*If the applicant will receive a competitive award under subsection (b) (buses and bus facilities competitive grants), or subsection (c) (low or no emissions grants) of the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339) related to zero emissions vehicles or related infrastructure, it must make the following certification. This certification is required by 49 U.S.C. § 5339(d).*

The applicant will use 5 percent of grants related to zero emissions vehicles (as defined in subsection (c)(1)) or related infrastructure under subsection (b) or (c) to fund workforce development training as described in section 49 U.S.C. § 5314(b)(2) (including registered apprenticeships and other labor-management training programs) under the recipient's plan to address the impact of the transition to zero emission vehicles on the applicant's current workforce; or the applicant certifies a smaller percentage is necessary to carry out that plan.

## **CATEGORY 12. ENHANCED MOBILITY OF SENIORS AND INDIVIDUALS WITH DISABILITIES PROGRAMS.**

*If the applicant will apply for an award under the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program (49 U.S.C. § 5310), it must make the certification in Category 8 for Urbanized Area Formula Grants (49 U.S.C. § 5307). This certification is required by 49 U.S.C. § 5310(e)(1). Making this certification will incorporate by reference the certification in Category 8, except that FTA has determined that (d), (f), (i), (j), and (k) of Category 8 do not apply to awards made under 49 U.S.C. § 5310 and will not be enforced.*

*In addition to the certification in Category 8, the applicant must make the following certification that is specific to the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program. This certification is required by 49 U.S.C. § 5310(e)(2).*

The applicant certifies that:

- (a) The projects selected by the applicant are included in a locally developed, coordinated public transit-human services transportation plan;
- (b) The plan described in clause (a) was developed and approved through a process that included participation by seniors, individuals with disabilities, representatives of public, private, and nonprofit transportation and human services providers, and other members of the public;
- (c) To the maximum extent feasible, the services funded under 49 U.S.C. § 5310 will be coordinated with transportation services assisted by other Federal departments and agencies, including any transportation activities carried out by a recipient of a grant from the Department of Health and Human Services; and
- (d) If the applicant will allocate funds received under 49 U.S.C. § 5310 to subrecipients, it will do so on a fair and equitable basis.

### **CATEGORY 13. STATE OF GOOD REPAIR GRANTS.**

*If the applicant will apply for an award under FTA's State of Good Repair Grants Program (49 U.S.C. § 5337), it must make the following certification. Because FTA generally does not review the transit asset management plans of public transportation providers, the asset management certification is necessary to enforce the provisions of 49 U.S.C. § 5337(a)(4). The certification with regard to acquiring restricted rail rolling stock is required by 49 U.S.C. § 5323(u)(4). Note that this certification is not limited to the use of Federal funds.*

The applicant certifies that the projects it will carry out using assistance authorized by the State of Good Repair Grants Program, 49 U.S.C. § 5337, are aligned with the applicant's most recent transit asset management plan and are identified in the investment and prioritization section of such plan, consistent with the requirements of 49 CFR Part 625.

If the applicant operates a rail fixed guideway service, the applicant certifies that, in the fiscal year for which an award is available to the applicant under the State of Good Repair Grants Program, 49 U.S.C. § 5337, the applicant will not award any contract or subcontract for the procurement of rail rolling stock for use in public transportation with a rail rolling stock manufacturer described in 49 U.S.C. § 5323(u)(1).

### **CATEGORY 14. INFRASTRUCTURE FINANCE PROGRAMS.**

*If the applicant will apply for an award for a project that will include assistance under the Transportation Infrastructure Finance and Innovation Act ("TIFIA") Program (23 U.S.C. §§ 601–609) or the State Infrastructure Banks ("SIB") Program (23 U.S.C. § 610), it must make the certifications in Category 8 for the Urbanized Area Formula Grants Program, Category 10 for the Fixed Guideway Capital Investment Grants program, and Category 13 for the State of Good Repair Grants program. These certifications are required by 49 U.S.C. § 5323(o).*

*Making this certification will incorporate the certifications in Categories 8, 10, and 13 by reference.*

#### **CATEGORY 15. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.**

*If the applicant will apply for an award under FTA's Urbanized Area Formula Grants Program (49 U.S.C. § 5307), Fixed Guideway Capital Investment Program (49 U.S.C. § 5309), Formula Grants for Rural Areas Program (49 U.S.C. § 5311), or Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339) programs, the applicant must make the following certification. The applicant must make this certification on its own behalf and on behalf of its subrecipients and contractors. This certification is required by 49 CFR § 655.83.*

The applicant certifies that it, its subrecipients, and its contractors are compliant with FTA's regulation for the Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations, 49 CFR Part 655.

#### **CATEGORY 16. RAIL SAFETY TRAINING AND OVERSIGHT.**

*If the applicant is a State with at least one rail fixed guideway system, or is a State Safety Oversight Agency, or operates a rail fixed guideway system, it must make the following certification. The elements of this certification are required by 49 CFR §§ 672.31 and 674.39.*

The applicant certifies that the rail fixed guideway public transportation system and the State Safety Oversight Agency for the State are:

- (a) Compliant with the requirements of 49 CFR Part 672, "Public Transportation Safety Certification Training Program"; and
- (b) Compliant with the requirements of 49 CFR Part 674, "State Safety Oversight".

#### **CATEGORY 17. DEMAND RESPONSIVE SERVICE.**

*If the applicant operates demand responsive service and will apply for an award to purchase a non-rail vehicle that is not accessible within the meaning of 49 CFR Part 37, it must make the following certification. This certification is required by 49 CFR § 37.77.*

The applicant certifies that the service it provides to individuals with disabilities is equivalent to that provided to other persons. A demand responsive system, when viewed in its entirety, is deemed to provide equivalent service if the service available to individuals with disabilities, including individuals who use wheelchairs, is provided in the most integrated setting appropriate to the needs of the individual and is equivalent to the service provided other individuals with respect to the following service characteristics:

- (a) Response time;



- (b) Fares;
- (c) Geographic area of service;
- (d) Hours and days of service;
- (e) Restrictions or priorities based on trip purpose;
- (f) Availability of information and reservation capability; and
- (g) Any constraints on capacity or service availability.

#### **CATEGORY 18. INTEREST AND FINANCING COSTS.**

*If the applicant will pay for interest or other financing costs of a project using assistance awarded under the Urbanized Area Formula Grants Program (49 U.S.C. § 5307), the Fixed Guideway Capital Investment Grants Program (49 U.S.C. § 5309), or any program that must comply with the requirements of 49 U.S.C. § 5307, including the Formula Grants for the Enhanced Mobility of Seniors Program (49 U.S.C. § 5310), “flex funds” from infrastructure programs administered by the Federal Highways Administration (see 49 U.S.C. § 5334(i)), or awards to urbanized areas under the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339), the applicant must make the following certification. This certification is required by 49 U.S.C. §§ 5307(e)(3) and 5309(k)(2)(D).*

The applicant certifies that:

- (a) Its application includes the cost of interest earned and payable on bonds issued by the applicant only to the extent proceeds of the bonds were or will be expended in carrying out the project identified in its application; and
- (b) The applicant has shown or will show reasonable diligence in seeking the most favorable financing terms available to the project at the time of borrowing.

#### **CATEGORY 19. CYBERSECURITY CERTIFICATION FOR RAIL ROLLING STOCK AND OPERATIONS.**

*If the applicant operates a rail fixed guideway public transportation system, it must make this certification. This certification is required by 49 U.S.C. § 5323(v), a new subsection added by the National Defense Authorization Act for Fiscal Year 2020, Pub. L. 116-92, § 7613 (Dec. 20, 2019). For information about standards or practices that may apply to a rail fixed guideway public transportation system, visit <https://www.nist.gov/cyberframework> and <https://www.cisa.gov/>.*

The applicant certifies that it has established a process to develop, maintain, and execute a written plan for identifying and reducing cybersecurity risks that complies with the requirements of 49 U.S.C. § 5323(v)(2).

**CATEGORY 20. PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS  
FORMULA AND DISCRETIONARY PROGRAM (TRIBAL TRANSIT  
PROGRAMS).**

*Before FTA may provide Federal assistance for an Award financed under either the Public Transportation on Indian Reservations Formula or Discretionary Program authorized under 49 U.S.C. § 5311(c)(1), as amended by the FAST Act, (Tribal Transit Programs), the applicant must select the Certifications in Category 21, except as FTA determines otherwise in writing. Tribal Transit Program applicants may certify to this Category and Category 1 (Certifications and Assurances Required of Every Applicant) and need not make any other certification, to meet Tribal Transit Program certification requirements. If an applicant will apply for any program in addition to the Tribal Transit Program, additional certifications may be required.*

FTA has established terms and conditions for Tribal Transit Program grants financed with Federal assistance appropriated or made available under 49 U.S.C. § 5311(c)(1). The applicant certifies that:

- (a) It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
- (b) It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
- (c) It will maintain its equipment and facilities acquired or improved under its Award, in accordance with its transit asset management plan and consistent with FTA regulations, “Transit Asset Management,” 49 CFR Part 625. Its Award will achieve maximum feasible coordination with transportation service financed by other federal sources.
- (d) With respect to its procurement system:
  - (1) It will have a procurement system that complies with U.S. DOT regulations, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” 2 CFR Part 1201, which incorporates by reference U.S. OMB regulatory guidance, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” 2 CFR Part 200, for Awards made on or after December 26, 2014,
  - (2) It will have a procurement system that complies with U.S. DOT regulations, “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,” 49 CFR Part 18, specifically former 49 CFR § 18.36, for Awards made before December 26, 2014, or
  - (3) It will inform FTA promptly if its procurement system does not comply with either of those U.S. DOT regulations.
- (e) It will comply with the Certifications, Assurances, and Agreements in:
  - (1) Category 05.1 and 05.2 (Charter Service Agreement and School Bus Agreement),
  - (2) Category 06 (Transit Asset Management Plan),

- (3) Category 07.1 and 07.2 (Rolling Stock Buy America Reviews and Bus Testing),
- (4) Category 09 (Formula Grants for Rural Areas),
- (5) Category 15 (Alcohol and Controlled Substances Testing), and
- (6) Category 17 (Demand Responsive Service).

**CATEGORY 21. EMERGENCY RELIEF PROGRAM.**

*An applicant to the Public Transportation Emergency Relief Program, 49 U.S.C. § 5324, must make the following certification. The certification is required by 49 U.S.C. § 5324(f) and must be made before the applicant can receive a grant under the Emergency Relief program.*

The applicant certifies that the applicant has insurance required under State law for all structures related to the emergency relief program grant application.

**FEDERAL FISCAL YEAR 2022 CERTIFICATIONS AND ASSURANCES FOR FTA ASSISTANCE PROGRAMS**

(Signature pages alternate to providing Certifications and Assurances in TrAMS.)

Name of Applicant: Merrimack Valley Metropolitan Planning Organization

The Applicant certifies to the applicable provisions of all categories: (*check here*) \_\_\_\_\_.

*Or,*

The Applicant certifies to the applicable provisions of the categories it has selected:

<b>Category</b>	<b>Certification</b>
01 Certifications and Assurances Required of Every Applicant	x _____
02 Public Transportation Agency Safety Plans	_____
03 Tax Liability and Felony Convictions	_____
04 Lobbying	_____
05 Private Sector Protections	_____
06 Transit Asset Management Plan	_____
07 Rolling Stock Buy America Reviews and Bus Testing	_____
08 Urbanized Area Formula Grants Program	_____
09 Formula Grants for Rural Areas	_____
10 Fixed Guideway Capital Investment Grants and the Expedited Project Delivery for Capital Investment Grants Pilot Program	_____
11 Grants for Buses and Bus Facilities and Low or No Emission Vehicle Deployment Grant Programs	_____

- 12 Enhanced Mobility of Seniors and Individuals with Disabilities Programs \_\_\_\_\_
- 13 State of Good Repair Grants \_\_\_\_\_
- 14 Infrastructure Finance Programs \_\_\_\_\_
- 15 Alcohol and Controlled Substances Testing \_\_\_\_\_
- 16 Rail Safety Training and Oversight \_\_\_\_\_
- 17 Demand Responsive Service \_\_\_\_\_
- 18 Interest and Financing Costs \_\_\_\_\_
- 19 Cybersecurity Certification for Rail Rolling Stock and Operations \_\_\_\_\_
- 20 Tribal Transit Programs \_\_\_\_\_
- 21 Emergency Relief Program \_\_\_\_\_

**CERTIFICATIONS AND ASSURANCES SIGNATURE PAGE**

**AFFIRMATION OF APPLICANT**

Name of the Applicant: Merrimack Valley Metropolitan Planning Organization

BY SIGNING BELOW, on behalf of the Applicant, I declare that it has duly authorized me to make these Certifications and Assurances and bind its compliance. Thus, it agrees to comply with all federal laws, regulations, and requirements, follow applicable federal guidance, and comply with the Certifications and Assurances as indicated on the foregoing page applicable to each application its Authorized Representative makes to the Federal Transit Administration (FTA) in the federal fiscal year, irrespective of whether the individual that acted on his or her Applicant’s behalf continues to represent it.

The Certifications and Assurances the Applicant selects apply to each Award for which it now seeks, or may later seek federal assistance to be awarded by FTA during the federal fiscal year.

The Applicant affirms the truthfulness and accuracy of the Certifications and Assurances it has selected in the statements submitted with this document and any other submission made to FTA, and acknowledges that the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 *et seq.*, and implementing U.S. DOT regulations, “Program Fraud Civil Remedies,” 49 CFR part 31, apply to any certification, assurance or submission made to FTA. The criminal provisions of 18 U.S.C. § 1001 apply to any certification, assurance, or submission made in connection with a federal public transportation program authorized by 49 U.S.C. chapter 53 or any other statute

Certifications and Assurances

Fiscal Year 2022

In signing this document, I declare under penalties of perjury that the foregoing Certifications and Assurances, and any other statements made by me on behalf of the Applicant are true and accurate.

Signature [Handwritten Signature]

Date: 12/9/2022

Name Jerrard Whitten Authorized Representative of Applicant

**AFFIRMATION OF APPLICANT'S ATTORNEY**

For (Name of Applicant): \_\_\_\_\_

As the undersigned Attorney for the above-named Applicant, I hereby affirm to the Applicant that it has authority under state, local, or tribal government law, as applicable, to make and comply with the Certifications and Assurances as indicated on the foregoing pages. I further affirm that, in my opinion, the Certifications and Assurances have been legally made and constitute legal and binding obligations on it.

I further affirm that, to the best of my knowledge, there is no legislation or litigation pending or imminent that might adversely affect the validity of these Certifications and Assurances, or of the performance of its FTA assisted Award.

Signature \_\_\_\_\_ Date: \_\_\_\_\_

Name \_\_\_\_\_ Attorney for Applicant

*Each Applicant for federal assistance to be awarded by FTA must provide an Affirmation of Applicant's Attorney pertaining to the Applicant's legal capacity. The Applicant may enter its electronic signature in lieu of the Attorney's signature within TrAMS, provided the Applicant has on file and uploaded to TrAMS this hard-copy Affirmation, signed by the attorney and dated this federal fiscal year.*

## B. Title VI Notice

The Merrimack Valley Metropolitan Planning Organization (MVMPO) promotes awareness of its notice and processes in a variety of ways. The Title VI Notice can be found on the MVPC website at <https://mvpc.org/title-vi/>. The Title VI notice is included in all outreach media including hearing notices, meeting notices among other documents. A list of the documents where the Title VI Notice is posted:

- Website: The Title VI Notice may be found on all web pages at MVPC.org in the footer of each page.
- MVMPO Meeting Agenda posted at MVPC, on the website,
- Public hearings and meeting notices – posted at MVPC, and at each member community town/city hall.
- Major documents and publications are made available at major libraries in the region.
- All draft documents are circulated and available for public review.

### **The following Language is included in notices for each MVMPO public hearing:**

Notice: The Virtual Public Hearings are accessible to people with disabilities and individuals with limited English proficiency. The MVMPO provides reasonable accommodations and/or language assistance free of charge upon request (including but not limited to interpreters in American Sign Language and languages other than English, CART, translated documents, open or closed captioning for videos, assistive listening devices and alternate material formats, such as audio tapes, Braille and large print), as available. For accommodation or language assistance, please contact the Title VI coordinator by email at [transportation@mvpc.org](mailto:transportation@mvpc.org). This address directs MVPC's Transportation Program Manager. Requests for accommodation or language assistance should be made as soon as possible, preferably at least 10 days prior to the meeting.

#### **English**

If this information is needed in another language, please contact the MVMPO Title VI/Nondiscrimination Coordinator at 978-374-0519 ext. 21.

#### **Spanish**

Si necesita esta información en otro idioma, por favor contacte al coordinador de MVMPO del Título VI/Contra la Discriminación al 978-374-0519 ext. 21.

#### **Portuguese**

Caso estas informações sejam necessárias em outro idioma, por favor, contate o Coordenador de Título VI e de Não Discriminação da MVMPO pelo telefone 978-374-0519, Ramal 15.

#### **Chinese Simplified**

如果需要使用其它语言了解信息，请联系 Merrimack Valley 大都会规划组织（MVMPO）《民权法案》第六章协调员，电话 978-374-0519，转 21。

**Chinese Traditional**

如果需要使用其他語言瞭解資訊，請聯繫 Merrimack Valley 大都會規劃組織 (MVMPO) 《民權法案》第六章協調員，電話 978-374-0519，轉 21。

**Vietnamese**

Nếu quý vị cần thông tin này bằng tiếng khác, vui lòng liên hệ Điều phối viên Luật VI/Chống phân biệt đối xử của MVMPO theo số điện thoại 978-374-0519, số máy nhánh 21.

**French Creole**

Si yon moun vle genyen enfòmasyon sa yo nan yon lòt lang, tanpri kontakte Kowòdinatè kont Diskriminasyon/MVMPO Title VI la nan nimewo 978-374-0519, ekstansyon 21.

**Russian**

Если Вам необходима данная информация на любом другом языке, пожалуйста, свяжитесь с Координатором Титула VI/Защита от дискриминации в MVMPO по тел: 978-374-0519, добавочный 21.

**French**

Si vous avez besoin d'obtenir une copie de la présente dans une autre langue, veuillez contacter le coordinateur du Titre VI/anti-discrimination de MVMPO en composant le 978-374-0519, poste 21.

**Italian**

Se ha bisogno di ricevere queste informazioni in un'altra lingua si prega di contattare il coordinatore del MVMPO del Titolo VI e dell'ufficio contro la discriminazione al 978-374-0519 interno 21.

**Mon-Khmer, Cambodian**

ប្រសិនបើលោក-អ្នកត្រូវការបកប្រែពីភាសានេះ:  
សូមទាក់ទងអ្នកសម្របសម្រួលជំពូកទី6/គ្មានការរើសអើងរបស់ **MVMPO** តាមរយៈលេខទូរស័ព្ទ **978-374-0519** រួចភ្ជាប់ទៅលេខ **21**។

**Arabic**

إذا كنت بحاجة إلى هذه المعلومات بلغة أخرى، يُرجى الاتصال بمنسق الفقرة السادسة لمنع التمييز التابع لمنظمة التخطيط الحضري في ميريماك فالي على الهاتف: 978-374-0519 و ثم اضغط الأرقام 21.



## **Title VI Notice of Protection**

The MVMPO complies with federal and state nondiscrimination obligations and does not discriminate on the basis of race, color, age, religion, creed, national origin (including limited English proficiency), ethnicity, ancestry, sex, gender, sexual orientation, gender identity or expression, disability, veteran's status, or background. For more information, to express a concern, or to file a complaint, please contact MVPC's transportation program manager by phone at 978-374-0519, Ext. 15 or by email at [transportation@mvpc.org](mailto:transportation@mvpc.org). Visit [www.mvpc.org](http://www.mvpc.org) to learn more about these nondiscrimination obligations.

## **New Civil Rights Notice to the Public beginning 2023**

The Title VI Specialist is also the Transportation Program Manager.

# **Civil Rights Notice to the Public**

The Merrimack Valley Planning Commission (MVPC) Complies with Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color or national origin (including limited English proficiency). Related federal and state nondiscrimination laws prohibit discrimination on the basis of age, sex, disability, and additional protected characteristics. MVPC is committed to nondiscrimination in all activities.

Individuals who believe they have been discriminated against may file a complaint with MVPC at:

Title VI Specialist  
MVPC  
160 Main Street  
Haverhill, MA 01830  
Email: [transportation@mvpc.org](mailto:transportation@mvpc.org) (this address directs to the Transportation Program Manager)

Complaints may also be filed directly with the United State Department of Transportation at:

U.S. Department of Transportation  
Office of Civil Rights  
1200 New Jersey Avenue, SE  
Washington, DC 20590  
Website: <https://civilrights.justice.gov/>

For additional information, language service requests, or reasonable accommodations visit <https://mvpc.org/title-vi/>

Translation:

English: Discrimination is prohibited at MVPC. If you believe discrimination has occurred you have the right to file a complaint. For translations of this notice, visit <https://mvpc.org/title-vi/>.

Spanish: [https://mvpc.org/wp-content/uploads/dot-title-6-notice-051923\\_spanish.pdf](https://mvpc.org/wp-content/uploads/dot-title-6-notice-051923_spanish.pdf)

Chinese: [https://mvpc.org/wp-content/uploads/dot-title-6-notice-051923\\_zh-chinses-traditional.pdf](https://mvpc.org/wp-content/uploads/dot-title-6-notice-051923_zh-chinses-traditional.pdf)

Simplified Chinese: [https://mvpc.org/wp-content/uploads/dot-title-6-notice-051923\\_zh-simplified-chinese.pdf](https://mvpc.org/wp-content/uploads/dot-title-6-notice-051923_zh-simplified-chinese.pdf)

Haitian Creole: [https://mvpc.org/wp-content/uploads/dot-title-6-notice-051923\\_haitian\\_creoloe.pdf](https://mvpc.org/wp-content/uploads/dot-title-6-notice-051923_haitian_creoloe.pdf)

Vietnamese: <https://mvpc.org/wp-content/uploads/dot-TitleVI-complaint-procedures-vietnamese.pdf>

## Title VI Complaints

As of December 12, 2022, the MVMPO does not have any active complaint, investigation, or lawsuit against it that allege discrimination on the bases of race, color, and/or national origin since the time of the last submission. Copies of the FFY2021 and FFY 2022 complaint logs are in Appendix B.

### C. Complaint Process

## **MVPC Title VI Complaint Procedures**

### **Purpose and Applicability**

The purpose of this document is to establish procedures for the processing and disposition of both discrimination complaints filed directly with the Merrimack Valley Planning Commission under Title VI of the Civil Rights Act of 1964 (Title VI) and related state and federal nondiscrimination authorities, including the Americans with Disabilities Act (ADA).

The processing of discrimination complaints will follow the steps outlined below and are further detailed throughout this document.

Step 1: Complainant submits their complaint.

Step 2: MVPC issues the complainant an acknowledgment letter.

Step 3: Complaint is assigned to, and reviewed by, an investigator.

Step 4: Investigator conducts interviews of complainants, witnesses, and the respondent.

Step 5: Investigator reviews the evidence and testimonies to determine whether a violation has occurred.

Step 6: Complainant and Respondent are issued a letter of resolution or a letter of finding and offered appeal rights.

Step 7: Once the appeal period has expired, the investigation is closed.

The procedures describe an administrative process aimed at identifying and eliminating discrimination in federally funded programs and activities. The procedures do not provide an avenue for relief for complainants seeking individual remedies, including punitive damages or compensatory remuneration; they do not prohibit complainants from filing complaints with other state or federal agencies; nor do they deny complainants the right to seek private counsel to address acts of alleged discrimination.

The procedures described in this document apply to MVPC and its subrecipients, contractors, and subcontractors in their administration of federally funded programs and activities.

As part of their efforts to comply with Title VI, subrecipients of federal financial assistance through MVPC are encouraged to adopt these complaint procedures. In so doing, these subrecipients acknowledge their obligation to afford members of the public with an opportunity to file complaints alleging violations of nondiscrimination policies in place across their organization and in their programs, services, and activities. In accordance with federal guidance, subrecipients of transit-related funds understand they have the authority to process Title VI complaints and will inform their recipients, MVPC, of complaints received and the outcome of investigations as the matters are resolved.

Subrecipients of highway-related funds further understand they do not have the authority to investigate Title VI violation claims filed against their organization (where their organization is the respondent or party alleged to have violated Title VI). All such claims will be forwarded to the MVPC's Title VI Specialist to determine the appropriate investigative authority. Highway-funding subrecipients retain the right to consider Title VI violation allegations as a matter of Assurance and/or internal policy compliance but are precluded from making determinations as to possible violations of Title VI. MVPC encourages all subrecipients to communicate with MVPC's Title VI Specialists, the when/if Title VI complaints are received to ensure proper handling.

### **Definitions**

**Complainant** – A person who files a complaint with MVPC.

**Complaint** – Written, verbal or electronic statement concerning an allegation of discrimination that contains a request for the receiving office to take action. Where a

complaint is filed by a person with a disability, the term complaint encompasses alternative formats to accommodate the complainant's disability.

**Discrimination** – That act or inaction, whether intentional or unintentional, through which a person in the United States, solely because of race, color, national origin, or bases covered by other nondiscrimination authorities, such as gender, age, or disability, has been subjected to unequal treatment or disparate impact under any program or activity receiving federal assistance.

**Operating Administrations** – Agencies of the U.S. Department of Transportation, including the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), the Federal Rail Administration (FRA), the National Highway Traffic Safety Administration (NHTSA), and the Federal Motor Carrier Safety Administration (FMSCA), that fund transportation programs or activities.

**Respondent** – The person, agency, institution, or organization alleged to have engaged in discrimination.

### **Filing of Complaints**

This section details MVPC's procedures for processing Title VI discrimination complaints (on the basis of race, color, or national origin, including language) and complaints alleging discrimination on the basis of additional federal nondiscrimination provisions (on the basis of age, sex, and disability). Federal law and regulations governing Title VI of the Civil Rights Act of 1964 (Title VI) places the overall coordination authority for the investigation of civil rights complaints in the United States Department of Justice, which works collaboratively with federal agencies that carry out this responsibility. In the transportation sector, this investigative authority rests with the US Department of Transportation (US DOT) and its agencies for the different modes of transportation, including the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA). In coordination with USDOT requirements, FHWA and FTA have established regulations and guidance that require recipients and subrecipients of federal financial assistance to establish procedures for processing Title VI complaints filed with these organizations.

The procedures described below, modeled on recommended complaint procedures promulgated by the US Department of Justice (US DOJ), are designed to provide a fair opportunity to have complaints addressed that respect due process for both complainants and respondents. In addition to the formal complaint resolution process detailed herein, MVPC shall take affirmative steps to pursue informal resolution of any and all Title VI complaints, when possible.

### **The Complaint Process**

#### **1. Who can file a complaint?**

**ANY** member of the public, along with all MVPC customers, applicants, contractors, or subrecipients who believe that they themselves, a third party, or a class of persons were mistreated or treated unfairly because of their race, color, or national origin

(including limited English proficiency) in violation of Title VI of the Civil Rights Act of 1964, related federal and state laws and orders, or MVPC's Anti-Discrimination/Harassment Prevention (ADHP) Policy. Retaliation against a member of the public on the basis of race, color, or national origin is also prohibited under Title VI and the ADHP Policy.

## **2. How do I file a complaint?**

A complaint may be filed with the following:

### **Title VI Specialist**

MVPC

160 Main Street

Haverhill, MA 01830

Phone: (978)374-0519 ext 21

Email: [transportation@mvpc.org](mailto:transportation@mvpc.org) (this address directs to the Transportation Program Manager)

### **U.S. Department of Transportation**

Office of Civil Rights

1200 New Jersey Avenue, SE

Washington, DC 20590

Website: [civilrights.justice.gov/](http://civilrights.justice.gov/)

Please note:

- When FTA receives a Title VI complaint regarding MVPC, a subrecipient, or a contractor, the FTA may request the matter be investigated by MVPC.
- If a Title VI complaint is filed with MVPC that alleges a violation by MVPC, then it will be forwarded to the local FHWA Division Office which will then forward the complaint to the FHWA Headquarters Office of Civil Rights (HCR) for processing.
- If a Title VI complaint is received by MassDOT that is filed against a subrecipient of the MVPC, then MVPC may process and investigate the complaint.

## **3. What do I need to include in a complaint?**

A Title VI/Nondiscrimination Complaint form is available electronically on the [MVPC Website](#) or in hardcopy at the MVPC. Alternatively, a complainant may submit correspondence in an alternative format that should include:

- Your name, signature and, current contact information (i.e., telephone number, email address and postal mailing address);
- The name and badge number (if known and applicable) of the alleged perpetrator;
- A description of how, when, and where the alleged prohibited conduct occurred;
- A detailed description of why you believe you were treated differently;
- Names and contact information of any witnesses; and

- Any other information you believe is relevant to your complaint.
- A. In cases where the complainant is unable to provide a written statement, a verbal complaint may be made to the MVPC. Complainants will be interviewed by a Civil Rights Investigator (CRI). If necessary, the CRI will assist the person in converting the verbal complaint to writing. All complaints should be signed by the complainant.
  - B. Anonymous complaints may be filed in the same manner. Anonymous complaints shall be investigated in the same manner as any other complaint.
  - C. Complaints will be accepted in any recognized language. Multi-lingual complaint forms are available.

**4. How long do I have to file a complaint?**

- A. A complaint alleging violation of Title VI should be filed no later than one hundred and eighty (180) days from the date of the alleged violation.
- B. Complaints alleging violations of state or federal law must be filed within the time frames established by statute, regulation, or case law – in certain instances up to three hundred (300) days from the date of the alleged violation.

**5. How will my complaint be handled?**

When a complaint is received, it is assigned to a Civil Rights Investigator (CRI). The CRI will:

- A. Determine Jurisdiction: MVPC has jurisdiction if the complaint:
  - 1) involves a statement or conduct that violates:
    - i. MVPC’s legal obligation and commitment to prevent discrimination, harassment, or retaliation on the basis of a protected characteristic with regard to any aspect of the Agency’s service to the public;
    - or
    - ii. The commitment made by subrecipients and contractors working with MVPC to adhere to MVPC’s policies;

AND

- 2) is timely filed.
- B. Acknowledge receipt of the complaint and provide jurisdictional determination within ten (10) business days of receipt of the complaint.
  - 1) If the CRI determines that any complaint does not have the potential to establish a civil rights violation, then the CRI shall notify the complainant and Title VI Specialist in writing of its finding and the matter shall be closed.

- C. Conduct a thorough investigation of the allegations contained in the complaint in accordance with the MVPC's Internal Complaint Procedures.

## **6. Findings and Recommendations?**

At the conclusion of the investigation, the CRI will transmit to the complainant and the respondent one of the following three letters based on the findings:

- A. A letter of resolution that explains the steps the respondent has taken or will take to comply with Title VI.
- B. A letter of finding that is issued when the respondent is found to be in compliance with Title VI. This letter will include an explanation of why the respondent was found to be in compliance and provide notification of the complainant's appeal rights.
- C. A letter of finding that is issued when the respondent is found to be in noncompliance.

This letter will include each violation referenced as to the applicable regulations, a brief description of findings/recommendations, the consequences of failure to achieve voluntary compliance, and an offer of assistance in devising a remedial plan for compliance, if appropriate.

## **7. Can I appeal a Finding?**

If a complainant or respondent does not agree with the findings of the CRI then he/she/they may appeal to MVPC's Executive Director and Title VI Specialist. The appealing party must provide any **new information that was not readily available during the course of the original investigation that would lead MVPC to reconsider its determinations.** The request for an appeal and any new information must be submitted within thirty (30) days of the date the letter of finding was transmitted. After reviewing this information, MVPC will respond either by issuing a revised letter of resolution or by informing the appealing party that the original letter of resolution or finding remains in force.

## D. Complaint Form

Translated copies of the form can be found in Appendix C.

# Discrimination Complaint Form

Please provide the following information in order for us to process your complaint. This form is available in alternate formats and multiple languages. Should you require these services or any other assistance in completing this form, please let us know.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Numbers: (Home) \_\_\_\_\_ (Work) \_\_\_\_\_ (Cell) \_\_\_\_\_

Email Address: \_\_\_\_\_

### Please indicate the nature of the alleged discrimination:

Categories protected under *Title VI of the Civil Rights Act of 1964*:

Race  Color  National Origin (including limited English proficiency)

Additional categories protected under related Federal and/or State laws/orders:

Disability  Age  Sex  Sexual Orientation  Religion  Ancestry

Gender  Ethnicity  Gender Identity  Gender Expression  Creed  Veteran's Status  Background  Low-Income

### Who do you allege was the victim of discrimination?

You  A Third Party Individual  A Class of Persons

### Name of individual and/or organization you allege is discriminating:

\_\_\_\_\_

**Do you consent** to the investigator sharing your name and other personal information with other parties to this matter when doing so will assist in investigating and resolving your complaint?

Yes  No

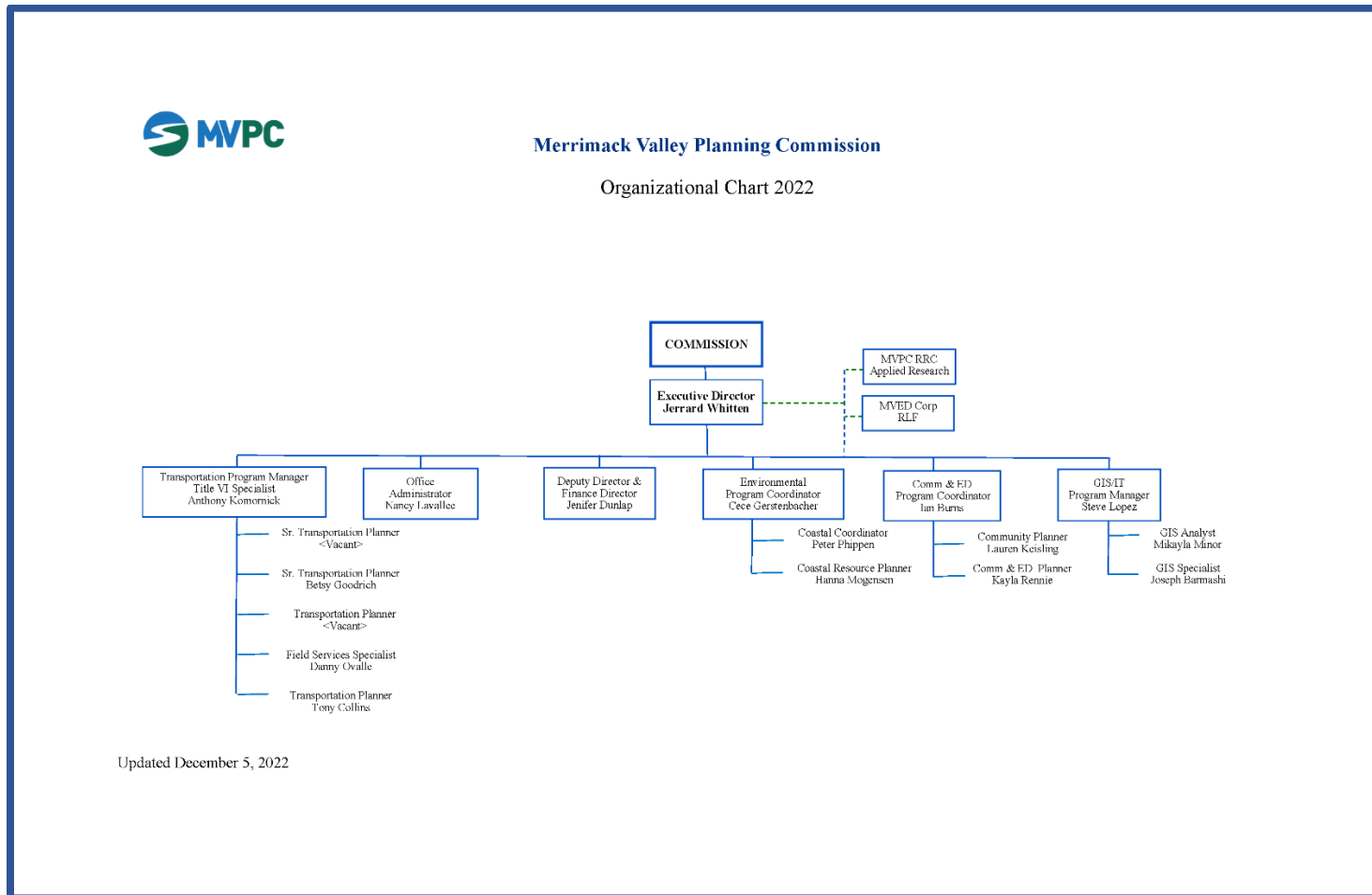
**Please describe your complaint.** You should include specific details such as names, dates, times, witnesses, and any other information that would assist us in OUR investigation of your allegations. Please include any other documentation that is relevant to this complaint. You may attach additional pages to explain your complaint.





### E. Title VI Specialist

The Title VI Specialist is also the Transportation Program Manager who has direct access to the Merrimack Valley Planning Commission’s Executive Director. See Figure 1. **Note: As of this revision (December 2023) Patrick Reed has replaced Anthony Komornick as the Transportation Program Manager. Betsy Goodrich has left the organization, and two Regional Mobility Planner positions have been filled by Jonah Williams and Elizabeth Maldari.**



**Figure 1: MVPC Organizational Chart**

## F. Dissemination of Title VI Information

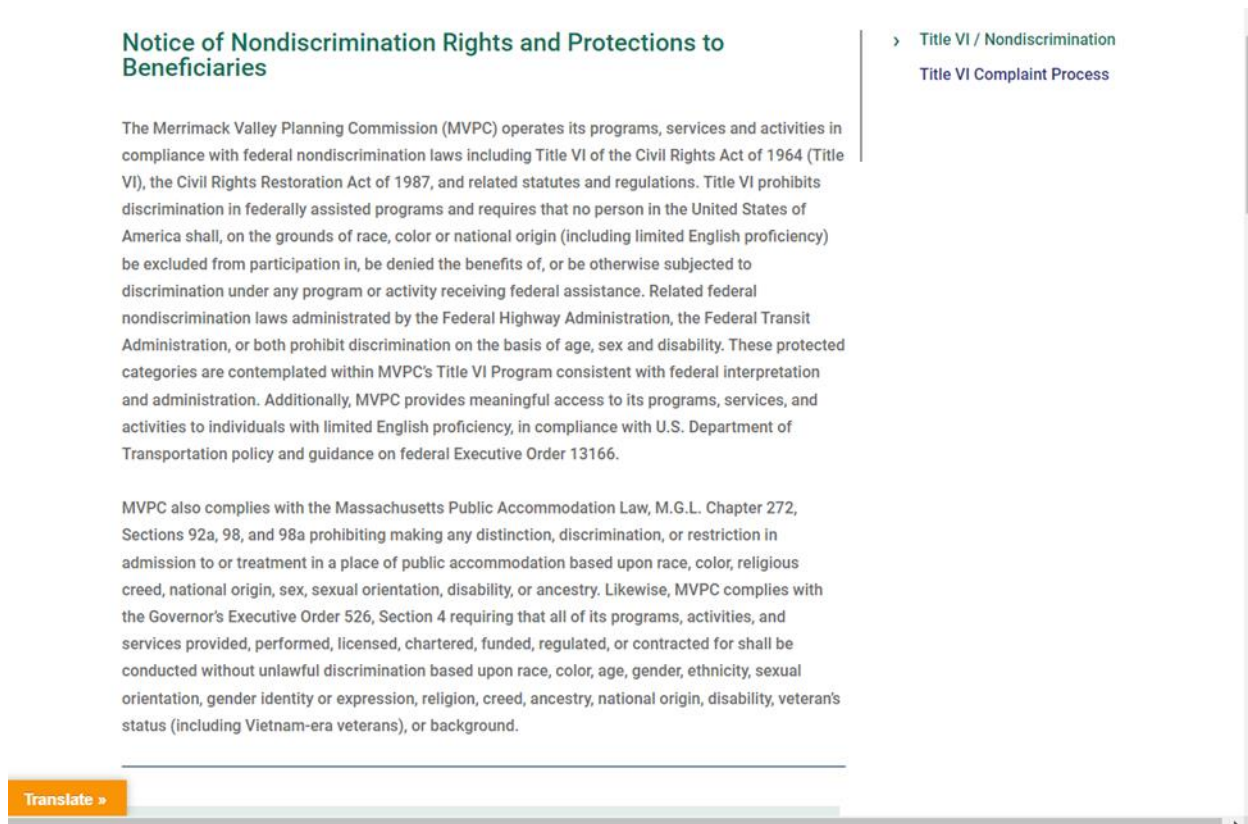
### MVPC Website

The MVMPO posts all necessary Title VI information on the Merrimack Valley Planning Commission's website ([www.mvpc.org](http://www.mvpc.org)). The image below shows the bottom of the mvpc.org homepage that directs visitors to view the Title VI information.



Figure 2: Image of MVPC Web site header with Title VI link.

On the Title VI page, visitors can read through the Notice of Nondiscrimination Rights and Protections to Beneficiaries.



**Figure 3: Image of Web site.**

Visitors are prompted to contact the Title VI Coordinator if they are seeking additional information.



**Figure 4: Image of Web site.**

The Title VI complaint filing procedures and forms are listed on the webpage in English, Spanish and Simple Chinese. Html versions of the documents are also available with Google Translate capability for other languages not listed.

## Complaint Filing

To file a complaint alleging a violation of Title VI or related federal nondiscrimination law, contact the Title VI Program Coordinator (above) within one hundred and eighty (180) days of the alleged discriminatory conduct.

To file a complaint alleging a violation of the Commonwealth's Public Accommodation Law, contact the Massachusetts Commission Against Discrimination within three hundred (300) days of the alleged discriminatory conduct at:

Massachusetts Commission Against Discrimination (MCAD)  
One Ashburton Place, 6th Floor  
Boston, MA 02109  
(617) 994-6000  
TTY: (617) 994-6196

### Complaint Forms & Procedures

العربية (Arabic): [Complaint Procedures](#); [Complaint Form](#)

简体中文 (Simplified Chinese): [Complaint Procedures](#); [Complaint Form](#)

繁體中文 (Traditional Chinese): [Complaint Procedures](#); [Complaint Form](#)

Français (French): [Complaint Procedures](#); [Complaint Form](#)

Keyòl ayisyen (Haitian Creole): [Complaint Procedures](#); [Complaint Form](#)

Italiano (Italian): [Complaint Procedures](#); [Complaint Form](#)

ភាសាខ្មែរ (Khmer): [Complaint Procedures](#); [MassDOT Complaint Form](#)

Português (Portuguese, Brazilian): [Complaint Procedures](#); [Complaint Form](#)

Русский (Russian): [Complaint Procedures](#); [Complaint Form](#)

Español (Spanish): [Complaint Procedures](#); [Complaint Form](#)

Tiếng Việt (Vietnamese): [Complaint Procedures](#); [Complaint Form](#)

### Figure 5: Image of Web site.

#### Public Hearing Notices and MPO Agendas

The MVMPO includes Title VI information on all public hearing notices and MPO Agendas.

Shortened notices of Public Hearings are distributed through local newspapers (Haverhill Eagle Tribune, Newburyport Daily News, and Rumbo News in Lawrence) and local cable news outlets in 10 of the 15 communities in the MVMPO region. The notices direct people to the full public hearing notice on the

mvpc.org website. In addition to being posted on the website, the full public hearing notices are sent to the city and town clerks in the 15 communities to be posted at city and town halls. Public Hearing Notices in the window of the Merrimack Valley Planning Commission.

*Transportation Improvement Program, Unified Planning Work Program, and Metropolitan Transportation Plan*

The MVMPO includes a Title VI Notice of Public Protection at the beginning of the Transportation Improvement Program, Unified Planning Work Program, and Metropolitan Transportation Plan. All of these documents are posted on the mvpc.org website.

### III. Public Participation and LEP

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Public involvement is encouraged throughout all phases of planning and project development. This chapter describes the public involvement techniques the MVMPO uses.

#### A. Public Participation Plan

The MVMPO's Public Participation Plan (PPP) was last updated in March 2017 and can be found at <https://mvpc.org/wp-content/uploads/MVMPO-final-PPP-as-Amended-through-March-2017.pdf>. MassDOT has advised the MVMPO to update its Plan after MassDOT had released its draft updated PPP, which is due to occur by the end of December 2022. The MVMPO will then undertake an update to the PPP.

#### Public Participation Plan Update Strategy

***NOTE: As of this revision (December 2023), MassDOT has not provided MPOs, including MVMPO an updated, current Statewide Public Participation Plan. As such, revision to the Commission's existing Public Participation Plan has been substantially delayed.***

The Merrimack Valley Metropolitan Planning Organization (MVMPO) will begin the Public Participation Plan (PPP) update process in February 2023 with an expected completion date by the end of July 2023. A Gantt Chart (Figure 6) has been provided below to show the timeline of completion.

#### Step 1: Review and Research

We will start by reviewing MassDOT's PPP update, our Metropolitan Transportation Plan outreach analysis, and the PPP endorsed in 2017. Takeaways from these documents and processes will be used in the development of our updated PPP this year.

The MVPC Transportation program developed a public outreach and participation plan to be implemented for the Metropolitan Transportation Plan in June 2022. The plan set a vision, goals, public engagement process, guidelines for public input opportunities, and criteria for measuring the effectiveness of the process. MVPC is currently in the middle of the MTP public outreach and participation plan and expects that the results of the plan process will inform the update of the PPP.

#### Step 2: Collaborate with other MPOs and Regional Partners

Staff will conduct research on best practices for community engagement and public outreach from other MPOs around the country as well as our counterparts in Massachusetts. We will review our findings with MeVa Transit and the Merrimack Valley Transportation Committee to assess areas that we want to expand on, exclude, or alter to fit the needs of our region.

#### Step 3: Draft PPP Updates

After reviewing all relevant materials from different perspectives, we will begin to draft our update. We will begin with developing a structure that allows for easy reading,

comprehension, and practicality. We will seek to include best practices for both virtual and in-person engagement methods. The draft report will aim to include information that can be refined and edited during the review process. The document will be created in an accessible format.

#### Step 4: Review Draft Update and Edit

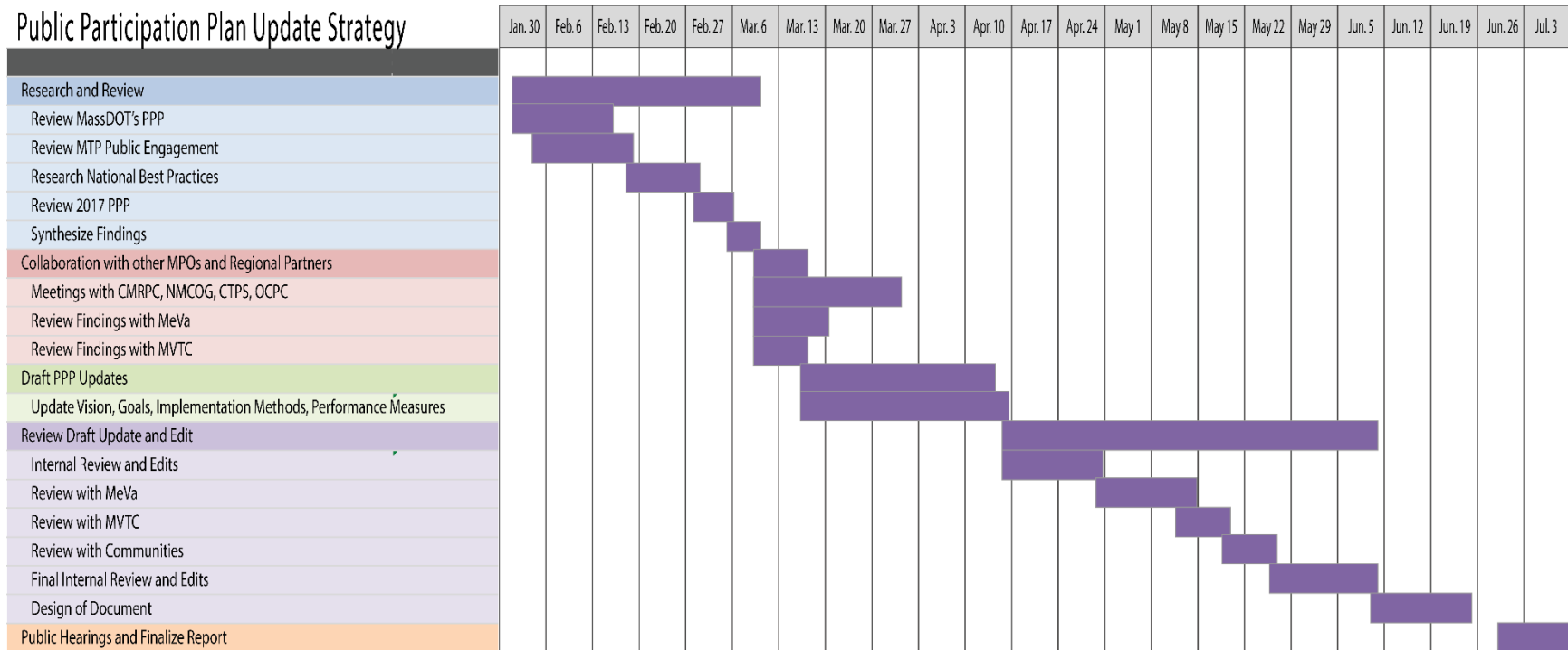
The draft will be reviewed by internal staff to correct simple errors and to make sure the document covers all required topics. The document will then be sent to MeVa and planners from the 15 communities to include their edits. We will then conduct a final internal review and edit before completing the final design of the document.

#### Step 5: Public Hearings and Finalize

Staff will present the draft PPP to the MVMPO members and recommend that it be released for public review. During the review process we will begin with an internal review and look for minor edits in the document. The document and public hearing information will be distributed to MVMPO member communities and partners. Two public hearings will be held on the document. Comments will be incorporated into the update and the document will be finalized.



# Public Participation Plan Update Strategy



**Figure 6: Public Participation Plan Update Strategy**

## B. Minority Representation in the MVMPO

In 2022, a Memorandum of Understanding was signed by the MVMPO members agreeing to work together to undertake the comprehensive, continuing, cooperative and multimodal transportation planning process (3C Process). The MVMPO does not select the individuals representing each community. Voting members are selected by Mayors or Boards of Selectmen to represent their community at the MVMPO meetings.

The MVMPO is comprised of the following six (6) permanent members:

1. The Massachusetts Secretary of Transportation
2. The MassDOT Highway Division Administrator
3. The Chairman of the Merrimack Valley Planning Commission
4. The Chairman of the Merrimack Valley Regional Transit Authority Advisory Board
5. Mayor of the City of Lawrence
6. Mayor of the City of Haverhill

In addition, one Selectman, Mayor or his/her designee from each of the following for Sub-Regions participate in the MVMPO on a rotating basis:

- Sub-Region 1: Amesbury, Newburyport and Salisbury
- Sub-Region 2: Newbury, Rowley and West Newbury
- Sub-Region 3: Boxford, Georgetown, Groveland and Merrimac
- Sub-Region 4: Andover, Methuen and North Andover

Sub-Region representatives are selected by the MVPC Executive Director, in his capacity as a member of the MVMPO, upon the recommendation of officials from that sub-region's communities. Representatives serve two-year terms.

The current Sub-Region representatives were include:

- Sub-Region 1: Neil Harrington, Town Manager, Salisbury
- Sub-Region 2: Robert Snow, Board of Selectmen, Rowley
- Sub-Region 3: John Cashell, Town Planner, Georgetown
- Sub-Region 4: Paul Materazzo, Planning Director, Andover

## C. Summary of Public Involvement Efforts

The MVMPO makes a special effort to connect with and consider the needs of individuals or neighborhoods with residents who are Limited English Speakers. We also work with representatives of organizations or agencies that work frequently directly with LEP persons, such as city agencies like the Lawrence Mayor's Health Task Force and the Council on Aging, Community Works, Merrimack Valley Transit, Greater Lawrence Family Health Center and Groundwork Lawrence. The MVMPO engages LEP with regard to MPO planning activities such as the Unified Planning Work Program (UPWP), the

Transportation Improvement Program, Metropolitan Transportation Plan (MTP), and the Coordinated Public Transit Human Services Transportation Plan. The MVMPO has made meeting notices in both Spanish and simplified Chinese and interpretation is available by request for meetings and hearings. The Executive Summary of the MTP, a UPWP summary and TIP project lists are translated and made available on the web site and handed out during outreach opportunities. With new 2017-2021 data, the MVMPO will be translating materials into more languages (see Language Assistance Plan).

The MVMPO also seeks opportunities to interact with LEP persons 'where they are' including neighborhood meetings or public events. For example:

- MVMPO staff participate partnered with MeVa to table at the City of Lawrence's SALSA public event in the South Common.
- MVMPO staff talked with veterans about transportation needs at a regularly scheduled coffee social.
- The MVMPO staff met with Spanish-speaking seniors and Chinese-speaking elders separately at the senior center with the aid of interpreters.
- MVPC participated in the Groundwork Lawrence Pa'Lante Project that sought to address heat island effect and mobility. MVPC staff made presentations, included members of the Pa'Lante Project in Road Safety Audits, and worked with them on implementing a pop up project.
- Attends meetings of the Methuen Arlington Neighborhood, Inc.

MVMPO staff participate in a variety of meetings that address the needs of low income, minority and LEP persons. Examples include:

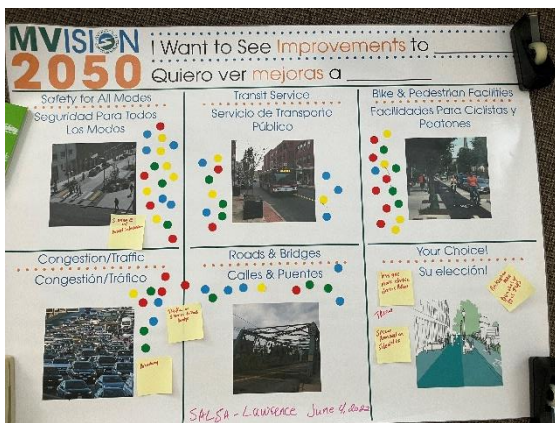
- Co-chairing the Healthy Active Living Working Group of the Lawrence Mayor's Health Task Force. This is a coalition of organizations working in the City of Lawrence that represent areas of health and human services, senior services, open space, food access, schools, housing, sports and recreation, and more. This group has also worked on Mass in Motion funded projects such as food security.
- Participating in the Newburyport and Haverhill traffic and safety committee meetings.
- Co-chairing the data group for the Regional Food Access Planning effort for Lawrence, Haverhill, North Andover, Andover, and Methuen.
- Participating in the Community and Economic Development Strategy meetings (CEDs)

At the beginning of any study or public outreach process, a determination is made about LEP persons that may be impacted by the study or plan and what translations or interpretations will be needed. Outreach materials are translated and interpretation needs are planned. An outreach plan is created to outline all outreach opportunities including those specifically for LEP, low income and minority communities. This process

includes assessments of mobility needs of minority populations. MVPC considers the locations of which outreach is performed and whether these are accessible by bus as MeVa service is currently limited in span. Additionally, in-person outreach locations must be ADA accessible. MVPC requests those with mobility impairments to contact them in advance of outreach events when accommodations are necessary.

Appendix D includes the list of outreach meetings and distribution of MVMPO notifications. During the pandemic, opportunities to attend meetings was greatly reduced as were opportunities to interact at events. For example, the City of Lawrence largely opened up to public events in parks during the summer of 2022. The SALSA Festival was held in June 2022, the first time since the pandemic started. Our outreach list reflects these challenges for the year 2021. In 2022, the MVMPO has increased our outreach considerably to more normal levels. With the Metropolitan Transportation Plan and Coordinated Plan underway, the MVMPO initiated an outreach strategy that includes surveys, tabling at outdoor events, meeting with groups of Limited English Proficiency persons and others in focus groups.

A survey for the Metropolitan Transportation Plan was distributed widely. 206 people responded with 14% self-identifying as minority, 12% self-identifying as having a disability, and 13% has having a household income of less than \$50,000. In addition to the surveys, MVMPO used interactive boards at events to ask people what they see as transportation priorities. People voted with stickers. These interactions afforded staff with the opportunity to engage and discuss transportation concerns with the general public.



**Figure 7: Interactive board from SALSA event in June 2022.**

#### D. Language Access Plan

The MVMPO 2023 Language Access Plan can be found in Appendix D.

## IV. Demographic Profiles

The MVMPO is required to develop a demographic profile of the metropolitan area that includes identification of minority populations under the FTA Title VI Circular 4703.1B. The MVMPO has also prepared data for low-income, disabled and households with no vehicles. This data is often used in identifying needs during different planning processes whether for the development of the TIP, UPWP or MTP or if it is for discussions with communities around food access, housing, access to jobs and more. For this report, data was taken from the American Community Survey 2017-2021. The MVMPO did not analyze the data to the block group level, because data was missing for some of the region's block groups.

### A. About the Region

The MVMPO region is comprised of 15 communities, which includes five cities, several suburbs and rural towns. According to the ACS 2017-2021, the Total population of the Merrimack Valley is 366,607.

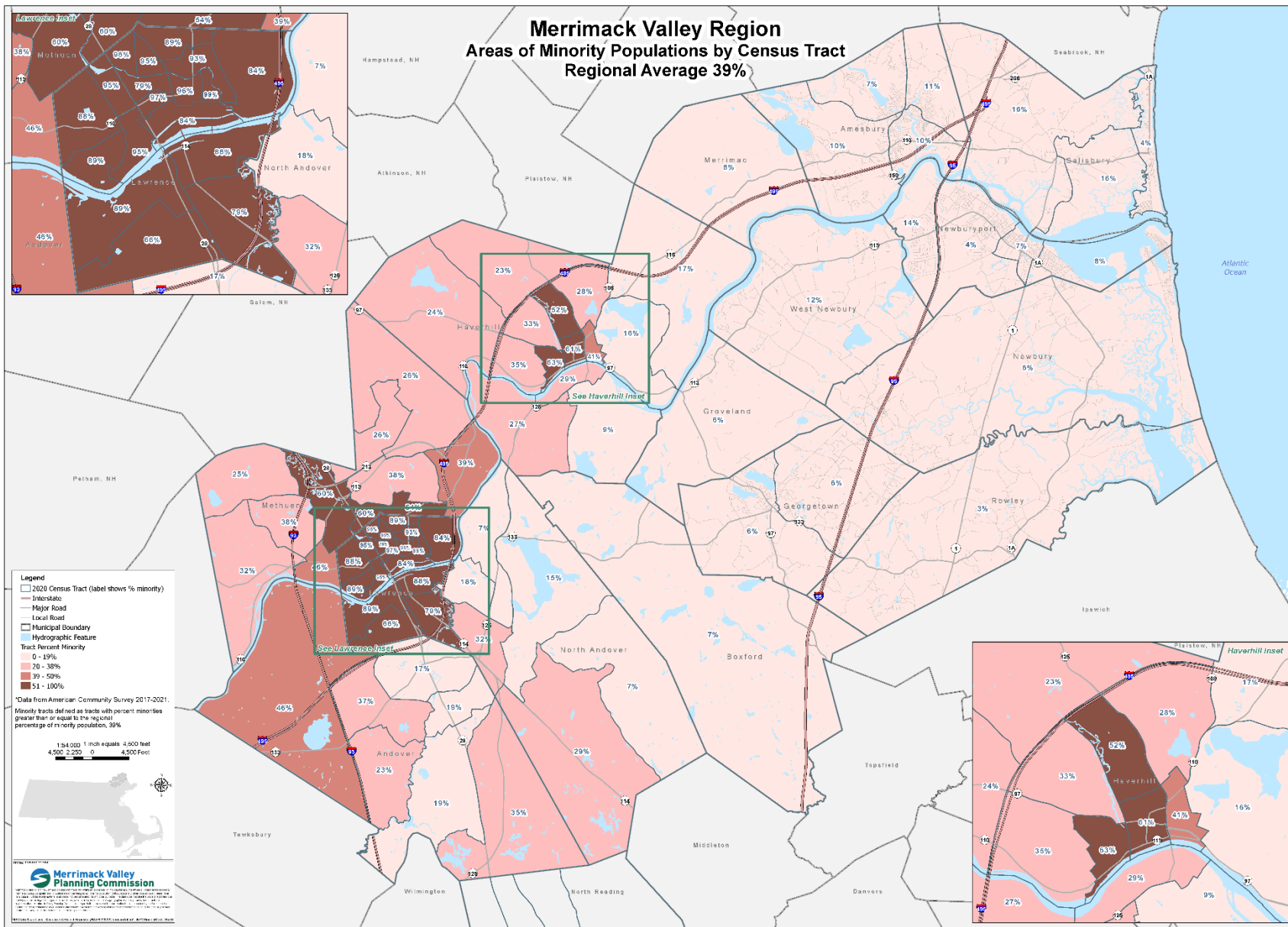
#### Minority Population

The MVMPO 'defines' minority populations as anyone not identified as White non-Hispanic. 39% of the region's total population of 366,607 meet this definition. This analysis was applied to Census Tracts, finding that there were 27 Census Tracts that met this definition, where the number of people identifying as minority was greater than the regional average. See Figure 8.

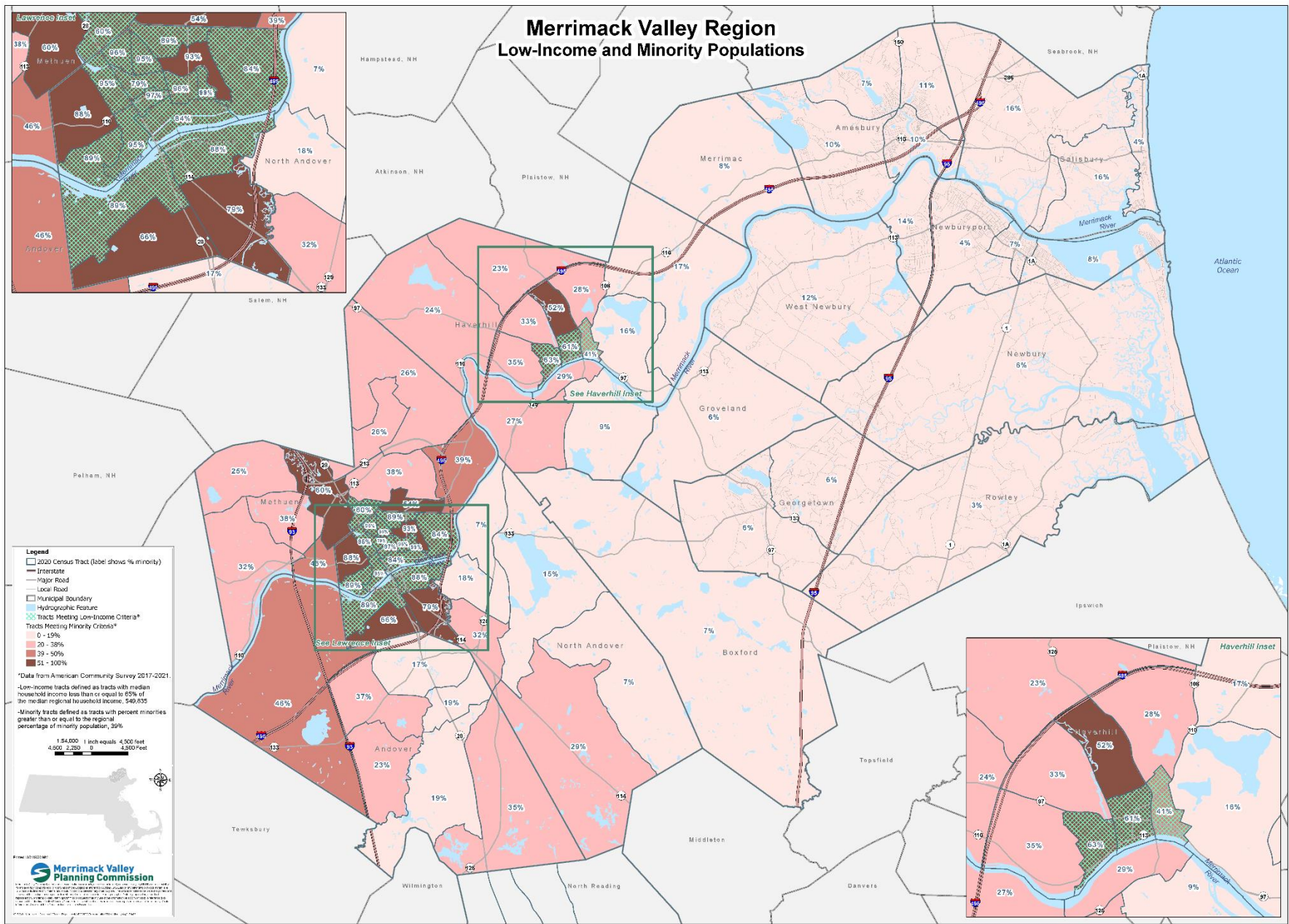
**Table 1: Racial Characteristics of the Merrimack Valley Region**

Racial Groups	Population	Percent of Population
White (non-Latino)	221,883	61%
Hispanic or Latino	111,504	30%
Black or African American	8,087	2%
American Indian and Alaska Native	86	0%
Asian	14,085	4%
Native Hawaiian and Other Pacific Islander	0	0%
Other Race	1,368	0%
Two or More Races	9,594	3%
<b>Total Population</b>	<b>366,607</b>	<b>100%</b>
<b>Racial Minority Population (includes all by White alone)</b>	<b>144,724</b>	<b>39%</b>

Note: Data Source American Community Survey 2017-2021 Table B03002



**Figure 8 Minority Population in the Merrimack Valley Region (Based on ACS 2017-2021 data)**



**Figure 9: Low-income and Minority Populations in the Merrimack Valley (ACS 2017-2021 data)**

## Low-Income Populations

The MVMPO defines low-income as 65% of the regional median household income. The regional median household income is \$85,615 and 65% of the regional median income is \$56,300. Figure 9 shows the distribution of low-income household Census tracts in the region in green and is overlaid on top of the minority population tracts. The majority of low-income tracts can be found in Lawrence with one tract in the Methuen and three in Haverhill.

## Disabled Populations

The MVMPO further looked at the number of people who self-identified as disabled. Disabilities included in this Census category include vision, hearing, ambulatory and cognitive. Not surprisingly, the highest numbers of total disabled person are in the larger cities as well as the higher proportions of disabled persons who are also minority. However, many of the smaller communities have similar proportions of disabled people to the larger communities. This is likely attributed to the aging populations in those communities and the higher proportions of the disabled population that are ages 65+.

**Table 2 : Non-Institutionalized Population Self-Identifying as Having a Disability**

<b>Community</b>	<b>Total Civilian Non-institutionalized Population</b>	<b>Total with Disability</b>	<b>% of Total Population with Disability</b>	<b>Total Disability &amp; Minority</b>	<b>% Disabled Population that is minority</b>	<b>% Disabled population Ages 65+</b>
Amesbury	17,074	1,961	11%	178	9%	38%
Andover	36,060	2,352	7%	232	10%	55%
Boxford	8,188	742	9%	17	2%	57%
Georgetown	8,461	768	9%	14	2%	63%
Groveland	6,739	415	6%	0	0%	44%
Haverhill	66,476	9,208	14%	2,035	22%	35%
Lawrence	86,941	12,086	14%	7,213	60%	35%
Merrimac	6,678	749	11%	82	11%	44%
Methuen	52,221	6,014	12%	1,406	23%	43%
Newbury	6,740	506	8%	2	0%	65%
Newburyport	18,048	1,658	9%	70	4%	53%
North Andover	30,425	3,367	11%	370	11%	39%
Rowley	6,091	818	13%	0	0%	56%
Salisbury	9,127	1,319	14%	141	11%	41%
West Newbury	4,500	505	11%	72	14%	45%
<b>Totals</b>	<b>363,769</b>	<b>42,468</b>	<b>12%</b>	<b>11,832</b>	<b>28%</b>	<b>41%</b>

Note: Disabilities in this data set include vision, hearing, ambulatory, and cognitive. Source: ACS 2017-2021 Table S1810.



B. Analysis of MPO Transportation System Investment, Identifying and Addressing any Disparate Impacts.

Every year, the MVMPO performs equity analyses when developing the new Transportation Improvement Program as well as the Unified Planning Work Program. In addition, during the process of evaluating studies for inclusion into the UPWP, the staff has provided MVMPO members with a list of proposed projects as well as information on whether or not the project addresses a high crash area or is within an Environmental Justice community. Below is an example of the list presented in 2022 in developing its FFY2023 UPWP with the results of what projects were chosen.

**Table 3: Study Options for Inclusion in the FFY 2023 UPWP**

Community	Project Name	Top 100 Crash Rank	Crash Cluster	Environmental Justice	Selected for Inclusion
Lawrence	Merrimack Street/S. Union Street	35	Y	Y	Yes
Lawrence	Franklin Street/Common	3	Y	Y	Yes
Salisbury	Main Street/I95 Connector	7	Y	N	Yes
Methuen	Lowell St (Rt 113) at Elm Street	40	N	Y	Yes
North Andover	North Andover/Middleton /Danvers bike/ped access on Route 114 Corridor/ Complete Streets		N	N	Yes
Methuen	Larchwood Rd/Lawrence St.		N	Y	
Lawrence	Cross Street/Broadway		N	Y	
Haverhill	Salem Street New Development Road		N	N	
Haverhill	New road to new industrial park on Route 108		N	N	
Methuen	Hampstead/Maple and Maple/Howe		N	N	
Haverhill	Farwood Road at Route 125 signalization analysis		N	N	
Lawrence	Broadway Corridor Study	Multiple locations	Y	Y	
Haverhill	Examine intersections in Haverhill that have been studied and improved, but remain in the Top 100 list	Multiple	Y	Y	

## **Equity Analysis from the Final FFY 2023 UPWP**

The MVMPO examined the distribution of studies undertaken under the UPWP with respect to geographic and social equity.

**Study Choices:** Each year, the MVMPO staff make it a priority to include studies in the UPWP that address safety concerns, but some studies are undertaken for reasons related to traffic congestion or mobility needs, as is the case with Complete Streets analyses. Additional studies are undertaken as part of local technical assistance in which our member communities request MVMPO assistance with various transportation issues. For example, West Newbury requested a guard rail study, but this study did not include any high crash areas. This is reflected in the geographic distribution of studies among all MVMPO member communities.

**Geographic Equity:** In the table on the following page, the second and third columns shows the number of studies undertaken in each community between 2016-2023. 48.7% of the studies conducted between 2016-2023 have been (will be) in those communities that represent 56% of the population of the Merrimack Valley or 34% of the Federal Aid roadway miles. Studies or analyses during this time period have been conducted in each of the 15 Merrimack Valley communities, but the emphasis has been on those communities with higher numbers of crashes.

**Social Equity:** To further drill down on the equity analysis, the geographic location of each study was then compared to the Title VI maps used for the Transportation Improvement Program (ACS 2019) in order to identify which ones were located in low-income and minority tracts. A tract is considered minority if it has a higher percentage of minorities than the regional average. A tract is considered low-income if the median income of the tract is 65% or less than the regional average.

A total of 69 transportation studies have been included in the MVMPO's UPWPs between FFY 2016 and 2023. Of those studies, 42% were (or will be in FFY 2023) conducted in or adjacent to Title VI/EJ tracts. It should be noted that these figures will change over the course of the FFY 2023 UPWP as communities come forward and ask MVPC for Local Technical Assistance related to transportation issues.

The analysis also takes into consideration the number of federal aid roadway miles and the number of crash clusters. 83% of the crash clusters designated by MassDOT between 2018-2020 occurred in the Merrimack Valley's largest cities of Haverhill, Lawrence, and Methuen. During the time period between 2016-2023, 47% of the studies were undertaken at high crash locations. The majority of these studies are also in low-income or minority tracts. The difference between the total number of crash clusters and the number of studies at crash cluster locations reflects the fact that studies are undertaken for a variety of reasons. In addition, this analysis only takes into account those studies during the time period 2016-2023. The MVMPO previously has studied many of the high crash locations identified through MassDOT's crash clusters and the MVMPO's Top 100 Intersection Crash List.

**Table 4: Equity Analysis  
UPWP FFY 2015-2020 Studies & Analyses**

<b>Community</b>	<b># Regional/ Local/ Subregional UPWP Studies 2016-2022</b>	<b>Proposed 2023 Studies</b>	<b># Studies Located in/adjacent to a low- income or minority Census Tract<sup>1</sup></b>	<b>Federal-Aid Roadway Centerline Miles (2015)</b>	<b># Studies between 2016-2023 at a Crash Clusters location<sup>2</sup></b>	<b># Crash Clusters 2018-2020</b>	<b>Total Pop.<sup>1</sup></b>
Amesbury	4		3	32.98			17,366
Andover	2		0	78.02		3	36,569
Boxford	2		0	27.43			8,203
Georgetown	2		0	20.43			8,470
Groveland	2		0	17.31			6,752
Haverhill	7		1	79.88	1	19	67,787
Lawrence	13	2	13	41.54	15	31	89,143
Merrimac	2		0	15.95			6,723
Methuen	10	1	7	58.14	4	6	53,059
Newbury	5		0	27.11			6,716
Newburyport	4		0	23.09			18,289
North Andover	3	1	2	41.9	3	5	30,915
Rowley	1		0	19.4	1	1	6,161
Salisbury	1	1	0	28.22	2	2	9,236
West Newbury	3		0	19.59			4,500
Regionwide	3		1				
<b>Total</b>	<b>64</b>		<b>27</b>	<b>530.99</b>	<b>26</b>	<b>67</b>	<b>369,889</b>

<sup>1</sup> Data from 2020 Census. Information based on Census Tracts.

<sup>2</sup> MassDOT Crash clusters. The crash clusters vary over time depending on the number of crashes. This number is based on the crash clusters at the time of the study. Crash clusters between 2018-2020 are based MassDOT designation.

## Transportation Improvement Program Equity Analysis

The following is the Equity Analysis from the FFY 2023-2027 Transportation Improvement Program

### TIP Part C. 7. Equity Analysis

The following tables illustrate a geographic and social equity analysis of highway funding in the Merrimack Valley MPO region. Haverhill, Lawrence and Methuen are designated as Title VI and Environmental Justice (EJ) communities. The Title VI communities have tracts with higher than average percentage of minorities than the regional average percentage and the same three communities are EJ communities with lower than average median income in some census tracts.

The following table shows the percent of population in Title VI / EJ communities relative to the percent of highway funding programmed in the 2023 to 2027 TIP.

**Table 5: Programmed Highway Spending in FFY 2023-2027 TIP Relative to Title VI and Environmental Justice Communities**

	Region Population (ACS 15-19)	Percent of Total Population	TIP Project Investment	Percent of Projects by Total Investment
<b>Within or Adjacent to Title VI/EJ Community</b>	200,647	57%	\$337,381,396	59%
<b>Outside Title VI/EJ Community</b>	153,349	43%	\$231,725,652	41%
<b>Total</b>	353,996	100%	\$569,107,048	100%

This table illustrates 59% of the investment is in or adjacent to Title VI and EJ communities, which is consistent with 57% of the population living in those communities. One project, the Andover- Bridge Rehabilitation, A-09-036, I-495 over St 28 (SB), A-09-037, I-495 over B&M and MBTA, A-09-041, I-495 over St 28 (NB) (# 606522) costing \$173,075,000 is 30% of the TIP investment dollars and is largely adjacent to but extends into Lawrence, a Title VI and EJ community. The funding for this project is split between Andover (not a Title VI or EJ community) and Lawrence. The Lawrence population will benefit from and is served by this project.

Persons with Limited English Proficiency (LEP) are those who self-report on the Census as speaking English 'less than very well'. USDOT guidance defines "Safe harbor" languages as those non-English languages that are spoken by LEP persons who make up at least 5% of the population, or 1,000 individuals, whichever is less.

Using this definition for LEP people ages 5+ living in the region, the number of LEP individuals exceeds the 1,000-person threshold in Spanish (32,513 people) and Chinese (1,124 people). The LEP persons in these two languages represent 83% of all LEP people in the region. Communities with more than 1,000 individuals whose "Safe-harbor" language is Spanish are Haverhill (3,010 people), Lawrence (25,355 people) and Methuen (3,352 people). Andover has the highest number of individuals (630 people) whose "Safe-harbor" language is Chinese. Therefore these 4 communities are considered LEP communities.

## V. Staff Capacity and Program Review Procedures

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### Title VI Training

In August 2022, as part of new staff training, MVPC's newly hired Transportation Planner watched the Title VI Overview Training video that was recorded and posted on the Federal Transit Administration's website.

### Title VI Program Review Procedures

Title VI reviews and procedures are built into all parts of the MVMPO workplan. Review of the various components occurs annually.

### **Annual Reporting**

The MassDOT Office of Civil Rights (OCR) oversees Title VI compliance for the MVMPO through an annual reporting procedure. Based on the reporting requirements, the MVMPO will provide documentation of its Title VI activities for the year.

### **Equity Analyses**

MVMPO conducts annual equity analyses as part of the TIP, UPWP and MTP development processes. Staff will discuss options for completing the analyses as part of this process. The most recent Census data is used for the analyses.

### **Outreach to Title VI and EJ Communities**

MVMPO actively seeks ways in which to engage with residents and organizations that work with residents of Title VI and EJ communities. Staff are continually seeking information on new and better ways to reach these communities through input from stakeholders, training webinars and information exchange with colleagues at other RPAs. Staff keep track of Title VI dissemination efforts as well as outreach events/meetings/opportunities.

### **Oversight of Third Party Subrecipients**

While atypical, MVMPO occasionally exercises oversight of subrecipients, including other MPOs and municipalities. MVMPO ensures that these parties are aware of Title VI and comply with its requirements. Currently, the Northern Middlesex Council of Governments (NMCOG) is functioning as a subrecipient to MVMPO, staff by MVPC.

NMCOG complies with Title VI and lists its procedures and complaint process on its own website.

#### Approval

This Title VI Plan was approved on February 22, 2022. A copy of meeting minutes is attached as an appendix to this document.