

**CITY OF LA VISTA**  
**MAYOR AND CITY COUNCIL REPORT**  
**MARCH 5, 2024 AGENDA**

<b>Subject:</b>	<b>Type:</b>	<b>Submitted By:</b>
UPDATE COUNCIL POLICY STATEMENTS – PROGRAMS, SERVICES, AND ACTIVITIES RELATED TO ADA/SECTION 504 AND TITLE VI OF CIVIL RIGHTS ACT OF 1964	◆ RESOLUTIONS (2) ORDINANCE RECEIVE/FILE	PAT DOWSE CITY ENGINEER

**SYNOPSIS**

Resolutions have been prepared to update Council Policy Statements 124 and 125 pertaining to Programs, Services and Activities of the City of La Vista that are subject to Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 and Title VI of the Civil Rights Act of 1964.

**FISCAL IMPACT**

None.

**RECOMMENDATION**

Approval.

**BACKGROUND**

In 2010 the City of La Vista, as a sub-recipient of Federal-Aid funding, was charged with the responsibility of expending said funds in accordance with Federal and State law, the rules and regulations of the Federal Highway Administration, and the requirements of the Local Public Agency (LPA) Guidelines Manual of the Nebraska Department of Transportation. This included compliance with the Americans with Disability Act of 1990, Section 504 of the Rehabilitation Act of 1973 and Title VI of the Civil Rights Act of 1964.

The current updates are required by the Nebraska Department of Transportation and the Code of Federal Regulations.

Both a redlined and clean version of the Council Policy Statements are included.

**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA UPDATING A COUNCIL POLICY STATEMENT PERTAINING TO PROGRAMS, SERVICES AND ACTIVITIES OF THE CITY OF LA VISTA THAT ARE SUBJECT TO SECTION 504 OF THE REHABILITATION ACT OF 1973 AND THE AMERICANS WITH DISABILITIES ACT OF 1990 AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS: Certain transportation facilities (roads, streets, trails, and others) in the City of La Vista have been designated as being eligible for federal funds by the Federal Highway Administration in compliance with federal laws pertaining thereto;

WHEREAS: City of La Vista desires to continue to participate in Federal-Aid transportation construction programs;

WHEREAS: The Nebraska Department of Transportation as a recipient of said Federal funds is charged with oversight of the expenditures of said funds;

WHEREAS: The Nebraska Department of Transportation and the Code of Federal Regulation requires updates be made to the Council Policy Statement; and

WHEREAS: City of La Vista understands that the failure to meet all requirements for federal funding could lead to a project(s) being declared ineligible for federal funds, which could result in City of La Vista being required to repay some or all of the federal funds expended for a project(s).

NOW THEREFORE BE IT RESOLVED: The Mayor and City Council of La Vista, Nebraska do hereby approve the updating of the Council Policy Statement pertaining to programs, services and activities of the City of La Vista that are subject to Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990.

PASSED AND APPROVED THIS 5TH DAY OF MARCH 2024.

CITY OF LA VISTA

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Douglas Kindig, Mayor

ATTEST:

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Pamela A. Buethe, MMC  
City Clerk

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**Programs, Services and Activities related to Section 504 – Rehabilitation Act of 1973, Americans with Disabilities Act of 1990**

**POLICY STATEMENT**

The *City of La Vista* will ensure that no qualified individual shall, solely on the basis of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any of its programs, services, or activities as provided by Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 (ADA). *The City of La Vista* further ensures that every effort will be made to provide nondiscrimination in all of its programs or activities regardless of the funding source.

An individual with a disability is defined by the ADA as a person who:

- Has a physical or mental impairment that substantially limits one or more major life activities,
- Has a history or record of such an impairment, or
- Is perceived by others as having such an impairment.

**AUTHORITIES**

Section 504 of the Rehabilitation Act of 1973, as amended, provides that “No otherwise qualified individual with a disability in the United States, as defined in section 7(20), shall, solely by reason of her or his disability, be excluded for the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

49 CFR Part 27.13 - Designation of responsible employee and adoption of complaint procedures.

- (a) *Designation of responsible employee.* Each recipient shall designate at least one person to coordinate its efforts to comply with this part.
- (b) *Adoption of complaint procedures.* A recipient shall adopt procedures that incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints alleging any action prohibited by this part and 49 CFR parts 37, 38, and 39. The procedures shall meet the following requirements:
  - (1) The process for filing a complaint, including the name, address, telephone number, and email address of the employee designated under paragraph (a) of this section, must be sufficiently advertised to the public, such as on the recipient's Web site;
  - (2) The procedures must be accessible to and usable by individuals with disabilities.

# City of La Vista

## Council Policy Statement

### ***Programs, Services and Activities related to Section 504 – Rehabilitation Act of 1973, Americans with disabilities Act of 1990***

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(3) The recipient must promptly communicate its response to the complaint allegations, including its reasons for the response, to the complainant by a means that will result in documentation of the response.

49 CFR Part 28.102 - Enforcement of Nondiscrimination on the Basis of Disability in Programs or Activities Conducted by the Department of Transportation.

This part applies to all programs or activities conducted by the Department except for programs and activities conducted outside the United States that do not involve individuals with disabilities in the United States.

28 CFR Part 35 - Nondiscrimination on the basis of disability in State and Local Government Services. The purpose of this part is to implement subtitle A of Title II of the Americans with Disabilities Act of 1990 (ADA Amendments Act) which prohibits discrimination on the basis of disability by public entities.

49 CFR Part 27 - Nondiscrimination on the basis of disability in programs and activities receiving Federal Financial Assistance.

The purpose of this part is to carry out the intent of Section 504 of the Rehabilitation Act of 1973 (29 USC 794) as amended, to the end that no otherwise qualified individual with a disability in the United States shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

49 CFR Part 28-140 - Employment

- (a) No qualified individual with disabilities shall, on the basis of disability, be subjected to discrimination in employment under any program or activity conducted by the Department.
- (b) The definitions, requirements, and procedures of Section 504 of the Rehabilitation Act of 1973 (29 USC 791), as established by the Equal Employment Opportunity Commission in 29 CFR part 1613, shall apply to employment in federally conducted programs or activities.

29 CFR Part 1614.101 – Federal Sector Equal Employment Opportunity.

It is the policy of the Government of the United States to provide equal opportunity in employment for all persons, to prohibit discrimination in employment because of race, color, religion, sex, national origin, age, disability, or genetic information and to promote the full realization of equal employment opportunity through a continuing affirmative program in each agency.

# City of La Vista

## Council Policy Statement

### ***Programs, Services and Activities related to Section 504 – Rehabilitation Act of 1973, Americans with disabilities Act of 1990***

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42 USC Part 12101-12213 - The Americans with Disabilities Act of 1990.

No covered entity shall discriminate against a qualified individual on the basis of disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.

#### **Organization**

Please see Responsibility Flow Chart on Attachment 1.

#### **Section 504/ADA Coordinator Responsibilities**

The City Clerk is designated as the City's Section 504/ADA Coordinator. The Coordinator shall be responsible for coordinating the City's efforts to comply with and carry out its responsibilities under the Section 504/ADA including employment matters and receiving any complaints communicated to the Coordinator alleging the City's non-compliance or alleging any actions that would be prohibited acts.

#### **Section 504/ADA Notice to the Public**

In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990 (ADA), the City of La Vista will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs or activities.

The City of La Vista does not discriminate on the basis of disability on the basis of disability in its hiring or employment practices and complies with the ADA Title I employment regulations.

The City of La Vista will, upon request, provide auxiliary aids and services leading to effective communication for people with disabilities, including qualified sign language interpreters, assistive listening devices, and other ways of making communications accessible to people who have speech, hearing, or vision impairments.

The City of La Vista will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services, and activities. For example, individuals with service animals are welcomed in City of La Vista offices, even where pets are generally prohibited.

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of the City of La Vista should contact the City of La Vista ADA Coordinator as soon as possible, but no later than 48 hours before the scheduled event.

# **City of La Vista**

## **Council Policy Statement**

### ***Programs, Services and Activities related to Section 504 – Rehabilitation Act of 1973, Americans with disabilities Act of 1990***

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Questions, complaints, or requests for additional information or accommodation regarding the ADA and Section 504 may be forwarded to the designated ADA and Section 504 compliance coordinator:

Pam Buethe, City Clerk  
402-331-4343 Phone  
402-331-4375 Fax  
8116 Park View Blvd.  
La Vista, NE 68128  
[pbuethe@cityoflavista.org](mailto:pbuethe@cityoflavista.org)  
Office hours: Monday-Thursday, 8am-4:30pm, Friday, 8am-noon

### **Section 504/ADA Self-Evaluation**

The following areas were evaluated at the time of the original passage of the acts and are reviewed periodically to ensure continued compliance:

1. personnel policies, procedures, benefits, programs, etc. were reviewed for accessibility;
2. City buildings and facilities were evaluated for accessibility, and;
3. City programs, services and activities were evaluated for accessibility.

The buildings, facilities, programs, services and activities are reviewed on an annual Basis as part of the Capital Improvement Program and the normal budget process.

Self-evaluations consider all programs, activities and services. Remedial measures necessary to bring the programs, policies, and services into compliance may include, but be limited to, (1) relocation of programs to accessible facilities; (2) offering programs in an alternative accessible manner; (3) structural changes to provide program access; (4) policy modifications to ensure nondiscrimination; and (5) auxiliary aids needed to provide effective communication.

### **Section 504/ADA Transition Plan**

The following areas identified in the self-evaluation process were given a transition plan and have been completed:

1. Employment
  - a. Application form was reviewed and updated for compliance.
  - b. Policy on pre-employment physical examinations was changed to be post job offer.

# City of La Vista

## Council Policy Statement

### *Programs, Services and Activities related to Section 504 – Rehabilitation Act of 1973, Americans with disabilities Act of 1990*

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- c. Application procedure was changed to allow for changes in maximum testing times (such as those with dyslexia or other impairments).
- d. Job descriptions were updated. New format now includes a section for Essential Functions, Physical Requirements, Tools/Equipment Used, and Working Conditions.
- e. Recruitment information is now available in several formats and additional locations.
- f. Training was provided to all employees with additional training for supervisors regarding hiring policies, interviewing questions and procedures, etc.

#### 2. Buildings/Facilities/Infrastructure

- a. Police Station (old facility)—pathways, door handles, and doorbells were changed, restroom facilities were modified, accessible parking and signage were altered for compliance.
- b. Police Station (new facility)—the new station was designed to be totally accessible according to building code requirements. Severe weather warning accommodations are available upon request.
- c. Fire Station No. 1 (old facility)—modified restrooms, added accessible parking spaces and with related signage and modified door handles. A new facility to replace Fire Station No. 1 is in the planning stages and will proceed when funding can be arranged.
- d. City Hall—a new City Hall was constructed prior to Jan. 1995 compliance deadline which conformed to all of the accessibility standards at that time.
- e. Municipal Swimming Pool—modifications were made to the bathhouse to modify restrooms and shower facilities, hallways were modified, and accessible parking was provided. Wheelchair access from the exterior is provided via a gate opening at the side of the building to circumvent a front door width restriction after which access to the bathhouse is available from inside the pool area. Some major issues, such as zero-depth entry remain. These will be addressed with a new aquatic facility at such time as funding can be obtained.
- f. Central Park-Restroom modifications were made and accessible parking stalls were provided.
- g. City Park—a drinking fountain was lowered and a new concession/maintenance building was constructed that provided accessible restrooms.
- h. Sports Complex—insulated piping and modified faucet handles in restrooms, changed door handles and provided accessible parking spaces
- i. Signage indicating accessible entrances was placed on each building.

# City of La Vista

## Council Policy Statement

### ***Programs, Services and Activities related to Section 504 – Rehabilitation Act of 1973, Americans with disabilities Act of 1990***

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#### **3. Curb Ramps on Public Streets**

- a. Newly built or altered streets and roads include ramps wherever there are curbs or other barriers to entry from a pedestrian walkway. "Altered" includes resurfacing while isolated panel replacement and filling-in potholes does not.
- b. New sidewalks and walkways in public right of way or public property contain curb ramps in accordance with the applicable design regulations at the time that they are constructed.
- c. The public may request curb ramps at specific locations at any time. They will be constructed if warranted at such time as funds are available.
- d. All existing streets have been provided with curb ramps.

#### **4. Services**

- a. Council meeting minutes are available in alternative formats including written and audiotape. City Council and other public hearing agendas are also available in different formats. These are available upon request to the City Clerk at least three working days prior to the public hearing.

Transition plans will be created/alterred as areas are identified during our continuing self-evaluations. Interested persons, including individuals with disabilities or organizations representing individuals with disabilities, will have an opportunity to participate in the development of the transition plan by submitting comments. A copy of the transition plan shall be made available for public inspection.

#### **ADA Compliant Procedure**

1. If you believe you have been discriminated against, denied employment or a benefit, or excluded from participation in any City program or activity on the basis of disability in violation of the ADA, you may submit a complaint in writing to the City Clerk for resolution. The complaint form attached hereto should be used. The complaint should be submitted as soon as possible but no later than sixty (60) days after the alleged violation. A record of the complaint and action taken will be maintained. A decision by the City Clerk will be rendered to you in writing or an appropriate substitute format within 10 working days.
2. Upon receipt of a complaint the City Clerk will provide the appropriate Department Head with a copy of the complaint. The Department Head will assist the City Clerk in conducting an investigation. The City Clerk may seek assistance from other Department Heads and the City Attorney depending on the nature of the complaint. A response will be provided in writing to the complainant within 15 working days of receipt of the complaint. The response

# **City of La Vista**

## **Council Policy Statement**

### ***Programs, Services and Activities related to Section 504 – Rehabilitation Act of 1973, Americans with disabilities Act of 1990***

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will explain the position of the City of La Vista and, if applicable, offer options for resolution or actions that will be taken by the City.

3. If the complaint can't be resolved to your satisfaction by the City Clerk you may appeal the decision or action to the City Administrator within 15 days after receipt of the response from the City Clerk.
4. If the complaint can't be resolved to your satisfaction by the City Clerk or City Administrator, then the complaint will be heard by the City Council and discussed at an open, public meeting of the elected body. The decision of the City Council is the final action of the City in response to the complaint.
5. A record of action taken on each request or complaint will be maintained as a part of the records or minutes at each level of the grievance process.
6. Your right to a prompt and equitable resolution of the complaint will not be impaired by your pursuit of other remedies, such as the filing of a complaint with the Department of Justice or other appropriate federal agency, or the filing of a suit in the state or federal court. Use of this grievance procedure isn't a prerequisite to the pursuit of other remedies.

### **Reasonable Accommodation Procedures**

The requirements related to the provision of auxiliary aids and services and information concerning local providers are set forth in an attachment to this policy.

### **Assurances**

Pursuant to the requirements of Section 504 of the Rehabilitation Act of 1973 (29 USC 794), the *City of La Vista* desiring to avail itself of federal financial assistance from the US Department of Transportation, hereby gives assurance that no qualified person shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination, including discrimination in employment, under any program or activity that receives or benefits from this federal financial assistance.

The City of La Vista further assures that its programs will be conducted, and its facilities operated, in compliance with all requirements imposed by or pursuant to 49 CFR Part 27, 28 CFR Part 35 and 42 USC 12101-12213.

# City of La Vista

## Council Policy Statement

*Programs, Services and Activities related to Section 504 – Rehabilitation Act of 1973,  
Americans with disabilities Act of 1990*

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### AMERICAN'S WITH DISABILITIES ACT DISCRIMINATION COMPLAINT FORM

Instructions: Please fill out this form completely. Sign and return to the address on page 2.

Complainant:

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Address:

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City, State and Zip Code:

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Telephone:

Home: \_\_\_\_\_

Cell: \_\_\_\_\_

Person Discriminated Against:  
(if other than the complainant)

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Address:

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City, State and Zip Code:

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When did the discrimination occur? \_\_\_\_\_

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Programs, Services and Activities related to Section 504 – Rehabilitation Act of 1973, Americans with Disabilities Act of 1990 -124

Adopted: May 18, 2010

Amended:

Resolution No: 10-059

# City of La Vista

## Council Policy Statement

*Programs, Services and Activities related to Section 504 – Rehabilitation Act of 1973,  
Americans with disabilities Act of 1990*

Where did the discrimination occur? \_\_\_\_\_

Describe the act(s) of discrimination (attach additional pages if necessary):

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Have any additional efforts been made by you regarding this complaint? Yes         
No

If yes, what?

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

Programs, Services and Activities related to Section 504 – Rehabilitation Act of 1973, Americans with Disabilities Act of 1990 -124

Adopted: May 18, 2010

Amended:

## Amended Resolution

Resolution No. 10-039

# City of La Vista

## Council Policy Statement

*Programs, Services and Activities related to Section 504 – Rehabilitation Act of 1973,  
Americans with disabilities Act of 1990*

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Return this form to:

Ms. Pam Buethe, City Clerk  
City of La Vista  
8116 Park View Blvd.  
City of La Vista, NE 68128  
[pbuethe@cityoflavista.org](mailto:pbuethe@cityoflavista.org)

### AUXILIARY AIDS AND SERVICES

Under the Americans with Disabilities Act (ADA), State and local governments must ensure effective communication with individuals with disabilities. Public entities are required to provide appropriate auxiliary aids and service, where necessary, to ensure that communications (such as all public information, discourse, and/or announcements) with individuals with disabilities are as effective as communications with others. Auxiliary aids and services include: Large print formats, assistive listening devices (ALS), TTY/TTD access, closed captioning, interactive software for various disabilities, website accessibility implements, interpreters, readers, service animals, etc.

When selecting an auxiliary aid or service, a public entity should:

1. Give primary consideration to the aid or service preferred by the individual because that individual is usually best able to identify the communication barriers that hamper participation.
2. Allow people the opportunity to use their own assistive technology products to achieve effective communication.
3. Consider the context in which the communication is taking place and its importance.

A public entity is not required to provide:

1. The requested aid or service if there is another equally effective means of communication available; however, it must give primary consideration to the aid or service preferred by the individual.
2. Auxiliary aids that would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens. However, public entities must still furnish another auxiliary aid, if available, that does not result in a fundamental alteration or undue burden.

# **City of La Vista**

## **Council Policy Statement**

***Programs, Services and Activities related to Section 504 – Rehabilitation Act of 1973,  
Americans with disabilities Act of 1990***

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TO FIND LOCAL PROVIDERS OF SPECIFIC AUXILIARY AIDS AND SERVICES CONTACT:

**Nebraska Commission for the Blind and Visually Impaired**

4600 Valley Road  
Suite 100  
Lincoln, NE 68510-4844  
Phone: (402) 471-2891  
Toll-free: (877) 809-2419  
Fax: (402) 471-3009

<http://www.ncbvi.ne.gov/>

**Nebraska Commission for the Deaf and Hard of Hearing**

Omaha Office  
1313 Farnam On-The-Mall  
Omaha, NE 68102-1836  
Phone: (402) 595-3991 v/tty  
Fax: (402) 595-2509  
Toll Free: 1-877-248-7836 v/tty  
E-mail Address: [ncdhh.omaha@nebraska.gov](mailto:ncdhh.omaha@nebraska.gov)

<http://www.ncdhh.ne.gov/>

**Nebraska Department of Health and Human Services**

Eastern Service Area  
Barry DeJong- Administrator  
1313 Farnam  
Omaha, NE 68102  
Phone: (402) 595-2880

Lincoln Office  
301 Centennial Mall South  
P.O. Box 95206  
Lincoln, NE 68509-5026  
Phone: (402) 471-3121

<http://www.dhhs.ne.gov/>

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**Programs, Services and Activities related to Section 504 – Rehabilitation Act of 1973, Americans with Disabilities Act of 1990**

**Purpose**

~~The City of La Vista will ensure that no qualified disabled individual shall, solely on the basis of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any of its programs, services, or activities as provided by Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 (ADA). The City of La Vista further ensures that every effort will be made to provide nondiscrimination in all of its programs or activities regardless of the funding source.~~

~~For our purposes, a disabled person is defined as any person who:~~

- ~~1. has a physical or mental impairment that substantially limits one or more major life activities;~~
- ~~2. has a record of such an impairment, or~~
- ~~3. is regarded as having such an impairment.~~

**Authorities**

~~Section 504 of the Rehabilitation Act of 1973, as amended, provides that “No otherwise qualified disabled individual in the United States, as defined in section 7(6), shall, solely by reason of his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”~~

~~29 USC 794 (October 29, 1992 to the Rehabilitation Act of 1973) substitutes “a disability” for “handicaps” and “disability” for “handicap”.~~

~~49 CFR Part 27.13 (Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance) states, “This part applies to each recipient of Federal financial assistance from the Department of Transportation and to each program or activity that receives or benefits from such assistance.”~~

~~49 CFR Part 28.102 (Enforcement of Nondiscrimination on the Basis of Disability in Programs or Activities Conducted by the Department of Transportation) states, “This part applies to all programs or activities conducted by the Department of Transportation except for programs and activities conducted outside the United States that do not involve individuals with disabilities in the United States.”~~

~~28 CFR Part 35 (Judicial Administration) states that: “The purpose of this part is to effectuate Subtitle A of Title II of the ADA which prohibits discrimination on the basis of disabilities by public entities.~~

~~49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance) states, “The purpose of this part is to carry out the intent of Section 504 of the Rehabilitation Act of 1973 (29 USC 794) as amended, to the end that no otherwise qualified disabled individual in the United States shall, solely by reason of his or her disability, be~~

# City of La Vista

## Council Policy Statement

### *Programs, Services and Activities related to Section 504 – Rehabilitation Act of 1973, Americans with disabilities Act of 1990*

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~~excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”~~  
~~49 CFR Part 28-140 (Employment) states that, “(a) No qualified individual with disabilities shall, on the basis of disability, be subjected to discrimination in employment under any program or activity conducted by the Department,” and “(b) The definitions, requirements, and procedures of Section 504 of the Rehabilitation Act of 1973 (29 USC 791), as established by the Equal Employment Opportunity Commission in 29 CFR part 1613, shall apply to employment in federally conducted programs or activities.~~

~~29 CFR Part 1613 (Equal Employment Opportunity in the Federal Government) states that: “It is the policy of the Government of the United States … to provide equal opportunity in employment for all persons to prohibit discrimination in employment because of race, color, religion, sex, or national origin and to promote the full realization of equal employment opportunity through a continuing affirmative program in each agency.”~~

~~42 USC Part 12101-12213 (The Americans with Disabilities Act of 1990) states that: “No covered entity shall discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.”~~

### POLICY STATEMENT

The City of La Vista will ensure that no qualified individual shall, solely on the basis of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any of its programs, services, or activities as provided by Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 (ADA). The City of La Vista further ensures that every effort will be made to provide nondiscrimination in all of its programs or activities regardless of the funding source.

An individual with a disability is defined by the ADA as a person who:

- Has a physical or mental impairment that substantially limits one or more major life activities,
- Has a history or record of such an impairment, or
- Is perceived by others as having such an impairment.

### AUTHORITIES

Section 504 of the Rehabilitation Act of 1973, as amended, provides that “No otherwise qualified individual with a disability in the United States, as defined in section 7(20), shall, solely by reason of her or his disability, be excluded for the participation in, be

# City of La Vista

## Council Policy Statement

*Programs, Services and Activities related to Section 504 – Rehabilitation Act of 1973, Americans with disabilities Act of 1990*

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denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

49 CFR Part 27.13 - Designation of responsible employee and adoption of complaint procedures.

(a) Designation of responsible employee. Each recipient shall designate at least one person to coordinate its efforts to comply with this part.

(b) Adoption of complaint procedures. A recipient shall adopt procedures that incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints alleging any action prohibited by this part and 49 CFR parts 37, 38, and 39. The procedures shall meet the following requirements:

(1) The process for filing a complaint, including the name, address, telephone number, and email address of the employee designated under paragraph (a) of this section, must be sufficiently advertised to the public, such as on the recipient's Web site;

(2) The procedures must be accessible to and usable by individuals with disabilities;

(3) The recipient must promptly communicate its response to the complaint allegations, including its reasons for the response, to the complainant by a means that will result in documentation of the response.

49 CFR Part 28.102 - Enforcement of Nondiscrimination on the Basis of Disability in Programs or Activities Conducted by the Department of Transportation.

This part applies to all programs or activities conducted by the Department except for programs and activities conducted outside the United States that do not involve individuals with disabilities in the United States.

28 CFR Part 35 - Nondiscrimination on the Basis of Disability in State and Local Government Services. The purpose of this part is to implement subtitle A of Title II of the Americans with Disabilities Act of 1990 (ADA Amendments Act) which prohibits discrimination on the basis of disability by public entities.

49 CFR Part 27 - Nondiscrimination on the Basis of Disability in Programs and Activities Receiving Federal Financial Assistance.

The purpose of this part is to carry out the intent of Section 504 of the Rehabilitation Act of 1973 (29 USC 794) as amended, to the end that no otherwise qualified individual with a disability in the United States shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

# City of La Vista

## Council Policy Statement

*Programs, Services and Activities related to Section 504 – Rehabilitation Act of 1973,  
Americans with disabilities Act of 1990*

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### 49 CFR Part 28-140 - Employment

- (a) No qualified individual with disabilities shall, on the basis of disability, be subjected to discrimination in employment under any program or activity conducted by the Department.
- (b) The definitions, requirements, and procedures of Section 504 of the Rehabilitation Act of 1973 (29 USC 791), as established by the Equal Employment Opportunity Commission in 29 CFR part 1613, shall apply to employment in federally conducted programs or activities.

### 29 CFR Part 1614.101 – Federal Sector Equal Employment Opportunity.

It is the policy of the Government of the United States to provide equal opportunity in employment for all persons, to prohibit discrimination in employment because of race, color, religion, sex, national origin, age, disability, or genetic information and to promote the full realization of equal employment opportunity through a continuing affirmative program in each agency.

### 42 USC Part 12101-12213 - The Americans with Disabilities Act of 1990.

No covered entity shall discriminate against a qualified individual on the basis of disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.

## Organization

Please see Responsibility Flow Chart on Attachment 1.

## Section 504/ADA Coordinator Responsibilities

The City Clerk is designated as the City's Section 504/ADA Coordinator. The Coordinator shall be responsible for coordinating the City's efforts to comply with and carry out its responsibilities under the Section 504/ADA including employment matters and receiving any complaints communicated to the Coordinator alleging the City's non-compliance or alleging any actions that would be prohibited acts.

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Programs, Services and Activities related to Section 504 – Rehabilitation Act of 1973, Americans with Disabilities Act of 1990 -124

Adopted: May 18, 2010

Amended:

Resolution No: 10-059

# City of La Vista

## Council Policy Statement

*Programs, Services and Activities related to Section 504 – Rehabilitation Act of 1973,  
Americans with disabilities Act of 1990*

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### Section 504/ADA Notice to the Public

~~The City of La Vista does not discriminate on the basis of disability in admission of its programs, services, or activities, in access to them, in treatment of individuals with disabilities, or in any aspect of their operations. The City of La Vista also does not discriminate on the basis of disability in its hiring or employment practices.~~

~~This notice is provided as required by Title II of the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973. Questions, complaints, or requests for additional information or accommodation regarding the ADA and Section 504 may be forwarded to the designated ADA and Section 504 compliance coordinator:~~

In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990 (ADA), the City of La Vista will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs or activities.

The City of La Vista does not discriminate on the basis of disability on the basis of disability in its hiring or employment practices and complies with the ADA Title I employment regulations.

The City of La Vista will, upon request, provide auxiliary aids and services leading to effective communication for people with disabilities, including qualified sign language interpreters, assistive listening devices, documents in Braille, and other ways of making communications accessible to people who have speech, hearing, or vision impairments.

The City of La Vista will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services, and activities. For example, individuals with service animals are welcomed in City of La Vista offices, even where pets are generally prohibited.

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of the City of La Vista should contact the City of La Vista ADA Coordinator as soon as possible, but no later than 48 hours before the scheduled event.

Questions, complaints, or requests for additional information or accommodation regarding the ADA and Section 504 may be forwarded to the designated ADA and Section 504 compliance coordinator:

# City of La Vista

## Council Policy Statement

### *Programs, Services and Activities related to Section 504 – Rehabilitation Act of 1973, Americans with disabilities Act of 1990*

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— Pam Buethe, City Clerk  
402-331-4343 Phone  
402-331-4375 Fax  
8116 Park View Blvd.  
La Vista, NE 68128  
pbuethe@cityoflavista.org  
Office hours: Monday-Thursday, 8am-4:30pm, Friday, 8am-noon

### Section 504/ADA Self-Evaluation

The following areas were evaluated at the time of the original passage of the acts and are reviewed periodically to ensure continued compliance:

1. personnel policies, procedures, benefits, programs, etc. were reviewed for accessibility;
2. City buildings and facilities were evaluated for accessibility, and;
3. City programs, services and activities were evaluated for accessibility.

The buildings, facilities, programs, services and activities are reviewed on an annual Basis as part of the Capital Improvement Program and the normal budget process.

Self-evaluations consider all programs, activities and services. Remedial measures necessary to bring the programs, policies, and services into compliance may include, but be limited to, (1) relocation of programs to accessible facilities; (2) offering programs in an alternative accessible manner; (3) structural changes to provide program access; (4) policy modifications to ensure nondiscrimination; and (5) auxiliary aids needed to provide effective communication.

### Section 504/ADA Transition Plan

The following areas identified in the self-evaluation process were given a transition plan and have been completed:

1. Employment
  - a. Application form was reviewed and updated for compliance.
  - b. Policy on pre-employment physical examinations was changed to be post job offer.
  - c. Application procedure was changed to allow for changes in maximum testing times (such as those with dyslexia or other impairments).

# City of La Vista

## Council Policy Statement

### *Programs, Services and Activities related to Section 504 – Rehabilitation Act of 1973, Americans with disabilities Act of 1990*

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- d. Job descriptions were updated. New format now includes a section for Essential Functions, Physical Requirements, Tools/Equipment Used, and Working Conditions.
- e. Recruitment information is now available in several formats and additional locations.
- f. Training was provided to all employees with additional training for supervisors regarding hiring policies, interviewing questions and procedures, etc.

#### 2. Buildings/Facilities/Infrastructure

- a. Police Station (old facility)—pathways, door handles, and doorbells were changed, restroom facilities were modified, accessible parking and signage were altered for compliance.
- b. Police Station (new facility)—the new station was designed to be totally accessible according to building code requirements. Severe weather warning accommodations are available upon request.
- c. Fire Station No. 1 (old facility)—modified restrooms, added accessible parking spaces and with related signage and modified door handles. A new facility to replace Fire Station No. 1 is in the planning stages and will proceed when funding can be arranged.
- d. City Hall—a new City Hall was constructed prior to Jan. 1995 compliance deadline which conformed to all of the accessibility standards at that time.
- e. Municipal Swimming Pool—modifications were made to the bathhouse to modify restrooms and shower facilities, hallways were modified, and accessible parking was provided. Wheelchair access from the exterior is provided via a gate opening at the side of the building to circumvent a front door width restriction after which access to the bathhouse is available from inside the pool area. Some major issues, such as zero-depth entry remain. These will be addressed with a new aquatic facility at such time as funding can be obtained.
- f. Central Park-Restroom modifications were made and accessible parking stalls were provided.
- g. City Park—a drinking fountain was lowered and a new concession/maintenance building was constructed that provided accessible restrooms.
- h. Sports Complex—insulated piping and modified faucet handles in restrooms, changed door handles and provided accessible parking spaces
- i. Signage indicating accessible entrances was placed on each building.

#### 3. Curb Ramps on Public Streets

# City of La Vista

## Council Policy Statement

### ***Programs, Services and Activities related to Section 504 – Rehabilitation Act of 1973, Americans with disabilities Act of 1990***

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- a. Newly built or altered streets and roads include ramps wherever there are curbs or other barriers to entry from a pedestrian walkway. "Altered" includes resurfacing while isolated panel replacement and filling-in potholes does not.
- b. New sidewalks and walkways in public right of way or public property contain curb ramps in accordance with the applicable design regulations at the time that they are constructed.
- c. The public may request curb ramps at specific locations at any time. They will be constructed if warranted at such time as funds are available.
- d. All existing streets have been provided with curb ramps.

#### 4. Services

- a. Council meeting minutes are available in alternative formats including written and audiotape. City Council and other public hearing agendas are also available in different formats. These are available upon request to the City Clerk at least three working days prior to the public hearing.

Transition plans will be created/ altered as areas are identified during our continuing self-evaluations. Interested persons, including individuals with disabilities or organizations representing individuals with disabilities, will have an opportunity to participate in the development of the transition plan by submitting comments. A copy of the transition plan shall be made available for public inspection.

#### **ADA Compliant Procedure**

1. If you believe you have been discriminated against, denied employment or a benefit, or excluded from participation in any City program or activity on the basis of disability in violation of the ADA, you may submit a complaint in writing to the City Clerk for resolution. The complaint form attached hereto should be used. The complaint should be submitted as soon as possible but no later than sixty (60) days after the alleged violation. A record of the complaint and action taken will be maintained. A decision by the City Clerk will be rendered to you in writing or an appropriate substitute format within 10 working days.
2. Upon receipt of a complaint the City Clerk will provide the appropriate Department Head with a copy of the complaint. The Department Head will assist the City Clerk in conducting an investigation. The City Clerk may seek assistance from other Department Heads and the City Attorney depending on the nature of the complaint. A response will be provided in writing to the complainant within 15 working days of receipt of the complaint. The response will explain the position of the City of La Vista and, if applicable, offer options for resolution or actions that will be taken by the City.

# City of La Vista

## Council Policy Statement

### ***Programs, Services and Activities related to Section 504 – Rehabilitation Act of 1973, Americans with disabilities Act of 1990***

3. If the complaint can't be resolved to your satisfaction by the City Clerk you may appeal the decision or action to the City Administrator within 15 days after receipt of the response from the City Clerk.
4. If the complaint can't be resolved to your satisfaction by the City Clerk or City Administrator, then the complaint will be heard by the City Council and discussed at an open, public meeting of the elected body. The decision of the City Council is the final action of the City in response to the complaint.
5. A record of action taken on each request or complaint will be maintained as a part of the records or minutes at each level of the grievance process.
6. Your right to a prompt and equitable resolution of the complaint will not be impaired by your pursuit of other remedies, such as the filing of a complaint with the Department of Justice or other appropriate federal agency, or the filing of a suit in the state or federal court. Use of this grievance procedure isn't a prerequisite to the pursuit of other remedies.

### **Reasonable Accommodation Procedures**

The requirements related to the provision of auxiliary aids and services and information concerning local providers are set forth in an attachment to this policy.

### **Assurances**

~~Pursuant to the requirements of Section 504 of the Rehabilitation Act of 1973 (29 USC 794), the City of La Vista, desiring to avail itself of federal financial assistance from the US Department of Transportation, hereby gives assurance that no qualified disabled person shall, solely by reason of his disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination, including discrimination in employment, under any program or activity that receives or benefits from this federal financial assistance.~~

~~The City of La Vista further assures that its programs will be conducted, and its facilities operated, in compliance with all requirements imposed by or pursuant to 49 CFR Part 27, 28 CFR Part 35 and 42 USC 12101-12213.~~

~~-Pursuant to the requirements of Section 504 of the Rehabilitation Act of 1973 (29 USC 794), the **City of La Vista** desiring to avail itself of federal financial assistance from the US Department of Transportation, hereby gives assurance that no qualified person shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination, including discrimination in employment, under any program or activity that receives or benefits from this federal financial assistance.~~

# City of La Vista

## Council Policy Statement

*Programs, Services and Activities related to Section 504 – Rehabilitation Act of 1973,  
Americans with disabilities Act of 1990*

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The City of La Vista further assures that its programs will be conducted, and its facilities operated, in compliance with all requirements imposed by or pursuant to 49 CFR Part 27, 28 CFR Part 35 and 42 USC 12101-12213.

### AMERICAN'S WITH DISABILITIES ACT DISCRIMINATION COMPLAINT FORM

Instructions: Please fill out this form completely. Sign and return to the address on page 2.

Complainant:

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Address:

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City, State and Zip Code:

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Telephone:

Home: \_\_\_\_\_

Cell: \_\_\_\_\_

Person Discriminated Against:  
(if other than the complainant)

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Address:

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Programs, Services and Activities related to Section 504 – Rehabilitation Act of 1973, Americans with Disabilities Act of 1990 -124

Adopted: May 18, 2010

Amended:

Resolution No: 10-059

# City of La Vista

## Council Policy Statement

*Programs, Services and Activities related to Section 504 – Rehabilitation Act of 1973,  
Americans with disabilities Act of 1990*

City, State and Zip Code:

When did the discrimination occur? \_\_\_\_\_

Where did the discrimination occur? \_\_\_\_\_

Describe the act(s) of discrimination (attach additional pages if necessary):

Have any additional efforts been made by you regarding this complaint? Yes         
No

If yes, what?

# City of La Vista

## Council Policy Statement

*Programs, Services and Activities related to Section 504 – Rehabilitation Act of 1973,  
Americans with disabilities Act of 1990*

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

Return this form to:

Ms. Pam Buethe, City Clerk  
City of La Vista  
8116 Park View Blvd.  
City of La Vista, NE 68128  
[pbuethe@cityoflavista.org](mailto:pbuethe@cityoflavista.org)

### AUXILIARY AIDS AND SERVICES

Under the Americans with Disabilities Act (ADA), State and local governments must ensure effective communication with individuals with disabilities. Public entities are required to provide appropriate auxiliary aids and service, where necessary, to ensure that communications (such as all public information, discourse, and/or announcements) with individuals with disabilities are as effective as communications with others. Auxiliary aids and services include: Braille, large Large print formats, assistive listening devices (ALS), TTY/TTD access, closed captioning, interactive software for various disabilities, website accessibility implements, interpreters, readers, service animals, etc.

When selecting an auxiliary aid or service, a public entity should:

1. Give primary consideration to the aid or service preferred by the individual because that individual is usually best able to identify the communication barriers that hamper participation.
2. Allow people the opportunity to use their own assistive technology products to achieve effective communication.
3. Consider the context in which the communication is taking place and its importance.

A public entity is not required to provide:

# **City of La Vista**

## **Council Policy Statement**

### ***Programs, Services and Activities related to Section 504 – Rehabilitation Act of 1973, Americans with disabilities Act of 1990***

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1. The requested aid or service if there is another equally effective means of communication available; however, it must give primary consideration to the aid or service preferred by the individual.
2. Auxiliary aids that would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens. However, public entities must still furnish another auxiliary aid, if available, that does not result in a fundamental alteration or undue burden.

# **City of La Vista**

## **Council Policy Statement**

*Programs, Services and Activities related to Section 504 – Rehabilitation Act of 1973,  
Americans with disabilities Act of 1990*

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TO FIND LOCAL PROVIDERS OF SPECIFIC AUXILIARY AIDS AND SERVICES CONTACT:

**Nebraska Commission for the Blind and Visually Impaired**

4600 Valley Road  
Suite 100  
Lincoln, NE 68510-4844  
Phone: (402) 471-2891  
Toll-free: (877) 809-2419  
Fax: (402) 471-3009

<http://www.ncbvi.ne.gov/>

**Nebraska Commission for the Deaf and Hard of Hearing**

Omaha Office  
1313 Farnam On-The-Mall  
Omaha, NE 68102-1836  
Phone: (402) 595-3991 v/tty  
Fax: (402) 595-2509  
Toll Free: 1-877-248-7836 v/tty  
E-mail Address: [ncdhh.omaha@nebraska.gov](mailto:ncdhh.omaha@nebraska.gov)

<http://www.ncdhh.ne.gov/>

**Nebraska Department of Health and Human Services**

Eastern Service Area  
Barry DeJong- Administrator  
1313 Farnam  
Omaha, NE 68102  
Phone: (402) 595-2880

Lincoln Office  
301 Centennial Mall South  
P.O. Box 95206  
Lincoln, NE 68509-5026  
Phone: (402) 471-3121

<http://www.dhhs.ne.gov/>

**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA UPDATING A COUNCIL POLICY STATEMENT PERTAINING TO PROGRAMS, SERVICES AND ACTIVITIES OF THE CITY OF LA VISTA THAT ARE SUBJECT TO TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, AND THE CIVIL RIGHTS RESTORATION ACT OF 1987 AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS: Certain transportation facilities (roads, streets, trails, and others) in City of La Vista have been designated as being eligible for federal funds by the Federal Highway Administration in compliance with federal laws pertaining thereto;

WHEREAS: City of La Vista desires to continue to participate in Federal-Aid transportation construction programs;

WHEREAS: The Nebraska Department of Transportation as a recipient of said Federal funds is charged with oversight of the expenditures of said funds;

WHEREAS: The Nebraska Department of Transportation and the Code of Federal Regulation requires updates be made to the Council Policy Statement; and

WHEREAS: City of La Vista understands that the failure to meet all requirements for federal funding could lead to a project(s) being declared ineligible for federal funds, which could result in City of La Vista being required to repay some or all of the federal funds expended for a project(s).

NOW THEREFORE BE IT RESOLVED: The Mayor and City Council of La Vista, Nebraska do hereby approve the updating of the Council Policy Statement pertaining to programs, services and activities of the City of La Vista that are subject to Title VI of Civil Rights Act of 1964.

PASSED AND APPROVED THIS 5TH DAY OF MARCH 2024.

CITY OF LA VISTA

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Douglas Kindig, Mayor

ATTEST:

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Pamela A. Buethe, MMC  
City Clerk

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## Programs, Services, and Activities – Title VI of the Civil Rights Act of 1964

### **Purpose**

The City of La Vista (Local Public Agency), hereinafter referred to as the “LPA,” assures that no person shall on the grounds of race, color, national origin, age, disability/handicap or sex, as provided by Title VI of the Civil Rights Act of 1964, and the Civil Rights Restoration Act of 1987 (P.L. 100-259) be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance. The LPA further assures every effort will be made to ensure nondiscrimination in all its programs and activities, whether those programs and activities are federally funded or not.

The Civil Rights Restoration Act of 1987, broadened the scope of Title VI coverage by expanding the definition of terms “programs or activities” to include all programs or activities of Federal Aid recipients, sub-recipients, and contractors/consultants, whether such programs and activities are federally assisted or not (Public Law 100-259 [S.557] March 22, 1988.)

Pursuant to the requirements of Section 504 of the Rehabilitation Act of 1973 (29 USC 794), the LPA hereby gives assurance that no qualified disabled person shall, solely by reason of his disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination, including discrimination in employment, under any program or activity that receives or benefits from this Federal financial assistance.

In the event the LPA distributes federal aid funds to a sub-recipient, the LPA will include Title VI language in all written agreements and will monitor for compliance.

The LPA’s City Clerk is responsible for initiating and monitoring Title VI activities, preparing reports and other responsibilities as required by 23 Code of Federal Regulation (CFR) 200 and 49 Code of Federal Regulation 21.

**TITLE VI  
IMPLEMENTATION PLAN**

**City of La Vista**

**Policy Statement**

In accordance with Title VI of the Civil Rights Act of 1964 and related statutes, the City of La Vista ensures that no person shall, on the grounds of race, color, or national origin, be excluded from participation in, denied the benefits or services of, or be otherwise subjected to discrimination in all programs, services, or activities administered by the City of La Vista.

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Signature of Responsible Agency Official

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Brenda Gunn, City Administrator

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Date

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**City of La Vista**

**Title VI Nondiscrimination Assurances**

**DOT Order No. 1050.2A**

The City of La Vista (herein referred to as the "Recipient"), **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT) through Federal Highway Administration and Nebraska Department of Transportation, is subject to and will comply with the following:

**Statutory/Regulatory Authorities**

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

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

**General Assurances**

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

*"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity," for which the Recipient receives Federal financial assistance from DOT, including the *Federal Highway Administration*.*

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

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

**Specific Assurances**

More specifically, and without limiting the above general Assurance, the Recipient hereby gives the following Assurances with respect to its Federal-Aid Highway Program:

1. The Recipient agrees that each "activity," "facility," or "program" as defined in §§ 21.23(b) and 21.23(e) of 49 CFR § 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 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 Regulations made in connection with all Federal Aid Highway Program and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

*"The City of La Vista, in accordance with the provisions of Title VI of the Civil Rights Act of 1964, (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contact entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."*

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

By signing this ASSURANCE, the **City of La Vista** also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing Federal Highway Administration or Nebraska Department of Transportation access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the Federal Highway Administration or Nebraska Department of Transportation. You must keep records, reports, and submit the material for review upon request to *Federal Highway Administration, Nebraska Department of Transportation*, 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.

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The City of La Vista 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 Highway Administration and Nebraska Department of Transportation. This ASSURANCE is binding on Nebraska, 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(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

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Signature of Responsible Agency Official

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Brenda Gunn, City Administrator

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Date

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## APPENDIX A

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

- (1) Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and Regulations relative to Non-discrimination in Federally assisted programs of the U.S. Department of Transportation, the Federal Highway Administration, or the Nebraska Department of Transportation, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
- (2) Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
- (3) Solicitations for 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 Non-discrimination on the grounds of race, color, or national origin.
- (4) Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient, the Federal Highway Administration, or Nebraska Department of Transportation 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 the Recipient or the Federal Highway Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
- (5) Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration or Nebraska Department of Transportation may determine to be appropriate, including, but not limited to:
  - (a) withholding payments to the contractor under the contract until the contractor complies; and/or (b) cancelling, terminating, or suspending a contract, in whole or in part.
- (6) Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement

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as the Recipient, the Federal Highway Administration, or Nebraska Department of Transportation 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 with a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

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APPENDIX B

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

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

**NOW, THEREFORE**, the U.S. Department of Transportation as authorized by law and upon the condition that the City of La Vista will accept title to the lands and maintain the project constructed thereon, in accordance with all applicable federal statutes, the Regulations for the Administration of the Federal-Aid Highway Program and the policies and procedures prescribed by the Federal Highway Administration of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by 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 pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the City of La Vista all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit "A" attached hereto and made a part hereof.

(HABENDUM CLAUSE)

**TO HAVE AND TO HOLD** said lands and interests therein unto *the City of La Vista* and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the City of La Vista, its successors and assigns.

The City of La Vista, in consideration or the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]\* (2) that the City of La Vista will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended [, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

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**APPENDIX C**

**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 instruments entered into by the City of La Vista pursuant to the provisions of Assurance 7(a).

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

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

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**APPENDIX D**

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

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

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

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

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**APPENDIX E**

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

**Pertinent Non-Discrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations.
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

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## Organization and Staffing

Pursuant to 23 CFR 200, the City of La Vista has appointed a Title VI Coordinator who is responsible for the City of La Vista's Title VI Program.

Pam Buethe, City Clerk  
402-331-4343 Phone  
402-331-4375 Fax  
8116 Park View Blvd.  
La Vista, NE 68128  
[pbuethe@cityoflavista.org](mailto:pbuethe@cityoflavista.org)  
Office hours: Monday-Thursday, 8am-4:30pm, Friday, 8am-noon

The City of La Vista organizational chart is kept current and available upon request.

## Implementation Procedures

This document shall serve as the Local Public Agency's (hereinafter referred to as the LPA) Title VI Plan pursuant to 23 CFR 200 and 49 CFR 21. For the purposes of this Title VI Implementation Plan, "Federal Assistance" shall include:

- 1) grants and loans of Federal funds,
- 2) the grant or donation of Federal property and interest in property,
- 3) the detail of Federal personnel,
- 4) the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the LPA, or in recognition of the public interest to be served by such sale or lease to the LPA, and
- 5) any Federal agreement, arrangement, or other contract which has as one of its purposes, the provision of assistance.

The LPA shall:

- a) Issue a policy statement, signed by the head of the LPA, which expresses its commitment to the nondiscrimination provisions of Title VI. The policy statement shall be circulated throughout the LPA's organization and to the general public. Such information shall be published where appropriate in languages other than English.
- b) Take affirmative action to correct any deficiencies found by the Federal Highway Administration, Nebraska Department of Transportation, or the U.S. Department of

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Transportation within a reasonable time period, not to exceed 90 days, in order to implement Title VI compliance in accordance with this agreement. The head of the LPA shall be held responsible for implementing Title VI requirements.

- c) Designate a coordinator who has a responsible position in the organization and easy access to the head of the LPA. The coordinator shall be responsible for initiating and monitoring Title VI activities and preparing required reports.
- d) Develop and implement a community outreach and public education program.
- e) Process complaints of discrimination consistent with the provisions contained in this agreement. Investigations shall be conducted by civil rights personnel trained in discrimination complaint investigation. Identify each complainant by race, color, national origin or sex, the nature of the complaint, the date the complaint was filed, the date the investigation was completed, the disposition, the date of the disposition, and other pertinent information. A copy of the complaint, together with a copy of the LPA's report of investigation, will be forwarded to NDOT's Highway Civil Rights Manager within 10 days of the date the complaint was received by the LPA.
- f) Collect statistical data (race, color, national origin, sex) of participants in, and beneficiaries of the programs and activities conducted by the LPA.
- g) Conduct Title VI reviews of the LPA and subrecipient contractor/consultant program areas and activities. Revise where applicable, policies, procedures and directives to include Title VI requirements.
- h) Conduct training programs on Title VI and related statutes.
- i) Prepare a yearly report of Title VI accomplishments for the last year and goals for the next year.
  - 1) Annual Work Plan
    - Outline Title VI monitoring and review activities planned for the coming year; identify which activities will be accomplished and target date for completion.
  - 2) Accomplishment Report
    - List major accomplishments made regarding Title VI activities. Include instances where Title VI issues were identified, and discrimination was prevented. Indicate activities and efforts the Title VI Coordinator and program area personnel have undertaken in monitoring Title VI. Include a description of the scope and conclusions of any special reviews (internal or external) conducted by the Title VI Coordinator.
    - List any major problem(s) identified and corrective action taken. Include a summary and status report on any Title VI complaints filed with the LPA. Include a listing of complaints received against sub-recipients, as well as a summary of complaint and actions taken.

# City of La Vista

## Council Policy Statement

### Discrimination Complaint Procedures – Allegations of Discrimination in Federally Assisted Programs or Activities

1. Any person or any specific class of persons, by themselves or by a representative, that believe they have been subjected to discrimination or retaliation prohibited by Title VI of the Civil Rights Act of 1964 and related statutes may file a complaint with the LPA. All complaints will be referred to the LPA's Title VI Coordinator for review and action.
2. Complaints must be filed within 180 days of the last date of alleged discrimination. The filing date of the complaint is the earlier of: (1) the postmark of the complaint, or (2) the date the complaint is received by any office authorized to receive complaints.

In either case, the LPA or his/her designee may extend the time for filing or waive the time limit in the interest of justice, specifying in writing the reason for so doing.

3. Complaints should be in writing and signed by the complainant and/or the complainant's representative. Complaints shall set forth as fully as possible the facts and circumstances surrounding the claimed discrimination. In the event that a person makes a verbal complaint of discrimination to an officer or employee of the LPA, the person shall be interviewed by the Title VI Coordinator. If necessary, the Title VI Coordinator will assist the person in reducing the complaint to writing and submit the written version of the complaint to the person for signature. The complaint shall then be handled according to the LPA's investigative procedures.
4. Within 10 days, the Title VI Coordinator will acknowledge receipt of the allegation, inform the complainant of procedures to be followed, and advise the complainant of other avenues of redress available, such as NDOT, FHWA, and U.S. DOT.
5. The LPA will advise the NDOT within 10 days of receipt of the allegations. Generally, the following information will be included in every notification:
  - a) Name, address, and phone number of the complainant.
  - b) A written explanation of what has happened.
  - c) The basis of the complaint (i.e., race, color, national origin);
  - d) The identification for the respondent, e.g. agency/organization alleged to have discriminated.
  - e) The date(s) of the alleged discriminatory act(s);
  - f) The date of complaint received by the LPA;
  - g) Other agencies (state, local or Federal) where the complaint has been filed;

# City of La Vista

## Council Policy Statement

### *Programs, Services, and Activities – Title VI of the Civil Rights Act of 1964*

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and,

h) An explanation of the actions the LPA has taken or proposed to resolve the issue raised in the complaint.

6. NDOT will forward the complaint to the FHWA. The FHWA Office of Civil Rights will determine the appropriate individual and/or organization to conduct the investigation.

7. Within 60 days, the Title VI Coordinator will conduct an investigation of the allegation and based on the information obtained, will render a recommendation for action in a report of findings to the head of the LPA. The complaint should be resolved by informal means whenever possible. Such informal attempts and their results will be summarized in the report of findings.

8. Within 90 days of receipt of the complaint, the head of the LPA will notify the complainant in writing of the final decision reached, including the proposed disposition of the matter. The notification will advise the complainant of his/her appeal rights with NDOT, or U.S. DOT, if they are dissatisfied with the final decision rendered by the LPA. The Title VI Coordinator will also provide NDOT with a copy of this decision and summary of findings upon completion of the investigation.

9. Any complaints received against the LPA should immediately be forwarded to NDOT for investigation. The LPA will not investigate any complaint in which it has been named in the complaint.

10. Contacts for Title VI administrative jurisdictions are as follows:

Nebraska Department of Transportation  
NDOT Civil Rights Office, Title  
VI Program P.O. Box 94759  
Lincoln, NE 68509-4759  
(402) 479-4544

Federal Highway  
Administration  
Nebraska Division  
Office  
100  
Centennial  
Mall North  
Lincoln, NE  
68508  
(402) 437-5765

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## Programs, Services, and Activities – Title VI of the Civil Rights Act of 1964

### Purpose

The City of La Vista (Local Public Agency), hereinafter referred to as the “LPA,” assures that no person shall on the grounds of race, color, national origin, age, disability/handicap or sex, as provided by Title VI of the Civil Rights Act of 1964, and the Civil Rights Restoration Act of 1987 (P.L. 100.259) be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance. The LPA further assures every effort will be made to ensure nondiscrimination in all of its programs and activities, whether those programs and activities are federally funded or not.

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

Pursuant to the requirements of Section 504 of the Rehabilitation Act of 1973 (29 USC 794), the LPA hereby gives assurance that no qualified disabled person shall, solely by reason of his disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination, including discrimination in employment, under any program or activity that receives or benefits from this Federal financial assistance.

In the event the LPA distributes federal aid funds to a sub-recipient, the LPA will include Title VI language in all written agreements and will monitor for compliance.

The LPA’s City Clerk, is responsible for initiating and monitoring Title VI activities, preparing reports and other responsibilities as required by 23 Code of Federal Regulation (CFR) 200 and 49 Code of Federal Regulation 21.

City of La Vista  
Council Policy Statement

## TITLE VI

## NONDISCRIMINATION AGREEMENT/IMPLEMENTATION PLAN

~~Nebraska State Department of Roads~~  
~~and~~  
City of La Vista

**Policy Statement**

~~The City of La Vista (Local Public Agency), hereinafter referred to as the "LPA," assures that no person shall on the grounds of race, color, national origin, age, disability/handicap or sex, as provided by Title VI of the Civil Rights Act of 1964, and the Civil Rights Restoration Act of 1987 (P.L. 100-259) be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance. The LPA further assures every effort will be made to ensure nondiscrimination in all of its programs and activities, whether those programs and activities are federally funded or not.~~

~~The Civil Rights Restoration Act of 1987, broadened the scope of Title VI coverage by expanding the definition of terms "programs or activities" to include all programs or activities of Federal Aid recipients, sub recipients, and contractors/consultants, whether such programs and activities are federally assisted or not (Public Law 100-259 [S.557] March 22, 1988.)~~

~~Pursuant to the requirements of Section 504 of the Rehabilitation Act of 1973 (29 USC 794), the LPA hereby gives assurance that no qualified disabled person shall, solely by reason of his disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination, including discrimination in employment, under any program or activity that receives or benefits from this Federal financial assistance.~~

~~In the event the LPA distributes federal aid funds to a sub recipient, the LPA will include Title VI language in all written agreements and will monitor for compliance.~~

~~The LPA's City Clerk, is responsible for initiating and monitoring Title VI activities, preparing reports and other responsibilities as required by 23 Code of Federal Regulation (CFR) 200 and 49 Code of Federal Regulation 21.~~

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Brenda Gunn

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City Administrator

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Date

~~Title VI Program~~

~~Organization and Staffing~~

# City of La Vista

## Council Policy Statement

~~Pursuant to 23 CFR 200, (LPA) has appointed a Title VI Coordinator who is responsible for Attachment 1, which describes the hierarchy for (LPA)'s Title VI Program, including an organization's chart illustrating the level and placement of Title VI responsibilities.~~

### **Standard DOT Assurances**

#### **49 CFR Part 21.7**

~~The (LPA) hereby gives assurances:~~

- ~~1. That no person shall on the grounds of race, color, national origin, age, disability/handicap and sex, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity conducted by the LPA regardless of whether those programs and activities are Federally funded or not. Activities and programs which the LPA hereby agrees to carry out in compliance with Title VI and related statutes include but are not limited to:~~
  - ~~a. Transportation Projects such as Street Improvements, Hike/Bike Trails, etc.~~
  - ~~b. That the LPA agrees that each "program" and each "facility as defined in subsections 21.23(e) and 21.23(b) of the Regulations, will be (with regard to a "program") conducted, or will be (with regard to a "facility") operated in compliance with all requirements imposed by, or pursuant to, the Regulations.~~
  - ~~c. That the LPA shall insert the following notification in all solicitations for bids for work or material subject to the Regulations and made in connection with all Transportation Projects and, in adapted form in all proposals for negotiated agreements:~~
- ~~2. The (LPA), in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office the Secretary, Part 21, Nondiscrimination in Federally assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in any contact entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin, sex, age and disability/handicap in consideration for an award.~~
- ~~3. That the LPA shall insert the clauses of Appendix A of this assurance in every contract subject to the Act and the Regulations.~~
- ~~4. That the LPA shall insert the clauses of Appendix B of this assurance, as a covenant running with the land, in any deed from the United States effecting a transfer of real property, structures, or improvements thereon, or interest therein.~~
- ~~5. That where the LPA receives Federal financial assistance to construct a facility, or part of a facility, the assurance shall extend to the entire facility and facilities operated in connection therewith.~~

City of La Vista  
Council Policy Statement

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6. That where the LPA receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the assurance shall extend to rights to space on, over or under such property.
7. That the LPA shall include the appropriate clauses set forth in Appendix C of this assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the LPA with other parties: (a) for the subsequent transfer of real property acquired or improved under *Transportation Projects*; and (b) for the construction or use of or access to space on, over or under real property acquired, or improved under *Transportation Projects*.
8. That this assurance obligates the LPA 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 LPA 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 LPA retains ownership or possession of the property.
9. The LPA shall provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he delegates specific authority to give reasonable guarantee that it, other recipients, subgrantees, contractors, subcontractors, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations and this assurance.
10. The LPA agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and this assurance.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the LPA Department of Transportation under the *Transportation Projects* and is binding on it, other recipients, subgrantees, contractors, subcontractors, transferees, successors in interest and other participants in the *Transportation Projects*. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the LPA.

**Implementation Procedures**

This agreement shall serve as the LPA's Title VI plan pursuant to 23 CFR 200 and 49 CFR 21. For the purpose of this agreement, "Federal Assistance" shall include:

1. grants and loans of Federal funds;
2. the grant or donation of Federal property and interest in property;

# City of La Vista

## Council Policy Statement

- ~~3. the detail of Federal personnel;~~
- ~~4. the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the LPA, or in recognition of the public interest to be served by such sale or lease to the LPA, and~~
- ~~5. any Federal agreement, arrangement, or other contract which has as one of its purposes, the provision of assistance.~~

~~The LPA shall:~~

- ~~1. Issue a policy statement, signed by the head of the LPA, which expresses its commitment to the nondiscrimination provisions of Title VI. The policy statement shall be circulated throughout the LPA's organization and to the general public. Such information shall be published where appropriate in languages other than English.~~
- ~~2. Take affirmative action to correct any deficiencies found by NDOR or the United States Department of Transportation (USDOT) within a reasonable time period, not to exceed 90 days, in order to implement Title VI compliance in accordance with this agreement. The head of the LPA shall be held responsible for implementing Title VI requirements.~~
- ~~3. Designate a coordinator who has a responsible position in the organization and easy access to the head of the LPA. The coordinator shall be responsible for initiating and monitoring Title VI activities and preparing required reports.~~
- ~~4. Develop and implement a community outreach and public education program.~~
- ~~5. Process complaints of discrimination consistent with the provisions contained in this agreement. Investigations shall be conducted by civil rights personnel trained in discrimination complaint investigation. Identify each complainant by race, color, national origin or sex, the nature of the complaint, the date the complaint was filed, the date the investigation was completed, the disposition, the date of the disposition, and other pertinent information. A copy of the complaint, together with a copy of the LPA's report of investigation, will be forwarded to NDOR's Highway Civil Rights Coordinator within 10 days of the date the complaint was received by the LPA.~~
- ~~6. Collect statistical data (race, color, national origin, sex) of participants in, and beneficiaries of the programs and activities conducted by the LPA.~~
- ~~7. Conduct Title VI reviews of the LPA and sub-recipient contractor/consultant program areas and activities. Revise where applicable, policies, procedures and directives to include Title VI requirements.~~
- ~~8. Conduct training programs on Title VI and related statutes.~~
- ~~9. Prepare a yearly report of Title VI accomplishments for the last year and goals for the next year.~~
  - ~~a. Annual Work Plan~~

# City of La Vista

## Council Policy Statement

~~Outline Title VI monitoring and review activities planned for the coming year; state by which each activity will be accomplished and target date for completion.~~

### b. Accomplishment Report

~~List major accomplishments made regarding Title VI activities. Include instances where Title VI issues were identified and discrimination was prevented. Indicate activities and efforts the Title VI Coordinator and program area personnel have undertaken in monitoring Title VI. Include a description of the scope and conclusions of any special reviews (internal or external) conducted by the Title VI Coordinator. List any major problem(s) identified and corrective action taken. Include a summary and status report on any Title VI complaints filed with the LPA. Include a listing of complaints received against sub-recipients, as well as a summary of complaint and actions taken.~~

### ~~Discrimination Complaint Procedures—Allegations of Discrimination in Federally Assisted Programs or Activities~~

- ~~1. Any person who believes that he or she, individually, as a member of any specific class, or in connection with any disadvantaged business enterprise, has been subjected to discrimination prohibited by Title VI of the Civil Rights Act of 1964, the American with Disabilities Act of 1990, Section 504 of the Vocational Rehabilitation Act of 1973 and the Civil Rights Restoration Act of 1987, as amended, may file a complaint with the LPA. A complaint may also be filed by a representative on behalf of such a person. All complaints will be referred to the LPA's Title VI Coordinator for review and action.~~
- ~~2. In order to have the complaint considered under this procedure, the complainant must file the complaint no later than 180 days after:
  - ~~a. The date of alleged act of discrimination; or~~
  - ~~b. Where there has been a continuing course of conduct, the date on which that conduct was discontinued.~~In either case, the LPA or his/her designee may extend the time for filing or waive the time limit in the interest of justice, specifying in writing the reason for so doing.~~
- ~~3. Complaints shall be in writing and shall be signed by the complainant and/or the complainant's representative. Complaints shall set forth as fully as possible the facts and circumstances surrounding the claimed discrimination. In the event that a person makes a verbal complaint of discrimination to an officer or employee of the LPA, the person shall be interviewed by the Title VI Coordinator. If necessary, the Title VI Coordinator will assist the person in reducing the complaint to writing and submit the written version of the complaint to the person for signature. The complaint shall then be handled according to the LPA's investigative procedures.~~
- ~~4. Within 10 days, the Title VI Coordinator will acknowledge receipt of the allegation, inform the complainant of procedures to be followed, and advise the complainant of other avenues of redress available, such as NDOR and USDOT.~~

City of La Vista  
Council Policy Statement

5. The LPA will advise NDOR within 10 days of receipt of the allegations. Generally, the following information will be included in every notification to NDOR:

  - a. Name, address, and phone number of the complainant.
  - b. Name(s) and address (es) of alleged discriminating official(s).
  - c. Basis of complaint (i.e., race, color, national origin or sex)
  - d. Date of alleged discriminatory act(s).
  - e. Date of complaint received by the LPA.
  - f. A statement of the complaint.
  - g. Other agencies (state, local or Federal) where the complaint has been filed.
  - h. An explanation of the actions the LPA has taken or proposed to resolve the issue raised in the complaint.
6. NDOR will forward the complaint to FHWA. FHWA Office of Civil Rights will determine the appropriate individual and/or organization to conduct the investigation.
7. Within 60 days, the Title VI Coordinator will conduct an investigation of the allegation and based on the information obtained, will render a recommendation for action in a report of findings to the head of the LPA. The complaint should be resolved by informal means whenever possible. Such informal attempts and their results will be summarized in the report of findings.
8. Within 90 days of receipt of the complaint, the head of the LPA will notify the complainant in writing of the final decision reached, including the proposed disposition of the matter. The notification will advise the complainant of his/her appeal rights with NDOR, or USDOT, if they are dissatisfied with the final decision rendered by the LPA. The Title VI Coordinator will also provide NDOR with a copy of this decision and summary of findings upon completion of the investigation.
9. Any complaints received against the LPA should immediately be forwarded to NDOR for investigation. The LPA will not investigate any complaint in which it has been named in the complaint.
10. Contacts for the different Title VI administrative jurisdictions are as follows:

Nebraska Department of Roads  
Human Resources, Title VI Program  
1500 Highway 2, P.O. Box 94759  
Lincoln, NE 68509-4759  
(402) 479-4870  
Federal Highway Administration  
Nebraska Division Office  
100 Centennial Mall North  
Lincoln, NE 68508  
(402) 437-5765

City of La Vista  
Council Policy Statement

~~In the event the LPA fails or refuses to comply with the terms of this agreement, the NDOR may take any or all of the following actions:~~

- ~~1. Cancel, terminate, or suspend this agreement in whole or in part.~~
- ~~2. Refrain from extending any further assistance to the LPA under the program from which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the LPA.~~
- ~~3. Take such other action that may be deemed appropriate under the circumstances, until compliance or remedial action has been accomplished by the LPA.~~
- ~~4. Refer the case to the Department of Justice for appropriate legal proceedings.~~

~~NEBRASKA DEPARTMENT OF ROADS:~~

~~Signature~~

~~Title~~

~~Date~~

~~CITY OF LA VISTA:~~

~~Brenda Gunn~~

~~City Administrator~~

~~Date~~

**APPENDIX A**

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

- ~~1. Compliance with Regulations: The contractor shall comply with the Regulation relative to nondiscrimination in Federally assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, and the Federal Highway Administration (hereinafter "FHWA") Title 23, Code of Federal Regulations, Part 200 as they may be amended from time to time, (hereinafter~~

City of La Vista  
Council Policy Statement

~~referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.~~

- ~~2. Nondiscrimination: The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin, sex, age, and disability/handicap in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR, section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.~~
- ~~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 shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin, sex, age, and disability/handicap.~~
- ~~4. Information and Reports: The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the (Recipient) or the FHWA to be pertinent to ascertain compliance with such Regulations, orders 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 shall so certify to the (Recipient), or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.~~
- ~~5. Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the (Recipient) shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:~~
  - ~~a. withholding of payments to the contractor under the contract until the contractor complies, and/or;~~
  - ~~b. cancellation, termination or suspension of the contract, in whole or in part.~~
- ~~6. Incorporation of Provisions: The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.~~

~~The contractor shall take such action with respect to any subcontract or procurement as the (Recipient) or the FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of~~

~~such direction, the contractor may request the (Recipient) to enter into such litigation to protect the interests of the (Recipient), and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.~~

## **APPENDIX B**

~~The following clauses shall be included in any and all deeds effecting or recording the transfer of real property, structures or improvements thereon, or interest therein from the United States.~~

### **(GRANTING CLAUSE)**

~~NOW, THEREFORE, the Department of Transportation, as authorized by law, and upon the condition that the (Name of Recipient) will accept title to the lands and maintain the project constructed thereon, in accordance with (Name of Appropriate Legislative Authority), the Regulations for the Administration of (Name of Appropriate Program) and the policies and procedures prescribed by FHWA, also in accordance with and in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally assisted programs of the Department of Transportation and Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes (hereinafter referred to as the Regulations) 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 (Name of Recipient) all the right, title and interest of the Department of Transportation in and to said lands described in Exhibit "A" attached hereto and made a part hereof.~~

### **(HABENDUM CLAUSE)**

~~TO HAVE AND TO HOLD said lands and interests therein unto (Name of Recipient) and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and shall be binding on the (Name of Recipient), its successors and assigns.~~

~~The (Name of Recipient), in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person shall on the grounds of race, color, or national origin, sex, age, and disability/handicap, 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]\*~~

City of La Vista  
Council Policy Statement

~~(2) that the (Name of Recipient) shall use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally assisted programs of the Department of Transportation Effectuation of Title VI of the Civil Rights Act of 1964, Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes Implementation and Review Procedures, and as said Regulations may be amended [,] and (3) that in the event of breach of any of the above mentioned nondiscrimination conditions, the Department shall have a right to re-enter said lands and facilities on said land, and the above described land and facilities shall thereon revert to and vest in and become the absolute property of the Department of Transportation and its assigns as such interest existed prior to this instruction.\*~~

#### **APPENDIX C**

~~The following clauses shall be included in all deeds, licenses, leases, permits, or similar instruments entered into by the (Name of Recipient) pursuant to the provisions of Assurance 6(a).~~

~~The (grantee, licensee, lessee, permittee, etc., as appropriate) for himself, his 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 in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, office of the Secretary, Part 21, Nondiscrimination in Federally assisted programs of the Department of Transportation Effectuation of Title VI of the Civil Rights Act of 1964, Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes Implementation and Review Procedures, and as said Regulations may be amended.~~

~~{Include in licenses, leases, permits, etc.}\*  
That in the event of breach of any of the above nondiscrimination covenants, (Name of Recipient) shall have the right to terminate the [license, lease, permit, etc.] and to re-enter and repossess said land and the facilities thereon, and hold the same as if said [licenses, lease, permit, etc.] had never been made or issued.~~

~~{Include in deed.}\*  
That in the event of breach of any of the above nondiscrimination covenants, (Name of Recipient) shall have the right to re-enter said lands and facilities thereon, and the above~~

City of La Vista  
Council Policy Statement

~~described lands and facilities shall thereupon revert to and vest in and become the absolute property of (Name of Recipient) and its assigns.~~

~~The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by (Name of Recipient) pursuant to the provisions of Assurance 6(b).~~

~~The (grantee, licensee, lessee, permittee, etc., as appropriate) for himself, his personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds, and leases add "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, sex, age, and disability/handicap, shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the ground of race, color, or national origin, sex, age, and disability/handicap, shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally assisted programs of the Department of Transportation Effectuation of Title VI of the Civil Rights Act of 1964, Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes Implementation and Review Procedures, and as said Regulations may be amended.~~

~~[(Include in licenses, leases, permits, etc.)]\*~~

~~That in the event of breach of any of the above nondiscrimination covenants, (Name of Recipient) shall have the right to terminate the [license, lease, permit, etc.] and to re-enter and repossess said land and the facilities thereon, and hold the same as if said [license, lease, permit, etc.] had never been made or issued.~~

~~[(Include in deeds)]\*~~

~~That in the event of breach of any of the above nondiscrimination covenants, (Name of Recipient) shall have the right to re-enter said land and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of (Name of Recipient) and its assigns.~~

Policy Statement

In accordance with Title VI of the Civil Rights Act of 1964 and related statutes, the City of La Vista ensures that no person shall, on the grounds of race, color, or national origin, be excluded from participation in, denied the benefits or services of, or be otherwise subjected

to discrimination in all programs, services, or activities administered by the City of La Vista.

Signature of Responsible Agency Official

Branda Gunn, City Administrator

Date

City of La VistaTitle VI Nondiscrimination AssurancesDOT Order No. 1050.2A

The City of La Vista (herein referred to as the "Recipient"), **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT) through Federal Highway Administration and Nebraska Department of Transportation, is subject to and will comply with the following:

Statutory/Regulatory Authorities

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

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

General Assurances

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

"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity," for which the Recipient receives Federal financial assistance from DOT, including the *Federal Highway Administration*.

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975,

and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these non-discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

### Specific Assurances

More specifically, and without limiting the above general Assurance, the Recipient hereby gives the following Assurances with respect to its Federal-Aid Highway Program:

1. The Recipient agrees that each "activity," "facility," or "program" as defined in §§ 21.23(b) and 21.23(e) of 49 CFR § 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 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 Regulations made in connection with all Federal Aid Highway Program and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

*"The City of La Vista, in accordance with the provisions of Title VI of the Civil Rights Act of 1964, (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contact entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."*

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Act and the Regulations.
4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.

6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance shall 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, permits, licenses, or similar instruments entered into by the Recipient with other parties:
  - (a) for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
  - (b) for the construction or use of, or access to, space on, over, or under real property acquired, or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
  - (a) the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
  - (b) the period during which the Recipient retains ownership or possession of the property.
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, 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 Act, the Regulations, and this Assurance.

By signing this ASSURANCE, the City of La Vista also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing Federal Highway Administration or Nebraska Department of Transportation access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the Federal Highway Administration or Nebraska Department of Transportation. You must keep records, reports, and submit the material for review upon request to Federal Highway Administration, Nebraska Department of Transportation, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting,

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data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The City of La Vista 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 Highway Administration and Nebraska Department of Transportation. This ASSURANCE is binding on Nebraska, 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(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

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Signature of Responsible Agency Official

\_\_\_\_\_ Brenda Gunn, City Administrator

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\_\_\_\_\_ Date

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APPENDIX A

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

- (1) Compliance with Regulations: The contractor (hereinafter includes consultants) will comply with the Acts and Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, the Federal Highway Administration, or the Nebraska Department of Transportation, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
- (2) Non-discrimination: The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
- (3) Solicitations for 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 Non-discrimination on the grounds of race, color, or national origin.
- (4) Information and Reports: The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient, the Federal Highway Administration, or Nebraska Department of Transportation 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 the Recipient or the Federal Highway Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
- (5) Sanctions for Noncompliance: In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration or Nebraska Department of Transportation may determine to be appropriate, including, but not limited to:
  - (a) withholding payments to the contractor under the contract until the contractor complies; and/or (b) cancelling, terminating, or suspending a contract, in whole or in part.

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**(6) Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient, the Federal Highway Administration, or Nebraska Department of Transportation 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 with a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

APPENDIX B

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

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

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the City of La Vista will accept title to the lands and maintain the project constructed thereon, in accordance with all applicable federal statutes, the Regulations for the Administration of the Federal-Aid Highway Program and the policies and procedures prescribed by the Federal Highway Administration of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by 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 pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the City of La Vista all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit "A" attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto the City of La Vista and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the City of La Vista, its successors and assigns.

The City of La Vista, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [ ] [and]\* (2) that the City of La Vista will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended [ ], and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].\*

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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 make clear the purpose of Title VI.)

**City of La Vista**  
**Council Policy Statement**

**APPENDIX C**

**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 instruments entered into by the City of La Vista pursuant to the provisions of Assurance 7(a).

A. The (grantee, licensee, lessee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:

1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, the City of La Vista will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.\*

C. With respect to a deed, in the event of breach of any of the above Nondiscrimination covenants, the City of La Vista will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities shall there upon revert to and vest in and become the absolute property of the City of La Vista and its assigns.\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX D

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

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

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

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

## APPENDIX E

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

### Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-

12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;

- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

#### Organization and Staffing

Pursuant to 23 CFR 200, the City of La Vista has appointed a Title VI Coordinator who is responsible for the City of La Vista's Title VI Program.

Pam Buethe, City Clerk

402-331-4343 Phone

402-331-4375 Fax

8116 Park View Blvd.

La Vista, NE 68128

pbuthe@cityoflavista.org

Office hours: Monday-Thursday, 8am-4:30pm, Friday, 8am-noon

The City of La Vista organizational chart is kept current and available upon request.

INSERT ORG-CHART Or Reference Org-Chart?

### Implementation Procedures

This document shall serve as the Local Public Agency's (hereinafter referred to as the LPA) Title VI Plan pursuant to 23 CFR 200 and 49 CFR 21. For the purposes of this Title VI Implementation Plan, "Federal Assistance" shall include:

- 1) grants and loans of Federal funds,
- 2) the grant or donation of Federal property and interest in property,
- 3) the detail of Federal personnel,
- 4) the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the LPA, or in recognition of the public interest to be served by such sale or lease to the LPA, and
- 5) any Federal agreement, arrangement, or other contract which has as one of its purposes, the provision of assistance.

The LPA shall:

- a) Issue a policy statement, signed by the head of the LPA, which expresses its commitment to the nondiscrimination provisions of Title VI. The policy statement shall be circulated throughout the LPA's organization and to the general public. Such information shall be published where appropriate in languages other than English.
- b) Take affirmative action to correct any deficiencies found by the Federal Highway Administration, Nebraska Department of Transportation, or the U.S. Department of Transportation within a reasonable time period, not to exceed 90 days, in order to implement Title VI compliance in accordance with this agreement. The head of the LPA shall be held responsible for implementing Title VI requirements.
- c) Designate a coordinator who has a responsible position in the organization and easy access to the head of the LPA. The coordinator shall be responsible for initiating and monitoring Title VI activities and preparing required reports.
- d) Develop and implement a community outreach and public education program.
- e) Process complaints of discrimination consistent with the provisions contained in this agreement. Investigations shall be conducted by civil rights personnel trained

in discrimination complaint investigation. Identify each complainant by race, color, national origin or sex, the nature of the complaint, the date the complaint was filed, the date the investigation was completed, the disposition, the date of the disposition, and other pertinent information. A copy of the complaint, together with a copy of the LPA's report of investigation, will be forwarded to NDOT's Highway Civil Rights Manager within 10 days of the date the complaint was received by the LPA.

- f) Collect statistical data (race, color, national origin, sex) of participants in, and beneficiaries of the programs and activities conducted by the LPA.
- g) Conduct Title VI reviews of the LPA and subrecipient contractor/consultant program areas and activities. Revise where applicable, policies, procedures and directives to include Title VI requirements.
- h) Conduct training programs on Title VI and related statutes.
- i) Prepare a yearly report of Title VI accomplishments for the last year and goals for the next year.
  - 1) Annual Work Plan
    - Outline Title VI monitoring and review activities planned for the coming year; identify which activities will be accomplished and target date for completion.
  - 2) Accomplishment Report
    - List major accomplishments made regarding Title VI activities. Include instances where Title VI issues were identified, and discrimination was prevented. Indicate activities and efforts the Title VI Coordinator and program area personnel have undertaken in monitoring Title VI. Include a description of the scope and conclusions of any special reviews (internal or external) conducted by the Title VI Coordinator.
    - List any major problem(s) identified and corrective action taken. Include a summary and status report on any Title VI complaints filed with the LPA. Include a listing of complaints received against sub-recipients, as well as a summary of complaint and actions taken.

Discrimination Complaint Procedures – Allegations of Discrimination in Federally Assisted Programs or Activities

1. Any person or any specific class of persons, by themselves or by a representative, that believe they have been subjected to discrimination or retaliation prohibited by Title VI of the Civil Rights Act of 1964 and related statutes may file a complaint with the LPA. All complaints will be referred to the LPA's Title VI Coordinator for review and action.

2. Complaints must be filed within 180 days of the last date of alleged discrimination. The filing date of the complaint is the earlier of: (1) the postmark of the complaint, or (2) the date the complaint is received by any office authorized to receive complaints.

In either case, the LPA or his/her designee may extend the time for filing or waive the time limit in the interest of justice, specifying in writing the reason for so doing.

3. Complaints should be in writing and signed by the complainant and/or the complainant's representative. Complaints shall set forth as fully as possible the facts and circumstances surrounding the claimed discrimination. In the event that a person makes a verbal complaint of discrimination to an officer or employee of the LPA, the person shall be interviewed by the Title VI Coordinator. If necessary, the Title VI Coordinator will assist the person in reducing the complaint to writing and submit the written version of the complaint to the person for signature. The complaint shall then be handled according to the LPA's investigative procedures.

4. Within 10 days, the Title VI Coordinator will acknowledge receipt of the allegation, inform the complainant of procedures to be followed, and advise the complainant of other avenues of redress available, such as NDOT, FHWA, and U.S. DOT.

5. The LPA will advise the NDOT within 10 days of receipt of the allegations. Generally, the following information will be included in every notification:

- a) Name, address, and phone number of the complainant;
- b) A written explanation of what has happened;
- c) The basis of the complaint (i.e., race, color, national origin);
- d) The identification for the respondent, e.g. agency/organization alleged to have discriminated;
- e) The date(s) of the alleged discriminatory act(s);
- f) The date of complaint received by the LPA;

# City of La Vista

## Council Policy Statement

### Programs, Services, and Activities – Title VI of the Civil Rights Act of 1964

- g) Other agencies (state, local or Federal) where the complaint has been filed; and,
- h) An explanation of the actions the LPA has taken or proposed to resolve the issue raised in the complaint.

6. NDOT will forward the complaint to the FHWA. The FHWA Office of Civil Rights will determine the appropriate individual and/or organization to conduct the investigation.
7. Within 60 days, the Title VI Coordinator will conduct an investigation of the allegation and based on the information obtained, will render a recommendation for action in a report of findings to the head of the LPA. The complaint should be resolved by informal means whenever possible. Such informal attempts and their results will be summarized in the report of findings.
8. Within 90 days of receipt of the complaint, the head of the LPA will notify the complainant in writing of the final decision reached, including the proposed disposition of the matter. The notification will advise the complainant of his/her appeal rights with NDOT, or U.S. DOT, if they are dissatisfied with the final decision rendered by the LPA. The Title VI Coordinator will also provide NDOT with a copy of this decision and summary of findings upon completion of the investigation.
9. Any complaints received against the LPA should immediately be forwarded to NDOT for investigation. The LPA will not investigate any complaint in which it has been named in the complaint.

#### 10. Contacts for Title VI administrative jurisdictions are

as follows:

Nebraska Department of Transportation  
NDOT Civil Rights Office, Title  
VI Program P.O. Box 94759  
Lincoln, NE 68509-4759  
(402) 479-4544

Federal Highway  
Administration  
Nebraska Division  
Office  
100  
Centennial  
Mall North  
Lincoln, NE  
68508  
(402) 437-5765

# City of La Vista

## Council Policy Statement

### *Programs, Services, and Activities – Title VI of the Civil Rights Act of 1964*

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