



City of Virginia Beach

TITLE VI PROGRAM PLAN

Agency Administrator

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FISCAL YEAR: 2026

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TITLE VI STATEMENT OF COMMITMENT

The City of Virginia Beach, hereinafter also referred to as the "LPA", will effectuate the provisions of Title VI of the Civil Rights Act of 1964, 49 Code of Federal Regulation (CFR) Part 21, 23 CFR Part 200 and other applicable directives. These authorities provide 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 LPA receives federal assistance.

Further, as a recipient of federal-aid funding, City of Virginia Beach strives to achieve nondiscrimination in all its programs and activities whether or not those programs and activities are federally funded. These efforts to prevent discrimination will address, but not be limited to, a program's impact upon access, benefits, participation, treatment, services, contracting opportunities, training opportunities, investigation of complaints, allocation of funds, prioritization of projects, and the functions of right-of-way, research, planning, design, construction, and project development. The City of Virginia Beach will ensure that every manager, supervisor, employee, and sub-recipient of federal-aid funds administered by the LPA is aware of and applies the intent and spirit of Title VI of the Civil Rights Act of 1964 and other nondiscrimination authorities in performing assigned duties.

Every employee and representative of The City of Virginia Beach shall perform all official duties and actions in full accord with Title VI of the Civil Rights Act of 1964, applicable statutes, executive orders, regulations, and policies enunciated there under.

SWaM Business Coordinator has been designated as the LPA's Title VI Coordinator and is responsible for ensuring that all matters relating to nondiscrimination are administered effectively.

Employees of the LPA, contractors or applicants with questions, problems or complaints regarding this statement, and the implementation of the stated provisions, should contact Nikita Susens, SWaM Business Coordinator, at 757-385-4438.


Patrick Duhaney, City Manager
Agency Administrator


Date

I. ORGANIZATION AND STAFF RESPONSIBILITIES

Relationship of Civil Rights Unit/Staff to Head of City of Virginia Beach

Agency Administrator – The Agency Administrator is authorized to ensure compliance with provisions of the Agency’s policy of nondiscrimination and with the law, including the requirements of 23 CFR Part 200 and 49 CFR Part 21. The Agency’s grants compliance function and Title VI coordination shall be performed under the authority of the Agency Administrator.

Title VI Coordinator – The SWaM Business Coordinator will perform the duties of the Title VI Coordinator and ensure implementation of the Agency’s Title VI Federally Funded Transportation Program. Although the SWaM Business Coordinator reports to SWaM Procurement Program Coordinator (direct supervisor), this position shall have an indirect reporting relationship and access to the Agency Administrator.

Statement of Responsibility and Authority of Title VI Coordinator

As authorized by the City of Virginia Beach Administrator, the Title VI Coordinator is responsible for initiating, monitoring, and ensuring LPA compliance with Title VI requirements as follows:

Program Administration

- Administer the Title VI Program and coordinate implementation of the plan.
- Ensure compliance with the assurances, policy, and program objectives.
- Perform Title VI Program reviews to assess administrative procedures, staffing, and resources.
- Provide recommendations as required to the City of Virginia Beach Administrator.

Complaints

- Review written Title VI complaints that may be received by City of Virginia Beach following the adopted procedural guidelines.

Data Collection.

- Review the statistical data gathering process periodically to ensure sufficiency of data for meeting the requirements of Title VI program administration.

Training Programs

- The City of Virginia Beach regularly attends the annual Local Programs Workshop hosted by the Virginia Department of Transportation (VDOT), as well as any

additional training opportunities provided by VDOT to ensure compliance with current policies and procedures.

Title VI Plan Update

- Review and update the Agency's Title VI Implementation Plan as needed or required.
- Present updated plan to the City of Virginia Beach Administrator for approval.
- Publish/post the Title VI Implementation Plan.

Locally Administered Projects Uniform Report

- Prepare and submit the bi-annual Locally Administered Projects (LAP) Uniform Report to VDOT Program Manager Urban Division Hampton Roads District.

Public Dissemination

- Work with City of Virginia Beach staff to develop and disseminate Title VI program information to employees and sub-recipients, including contractors, subcontractors, consultants, and sub-consultants and beneficiaries, as well as the public.
- Ensure public service announcements or notices are posted of proposed projects, hearings, meetings, or formation of public advisory boards, utilizing various media platforms reaching the affected community.
- Prepare a bi-annual Forecast List with projects listed, which is posted on the SWaM Business Office webpage and is disseminated through the Minority Business Council and various meetings and events.
- Provide written or verbal information in other languages when appropriate, using the City's MBC and bilingual staff upon request.

Elimination of Discrimination

- Work with Agency's program areas to establish procedures for promptly resolving deficiencies, as needed.
- Collaborate with the Virginia Beach SWaM Business Office and the Virginia Beach Minority Business Council (VB MBC) to both share information about VDOT projects and share the opportunities.
- Recommend procedures to identify and eliminate discrimination that may be discovered in any of the Agency's processes.
- Ensure posted federal projects with corresponding language in the solicitation and the established DBE goal, where applicable. Ensure all solicitations are posted on the City's website and on eVA - Virginia's Marketplace website.

Maintain Legislative and Procedural Information.

- Keep informed about Federal laws, rules, and regulations, FHWA or VDOT guidelines that may affect the current Agency Title VI Plan and administration of the Agency's Title VI Program.
- Ensure information is made available to the public as requested or required.

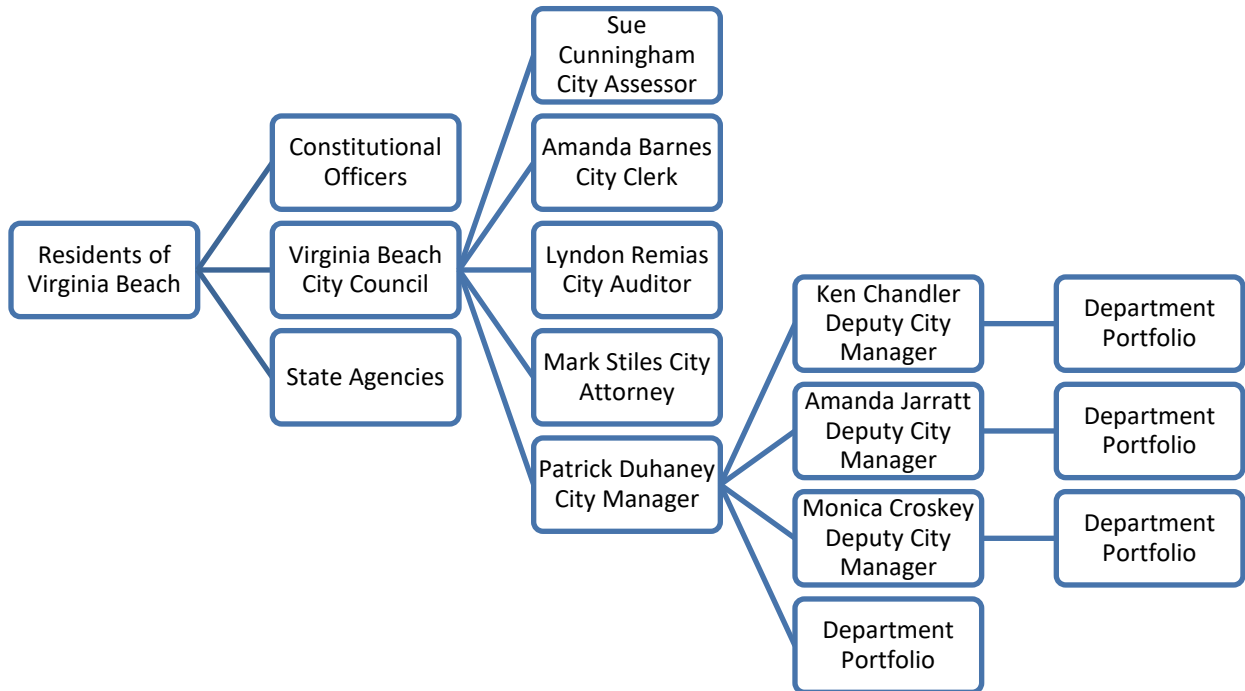
Compliance

- Document and report compliance by contractors, subcontractors, consultants, suppliers and other sub-recipients under federally funded projects or programs.
- Ensure applicable Title VI provisions and requirements are included in contractual agreements to prime contractors and sub-recipients.
- Obtain statistical data on race, color, national origin, handicap/disability, age and sex of participants in, and beneficiaries of the Agency's federally funded transportation programs, where applicable.

Program Administration

- Biannually, provide VDOT with the LAP Uniform Report. Which provides VDOT with awards and commitments for the reporting period.
- The Title VI Coordinator will work to ensure departments and programs comply with Title VI regulations and assurances, meet the Title VI Method of Administration as defined in this Title VI Plan, meeting federal and state reporting requirements, and providing adequate training opportunities for applicable staff.
- The Title VI Coordinator will ensure that Federal projects are posted as federal projects with corresponding language in the solicitation along with the established DBE goal, when applicable. All solicitations are posted on the City of Virginia Beach's procurement website and on eVA - Virginia's electronic procurement marketplace website.

Organizational Chart



II. TITLE VI PROGRAM IMPLEMENTATION

Program Areas – Review and Monitoring Procedures

To comply with Title VI, City of Virginia Beach:

- Maintains current Title VI Assurances (Appendix C: Certificate of Assurance) except in real estate transaction documents, which will be implemented after legal review of City's ability to implement is completed (hereinafter, "Pending Legal Review").,
- Promptly corrects any deficiency identified
- Conducts regular reviews of program areas and contractors
- Document and prepare reports of Title VI efforts on a regular basis

Planning

- The City of Virginia Beach requests for federal funding takes place at the department level. City Council is notified of such requests.

Location

- Public involvement
Ensure public meetings occur or a posting of public willingness notifications.
Include:
 - Ensuring small businesses, including minority and women owned businesses of the community, are invited to participate in public hearings.
 - Ensure location, time, translation services, etc. are provided.
 - Location manuals, directives, guidelines and policies are made available.

Design/Project Development

- Design and Environmental Review Process
Design and environmental review are an iterative process that occurs throughout the design phase. Design reviews are conducted at the Prelim Engineering Report, 30% design, 60% design, 90% design, 100% design, and Construction Documents milestones. Environmental reviews usually begin at the 30% design level and continue until environmental process is completed and/or permits are received.
- Design/Environmental Review Process and Title VI include:
 - How small, disadvantaged, minority, women, and disabled veteran businesses members of the community are invited to participate in public hearings.
 - Locations, time, translation services, etc.
 - Design project development manuals, directives, operational procedures, guidelines, and policies reviewed for Title VI compliance.
 - Statistical data collected on demographics of communities affected by construction projects.

Right of Way

- Right of Way Process and Title VI language is incorporated through VDOT. Which includes:
 - Title VI language is incorporated into all acquisition, negotiation, property Management, communication, and contracts, subject to Pending Legal Review.
 - Title VI language and assurance statements included in all surveys for property owners and tenants after the conclusion of business.
 - Deeds, permits, and leases contain Title VI compliance clauses, subject to Pending Legal Review.

Construction/Maintenance

- Construction/Maintenance Section
The Public Works Construction Bureau is responsible for overseeing quality assurance and conformance to contract documents for all transportation Capital Improvement Projects in the City. The Bureau accomplishes these duties via City employed inspectors and staff, as well as procurement of outside vendors to provide Construction Engineering and Inspection (CEI) services. Public Works Operations division is responsible for the maintenance of City assets.
- Construction/Maintenance Section activities and Title VI
 - Contractor selection procedures reviewed to determine uniformity in application to small, disadvantaged, minority, women, disabled veteran, and nonminority contractors.
 - Adding DBE goal and making sure related documents are included in every solicitation for federal projects.
 - Small, disadvantaged, minority, women, and disabled veteran businesses contractors and subcontractors are being informed about contracting opportunities with the City of Virginia Beach through both the City's website and the Commonwealth's electronic Procurement Platform, eVA. Construction project manuals are posted on the City of Virginia Beach Public Works Department webpage for Vendors and Contractors, under "Standards and Specifications."
 - Title VI assurances are included in all contracts, subcontracts, and material supply agreements.

Education/Training

To ensure compliance through education and training, the City of Virginia Beach Title VI Coordinator will:

- Distribute information to the procurement staff, and other stakeholders on training programs regarding Title VI and related nondiscrimination authorities.
- City of Virginia Beach staff will attend the Local Programs Workshop, which includes Title VI nondiscrimination training which is hosted by VDOT.

- Develop Title VI educational information for dissemination to the public using the information sent by the BOWD Center.

Consultant Contracts Administration

City of Virginia Beach is responsible for selection, negotiation, and administration of its consultant contracts. City of Virginia Beach complies with all relevant federal and state laws in contract selection. City of Virginia Beach staff evaluate and monitor consultant contracts for compliance with nondiscrimination authorities. City of Virginia Beach staff will:

- Ensure inclusion of nondiscrimination language in contracts and solicitations.
- Ensure that all consultants verify their compliance with nondiscrimination authorities, procedures, and requirements, consultants must sign the City's two-party agreement that includes language pertaining to nondiscrimination.
- Work with the recipient or sub-recipient, if found to be not in compliance with nondiscrimination authorities, to resolve the deficiency status and write a remedial action if necessary.
- Host and review outreach activities to ensure small, disadvantaged, minority, women, and disabled veteran businesses are not excluded to participate in opportunities to compete for consulting contracts.

Sub-recipients - Reviews and Monitoring Procedures

City of Virginia Beach will conduct Title VI compliance reviews and monitoring of its sub-recipients of Federal-aid highway or other Federal funds, to ensure adherence to Title VI requirements. City of Virginia Beach's staff will periodically review operational guidelines provided to consultants, contractors, and sub-recipients, including Title VI language, provisions, and related requirements, as applicable.

City of Virginia Beach will also conduct periodic post grant reviews of select recipients of Federal highway funds or other Federal funds, for roads, sidewalks, bridges, municipal construction, etc. to ensure adherence to Title VI requirements, subject to Pending Legal Review as to real estate transaction documents.

When irregularities occur in the administration of Federal-aid highway programs at sub-recipient levels, corrective action will be taken to resolve identified Title VI issues. City of Virginia Beach will seek the cooperation of the consultant, contractor, or other sub-recipient in correcting deficiencies found during periodic reviews. City of Virginia Beach will provide technical assistance and guidance, upon request, to support voluntary compliance by the sub-recipient.

When a sub-recipient fails or refuses to voluntarily comply with requirements, City of Virginia Beach will submit to VDOT's Civil Rights Administrator -Title VI Coordinator copies of the case file and a recommendation that the sub-recipient be found in noncompliance.

A follow-up review will be conducted to ascertain if the sub-recipient has complied with the Title VI Program requirements in correcting deficiencies previously identified. If the sub-recipient refuses to comply, City of Virginia Beach and VDOT may, with FHWA's concurrence, initiate sanctions per 49 CFR 21.

Data Collection – Reporting – Analysis

Under Title VI, a recipient is required to collect statistical data (race, color, or national origin) of participants and beneficiaries of programs and activities conducted. Data collection is key to ensuring that transportation programs, services, facilities and projects effectively meet the needs of “all persons” without discrimination, i.e., disproportionately benefitting or harming one group over another is a violation of Title VI. Timely and accurate data allow for better decision making and provide support and defensibility to the decisions made.

Statistical data will be collected, analyzed and maintained by City of Virginia Beach to determine the transportation investment benefits and burdens to the eligible population, including minority and LEP populations (Please see Data Collection Guidelines in Appendix L for more details). Data collection efforts used by City of Virginia Beach are:

Environmental Planning: City of Virginia Beach collects and analyzes U.S. Census data as part of the NEPA processes to determine which populations are expected to be impacted by City of Virginia Beach administered projects. Additionally, demographic data is collected during public meetings with the use of voluntary demographic surveys.

Right of Way: During the interview/intake process, City ROW staff will ensure that demographic information is collected voluntarily.

Language Assistance: Accommodations are made upon request.

Dissemination of Title VI Information

Community Outreach and Public Education

The City of Virginia Beach is committed to ensuring meaningful access, inclusive communication, and equitable participation for all community members, including minority, low-income, and disabled populations. In alignment with Title VI of the Civil Rights Act of 1964 and applicable Virginia Department of Transportation (VDOT) requirements, the City proactively engages these communities throughout the planning, development, and implementation of all City projects.

To promote awareness and encourage participation, the City employs a variety of outreach methods tailored to maximize accessibility and reach. These methods include posting meeting notices and project information on the Public Works website,

disseminating updates through official social media channels, and utilizing variable message signs within affected work zones. Through these strategies, the City ensures that opportunities for public involvement are broadly communicated and that all residents can engage with City personnel regarding ongoing and upcoming projects.

To ensure Title VI compliance in communications and public participation, City of Virginia Beach staff will:

- Include contact information for people needing accommodations in notifications of opportunities for public participation.
- The Title VI Policy is referenced in all City of Virginia Beach solicitations.
- Including the following statement in public notices:

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

A. Limited English Proficiency

Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English are Limited English Proficient (LEP). For a LEP person, language can present a barrier to accessing benefits and services, understanding, and exercising important rights, complying with applicable responsibilities, or understanding other information provided by federally funded programs and activities.

To the extent required by law or federal regulation, City of Virginia Beach provides meaningful access to programs and activities by giving LEP persons adequate and understandable information to participate in programs and activities and by taking reasonable steps to remove barriers for LEP persons.

III. DISCRIMINATION COMPLAINT PROCEDURES

Any person who believes they or a specific class of persons were subjected to discrimination on the basis of race, color, or national origin in the programs and activities of the City of Virginia Beach a recipient of Federal financial assistance through the Virginia Department of Transportation may file a Title VI complaint of discrimination under Title VI of the Civil Rights Act of 1964 (Title VI) and related statutes.

Where can one file?

Complaints related to the Federal-aid highway program may be filed with any of the Virginia Department of Transportation Civil Rights Divisions.

When must one file?

According to USDOT regulations, 49 CFR §21.11(b), a complaint must be filed not later than 180 days after the date of the last instance of alleged discrimination, unless the time for filing is extended by the processing agency.

What should a complaint look like?

Complaints should be in writing and signed and may be filed by mail, fax, in person, or e-mail. However, the complainant may call the receiving agency and provide the allegations by telephone, and the agency should transcribe the allegations of the complaint as provided over the telephone and send a written complaint to the complainant for correction and signature. A complaint should contain the following information:

- A written explanation of the alleged discriminatory actions.
- The complainant's contact information, including, if available: full name, postal address, phone number, and email address.
- The basis of the complaint (e.g., race, color, national origin);
- The names of specific persons and respondents (e.g., agencies/organizations) alleged to have discriminated against.
- Sufficient information to understand the facts that led the complainant to believe that discrimination occurred in a program or activity that receives Federal financial assistance; and
- The date(s) of the alleged discriminatory act(s) and whether the alleged discrimination is on-going.

How are complaints routed?

FHWA Division Offices do not investigate Title VI complaints. Likewise, VDOT and its Subrecipients do not investigate complaints filed against themselves. Finally, FHWA is

responsible for all decisions regarding whether a complaint should be accepted, dismissed, or referred to another agency.

With this understanding, complaints should be routed in the following ways:

- All complaints will be routed to the FHWA Headquarters Office of Civil Rights (HCR) for processing. HCR is responsible for all determinations regarding whether to accept, dismiss, or transfer Title VI complaints filed against City of Virginia Beach (a Subrecipient of Federal financial assistance).
- Complaints should be forwarded from the initial receiving agency through the Federal-aid highway oversight hierarchy until the complaint reaches HCR. For example, if a complaint is filed with City of Virginia Beach, City of Virginia Beach will forward the complaint to VDOT, which will forward the complaint to the VDOT's FHWA Division Office, which will forward the complaint to HCR. If a complaint is filed with VDOT, VDOT will forward the complaint to the VDOT's FHWA Division Office, which should forward the complaint to HCR.
- VDOT and City of Virginia Beach will log all complaints received.
- When HCR decides on whether to accept, dismiss, or transfer the complaint, HCR will notify the Complainant, the FHWA Division Office, VDOT, and City of Virginia Beach.

Complaints may be filed with VDOT's Civil Rights Division Administrator at **1401 East Broad Street, Richmond, VA 23219** or the U.S. Department of Transportation, Federal Highway Administration, Virginia Division, Office of Civil Rights, **400 North 8th Street, Suite 750, Richmond, Virginia 23219**. The form for filing a complaint with VDOT is included in Appendix A.

Complaints may also be sent to HCR directly at:

Postal Mail	Federal Highway Administration U.S. Department of Transportation Office of Civil Rights 1200 New Jersey Avenue, SE 8th Floor E81-105 Washington, DC 20590
Email	CivilRights.FHWA@dot.gov
Fax	202-366-1599
Questions?	202-366-0693

What are the potential outcomes for processing a complaint?

There are four potential outcomes for processing complaints:

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

The HCR is responsible for conducting all investigations of State DOTs and other primary Recipients. In the case of a complaint filed against a Subrecipient, HCR may either conduct the investigation itself, or it may delegate the investigation to VDOT. If HCR chooses to delegate the investigation of a Subrecipient, HCR will communicate its acceptance of the complaint to the complainant and respondent, but VDOT will conduct all data requests, interviews, and analysis.

VDOT will then create a Report of Investigation (ROI), which it will send to HCR. Finally, HCR will review the ROI and compose a Letter of Finding based on the ROI

What are the timeframes for investigation?

For FHWA, there is no regulatory timeframe for completing investigations. However, FHWA strives to complete all tasks within 180 days from the date of acceptance.

If VDOT is delegated an investigation from FHWA, VDOT must complete the investigation within 60 days of receipt (meaning the date it receives the delegated complaint from FHWA) as stipulated in 23 CFR §200.9(b)(3)

How does the Investigating Agency gather information?

There are no regulatory requirements for how information is gathered, but VDOT and City of Virginia Beach are required to keep detailed records on how they comply with Title VI and to provide USDOT with access to documents and persons with relevant information. 49 CFR §21.9. Typically, the respondent will receive at least one Request for Information and Position Statement (RFI) to gather documents, and additional requests if necessary. Concurrently, the HCR or VDOT investigator will schedule interviews with relevant parties and conduct site visits as necessary.

Once FHWA starts an investigation, what are the potential outcomes?

First, at any time during the investigation, either FHWA or the respondent may initiate informal negotiations to resolve the issues. The FHWA always strives to resolve Title VI complaints informally, if possible.

In the absence of such negotiations, HCR (or an investigator for VDOT) will draft a Report of Investigation, which should contain all relevant data and findings, with legal conclusions and potentially include recommendations for action. FHWA is responsible for the final disposition of all complaints, including initiation and conduct of informal negotiations and the issuance of Letters of Finding (LOFs).

There are five potential outcomes for concluding an investigation:

1. The FHWA makes a finding of no violation, and the case will be closed with no further action. The FHWA will issue an LOF stating in sufficient detail the reasons for the determination of no violation.
2. If, by a preponderance of the evidence, FHWA determines the respondent has failed to comply with its Title VI requirements or threatens to fail to comply by action or inaction, then FHWA will inform the respondent and the matter will be resolved by informal means whenever possible.
 - If FHWA informally resolves the matter with the respondent by agreement, then FHWA will hold the complaint in abeyance until the respondent completes its corrective actions. If the corrective actions are completed to the FHWA's satisfaction, then the complaint will be dismissed with no further action.
 - If FHWA cannot informally resolve the matter or the respondent does not complete agreed upon corrective actions, then FHWA may issue a LOF stating that the Recipient is in noncompliance with its Title VI obligations.
3. If FHWA issues a LOF of noncompliance to the respondent, the LOF will request that the respondent provide to FHWA, within 90 days, an action plan that implements the recommendations in the LOF.
4. If FHWA approves the action plan, then the respondent will be given a reasonable amount of time to implement the plan. At the end of the implementation period, FHWA will assess whether the respondent has sufficiently corrected the deficiencies.

5. If FHWA does not approve the action plan, or the respondent is nonresponsive/uncooperative, then FHWA may seek administrative sanctions, including, but not limited to, suspension or termination of Federal funds or any other means authorized by law such as referral to USDOJ for enforcement.
 - o If USDOT seeks to suspend or terminate funds, it must provide the respondent with an opportunity for a hearing on the record. If the Secretary of Transportation determines that the respondent has not complied with Title VI and voluntary compliance cannot be secured, USDOT must notify Congress before that finding goes into effect. 49 CFR

REVIEW OF AGENCY DIRECTIVES

Each Division Administrator is responsible for ensuring that planning manuals, directives, guidelines, and policies are reviewed for Title VI compliance. This includes submitting a draft of these documents to the Civil Rights Division Administrator for Title VI or Title VII compliance review. Additionally, members of the Title VI Interdisciplinary Team support this process by ensuring compliance within the major operational program areas they represent.

AUTHORITIES

This section is a reference source of the applicable authorities related to Title VI of the Civil Rights Act of 1964 as amended.

Title VI of the 1964 Civil Rights Act (42 USC 2000d et seq) requires that “No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.”

The Civil Rights Restoration Act of 1987, P.L. 100-209 further clarified the intent of Title VI to include all programs and activities of entities whether those programs and activities are federally funded or not.

49 CFR Part 21, the U.S. Department of Transportation’s Implementing Regulations of Title VI of the Civil Rights Act of 1964.

23 Code of Federal Regulations (CFR) Part 200, the Federal Highway Administration’s Title VI Program Implementation and Review Procedures.

USDOT Order 1050.2A

Section 162(a) of the Federal-Aid Highway Act of 1973 (Section 324, Title 23 U.S.C.) prohibits discrimination based on sex (gender).

Executive Order 12898 (issued February 11, 1994) addresses disproportionate adverse environmental, social, and economic impacts that may exist in communities, specifically minority and low-income populations.

Executive Order 13166 (issued August 16, 2000) addresses access to services for persons whose primary language is not English and who have limited ability to read, write, speak or understand English.

TITLE VI ASSURANCES (STANDARD DOT TITLE VI ASSURANCES -USDOT 1050.2A)

TITLE VI/NONDISCRIMINATION ASSURANCES

DOT Order No.1050.2A

The *City of Virginia Beach*, (herein referred to as the “Recipient”), HEREBY AGREES THAT, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through the *Federal Highway Administration*, 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 *Nondiscrimination 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 Nondiscrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these nondiscrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

Specific Assurances

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

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23 (b) and 21.23 (e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated or will be (with regard to a "facility") operated or will be (with regard to a

"program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.

2. The Recipient will insert the following notification in all solicitations for bids, Requests for Proposals for work, or material subject to the Acts and the Regulations made in connection with all Federal-Aid Highway Program and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

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

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
4. Reserved subject to a Pending Legal Review:
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. 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, except for real estate transaction documents, which are subject to a Pending Legal Review.
6. Reserved subject to a Pending Legal Review:
That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property, upon legal review.
7. Reserved subject to a Pending Legal Review:
The Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
 - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. This Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:

- a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
 - b. the period during which the Recipient retains ownership or possession of the property.
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance, upon legal review.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance, upon legal review.

Assurances require further review by the City of Virginia Beach City Attorney's Office.

By signing this ASSURANCE, the *City of Virginia Beach* also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the *USDOT* 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 *USDOT*. You must keep records, reports, and submit the material for review upon request to *USDOT*, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The *City of Virginia Beach* gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the *Federal-Aid Highway Program*. This ASSURANCE is binding on the *Commonwealth of Virginia*, 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.

City of Virginia Beach

by 

(City Manager, City of Virginia Beach)

DATED 2/4/2020

APPENDICES

APPENDIX A

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

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Nondiscrimination in Federally - assisted programs of the U.S. Department of Transportation, the Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Nondiscrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the 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 may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the

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

APPENDIX B

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

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

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the *City of Virginia Beach* will accept title to the lands and maintain the project constructed thereon in accordance with the Virginia General Assembly, 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 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 Virginia Beach* 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 Virginia Beach* 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 Virginia Beach, its successors and assigns.

The City of Virginia Beach 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 Virginia Beach* will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended[, and (3) that in the event of breach of any of the above-mentioned non-discrimination

conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].*

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

APPENDIX C

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

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the City of Virginia Beach pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:
 - 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Nondiscrimination covenants, the City of Virginia Beach 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 Virginia Beach will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the City of Virginia Beach 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 Virginia Beach pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Nondiscrimination covenants, the *City of Virginia Beach* 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 Virginia Beach* will there upon revert to and vest in and become the absolute property of the *City of Virginia Beach* 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 nondiscrimination statutes and authorities; including but not limited to:

Pertinent Nondiscrimination 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.*)