

CITY OF BERKLEY, MICHIGAN



TITLE VI NON-DISCRIMINATION PLAN

Adopted by City Council Resolution R-13-20 on May 18, 2020

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City of Berkley
3338 Coolidge Highway
Berkley, Michigan 48072
(248) 658-3300

POLICY STATEMENT

The City of Berkley is committed to ensuring that the fundamental principles of equal opportunity are upheld in all decisions involving our employees and contractors/consultants, and to ensuring that the residents of our city are afforded access to our programs and services.

To that end, no person shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination or harassment under any City of Berkley program on the basis of race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, genetic information, height, weight, disability, veteran status, familial status, marital status or any other reason in accordance with applicable federal and state laws. The City of Berkley assures all its programs and activities will be free from discrimination, whether those programs and activities are federally funded or not.

The City of Berkley designates the City Manager as the Title VI officer with the responsibility of ensuring that the City of Berkley complies with Title VI regulations. Inquiries concerning the City of Berkley policies, investigations, complaints, compliance with applicable laws, regulations, and concerns regarding compliance with Title VI may be directed to the:

Office of the City Manager
3338 Coolidge Highway
Berkley, Michigan 48072

Telephone: 248-658-3350
Email: MBaumgarten@BerkleyMich.net

This policy statement will be circulated throughout the City of Berkley and included by reference in all contracts, agreements, programs and services administered by the City of Berkley.



Matthew C. Baumgarten,
City Manager

5/18/2020
Date

CITY OF BERKLEY TITLE VI ASSURANCE

The City of Berkley (hereinafter referred to as the City) hereby agrees that as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation, it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 2000d-42 USC 2000d-4 (hereinafter referred to as the Act), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the Regulations) and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, no person in the United States shall, on the grounds of gender, 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 City received Federal financial assistance from the Department of Transportation, including the Federal Highway Administration, and hereby gives assurance that it will promptly take any measures necessary to effectuate this agreement. This assurance is required by subsection 21.7(a)(1) and (b) of the Regulations.

More specifically and without limiting the above general assurance, the City hereby gives the following specific assurances with respect to the Federal Aid highway program:

1. That the City 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.
2. That the City shall insert the following notification in all solicitations for bids for work or material subject to the Regulations and, in adapted form, in all proposals for negotiated agreements:
3. "The City of Berkley in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Federally-assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract 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 gender, disability, race, color or national origin in consideration for an award."
4. That the City shall insert the clauses of Appendix A of this assurance in every contract subject to the Act and the Regulations.
5. That where the City receives Federal financial assistance to construct a facility, or part of a facility, the assurance shall extend to the entire facility and any facilities operated in connection therewith.
6. That where the City 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 this assurance obligates the City 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 City 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 City retains ownership or possession of the property.

8. The City shall 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-grantees, contractors, sub-contractors, 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.

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 City under the Federal Aid highway program and is binding on it, other recipients, sub-grantees, contractors, sub-contractors, transferees, successors in interest and other participants in the Federal Aid highway program. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the City.

Dated: 5/18/2020

City of Berkley:



Matthew C. Baumgarten, City Manager

AUTHORITIES

Title VI of the Civil Rights Act of 1964, 42 USC 2000d to 2000-4; 42 USC 4601 to 4655; 23 USC 109(h); provides that no person in the United States shall, on the grounds of race, color, national origin (including Limited English Proficiency), or sex, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance (please refer to 23 CFR 200.9 and 49 CFR 21). Related statutes have broadened the grounds to include age, low income, and disability.

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

Federal Aid Highway Act of 1973, 23 USC 324: No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal assistance under this title or carried on under this title

Age Discrimination Act of 1975, 42 USC 6101: No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving federal financial assistance.

Americans With Disabilities Act of 1990 PL 101-336: No qualified individual with a disability shall, by reason of his/her handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination by a department, agency, special purpose district, or other instrumentality of a state or a local government.

Section 504 of the Rehabilitation Act of 1973: No qualified handicapped person shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity that receives or benefits from federal financial assistance.

USDOT Order 1050.2: Standard Title VI Assurances.

EO 12250: Department of Justice Leadership and coordination of Non-discrimination Laws.

EO 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations; and

28 CFR 50.3: Guidelines for the enforcement of Title VI, Civil Rights Act of 1964.

EO 13166 Improving Access to Services for Persons with Limited English Proficiency.

DEFINITIONS

Adverse Effects: The totality of significant individual or cumulative human health or environmental effects, including interrelated social and economic effects, which may include, but are not limited to: (See Appendix B for additional discussion of "significant.")

- Bodily impairment, infirmity illness or death
- Air, noise and water pollution and soil contamination
- Destruction or disruption of man-made or natural resources
- Destruction or diminution of aesthetic values.
- Destruction or disruption of community cohesion or a community's economic vitality
- Destruction or disruption of the availability of public and private facilities and services Adverse employment effects
- Displacement of persons, businesses, farms or non-profit organizations
- Increased traffic congestion, isolation, exclusion or separation of minorities or low-income individuals within a given community of from the broader community
- Denial of, reduction in, or significant delay in the receipt of benefits of City programs, policies or activities

Federal Assistance: Includes grants and loans of federal funds; the grant or donation of federal property and interests in property; the detail of federal personnel, 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 recipient, or in recognition of the public interest to be served by such sale or lease to the recipient; and any federal agreement, arrangement or other contract which has, as one of its purposes, the provision of assistance.

Limited English Proficiency: Individuals with a primary or home language other than English who must, due to limited fluency in English, communicate in that primary or home language if the individuals are to have an equal opportunity to participate effectively in or benefit from any aid, service or benefit provided by the City.

Low-Income: A person whose median household income is at or below the Department of Health and Human Services poverty guidelines. (<http://aspe.os.dhhs.gov/pverty/poverty.htm>)

Low-Income Population: Any readily identifiable group of low-income persons who live in geographic proximity and, if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed City program, policy or activity.)

Minority: A person who is:

- **Black:** A person having origins in any of the black racial groups of Africa
- **Hispanic:** A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race
- **Asian American:** A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian sub-continent, or the Pacific Islands
- **American Indian and Alaskan Native:** A person having origins in any of the original people of North American and who maintains cultural identification through tribal affiliation or community recognition.

Minority Population: Any readily identifiable groups of minority persons who live in geographic proximity and, if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed City program, policy or activity.

Non-compliance: A recipient has failed to meet prescribed requirements and has shown an apparent lack of good faith effort in implementing all the requirements of Title VI and related statutes.

Persons: Where designation of persons by race, color or national origin is required, the following designations ordinarily may be used: "White not of Hispanic origin," "Black not of Hispanic origin," "Hispanic," "Asian or Pacific Islander," "American Indian or Alaskan Native." Additional sub-categories based on national origin or primary language spoken may be used, where appropriate, on either a national or a regional basis.

Program: Includes any road or park project including planning or any activity for the provision of services, financial aid or other benefits to individuals. This includes education or training, work opportunities, health, welfare, rehabilitation, or other services, whether provided directly by the recipient of federal financial assistance or provided by others through contracts or other arrangements with the recipient.

Recipient: Any state, territory, possession, the District of Columbia, Puerto Rico, or any political subdivision, or instrumentality thereof, or any public or private agency, institution, or organization, or other entity, or any individual, in any state, territory, possession, the District of Columbia, or Puerto Rico, to whom Federal assistance is extended, either directly or through another recipient, for any program. Recipient includes any successor, assignee, or transferee thereof, but does not include any ultimate beneficiary under any such program.

Significant Adverse Effects on Minority and Low-Income Populations: An adverse effect that:

- a. is predominately borne by a minority population and/or a low-income population, or
- b. will be suffered by the minority population and/or low-income population and is shown to be appreciably more severe or greater in magnitude than the adverse effect that will be suffered by the non-minority population and/or non-low-income population

Sub-Recipient: An agency such as a council of governments, regional planning agency, educational institution, for example, that receives Federal Highway Administration (FHWA) funds through the State DOT and not directly from the FHWA. Other agencies, local governments, contractors, consultants that receive these funds are all considered sub-recipients.

GENERAL ADMINISTRATION

The City Manager shall have lead responsibility for coordinating the administration of the Title VI and related statutes program, plan, and assurances.

Complaints: If any individual believes that they or any other program beneficiaries have been the object of unequal treatment or discrimination as to the receipt of benefits and/or services, or on the grounds of race, color, national origin (including Limited English Proficiency), sex, age or handicap, they may exercise their right to file a complaint with the City. Complaints may be filed with the City Manager. Every effort will be made to resolve complaints informally at the lowest level.

Data Collection: Statistical data on race, color, national origin, English language ability and sex of participants in, and beneficiaries of City programs, e.g., impacted citizens and affected communities, will be gathered and maintained by the City. The gathering procedures will be reviewed annually to ensure sufficiency of the data in meeting the requirements of the Title VI program.

City Reviews: Special emphasis program reviews will be conducted based on the annual summary of Title VI activities, accomplishments, and problems. The reviews will be conducted by the City to assure effectiveness in their compliance of Title VI provisions. The City Manager will coordinate efforts to ensure the equal participation in all their programs and activities at all levels. The City does not have any special emphasis programs at this time.

Title VI Reviews on Sub-recipients: Title VI compliance reviews will be conducted annually by the City Manager of the City. Priority for conducting reviews will be given to those recipients of federal (US Department of Transportation) funds with the greatest potential of impact to those groups covered by the act. The reviews will entail examination of the recipients' adherence to all Title VI requirements. The status of each review will be reported in the annual update and reported to relevant US Department of Transportation (US DOT) modes upon request.

Annual Report: An annual report will be required to be compiled by August 1 of each year. The City Manager of the City will be responsible for this report and it will be available by September 1 to the Michigan Department of Transportation and Federal Highway Administration if requested. This report will review Title VI accomplishments during the year and goals for the next year.

Title VI Plan Updates: An annual update of the Title VI program will be submitted by October 1 to the Michigan Department of Transportation.

Public Dissemination: The City will disseminate Title VI Program information to City employees and to the general public. Title VI Program information will be submitted to sub-recipients, contractors and beneficiaries. Public dissemination will include inclusion of Title VI language in contracts and publishing the Title VI Policy Statement on the City Internet website.

Remedial Action: The City, through the City Manager will actively pursue the prevention of Title VI deficiencies and violations and will take the necessary steps to ensure compliance with all program administrative requirements. When deficiencies are found, procedures will be promptly implemented to correct the deficiencies and to put in writing the corrective action(s). The period to determine corrective action(s) and put it/them in writing to effect compliance may not exceed 90 days from the date the deficiencies are found.

LIMITED ENGLISH PROFICIENCY

Compliance with Title VI includes Limited English Proficient (LEP) persons. Language barriers prohibit people who are LEP from obtaining services and information relating to transportation services and programs. The City personnel have been made aware of LEP requirements. The City has examined the services it provides and has developed and implemented a system by which LEP persons can meaningfully access those services consistent with Title VI compliance without unduly burdening the organization. Following are some of the procedures implemented to meet LEP:

- Material printed and distributed in languages other than English when determined necessary. Typically, this will be done when five percent or more of the individuals in an impacted area speak a language other than English.
- Individuals planning public meetings review the population of the affected area to determine LEP needs and make requests that individuals advise them of special needs.
- Reasonable steps to ensure meaningful access to City programs and activities by LEP persons have been implemented.
- Programs and activities normally provided in English are accessible to LEP persons and
- are therefore non-discriminatory on the basis of national origin in compliance with Title VI of the Civil Rights Act of 1964, as amended, and its implementing regulations.
- U.S. DOT guidelines require that recipients of federal financial assistance provide "meaningful access to programs and activities" by giving LEP persons adequate and understandable information and allowing them to participate in programs and activities, where appropriate. The recipient has to take "reasonable steps" to remove barriers for LEP individuals.

Reasonable steps will depend on:

- The number and proportion of LEP persons potentially served by the recipient's programs or activities and the variety of languages spoken in the recipient's service area.
- The frequency with which LEP individuals are affected by the program or activity.
- The importance of the effect of the recipient's program on LEP individuals.
- The resources available to the recipient and whether the recipient has budgeted for provision of special language services.
- The level of services provided to fully English proficient people.
- Whether LEP persons are being excluded from services or provided a lower level of services.
- Whether the recipient has adequate justification for restrictions, if any, on special language services or on speaking languages other than English.

FILING A COMPLAINT

I. Introduction

The Title VI complaint procedures are intended to provide aggrieved persons an avenue to raise complaints of discrimination regarding the City programs, activities and services as required by statute.

II. Purpose

The purpose of the discrimination complaint procedures is to describe the process used by the City for processing complaints of discrimination under Title VI of the Civil Rights Act of 1964 and related statutes.

III. Roles and Responsibilities

The City Manager of the City has overall responsibility for the discrimination complaint process and procedures. The City Manager may, at his/her discretion, assign a capable person to investigate the complaint. The designated investigator will conduct an impartial and objective investigation, collect factual information and prepare a fact-finding report based upon the information obtained from investigation.

IV. Filing a Complaint

In cases where the complainant is unable or incapable of providing a written statement, complainant will be assisted in converting the verbal complaint into a written complaint. All complaints, however, must be signed by the complainant and/or by the complainant's representative. The complainant shall make him- or herself reasonably available to the designated investigator, to ensure completion of the investigation within the time frames set forth.

- A. Applicability - The complaint procedures apply to the beneficiaries of City programs, activities and services, including but not limited to the public, contractors, sub- contractors, consultants and other sub-recipients of federal and state funds.
- B. Eligibility - Any person who believes that he/she has been excluded from participation in, denied benefits or services of any program or activity administered by the City or its sub-recipients, consultants and contractors on the basis of race, color, national origin (including Limited English Proficiency), sex, age or disability may bring forth a complaint of discrimination under Title VI.
- C. Time Limitation and Filing Options - Title VI complaints of discrimination may be filed with the Office of the City Manager.

Items that should not be considered a formal complaint (unless the item contains a signed cover letter specifically alleging a violation of Title VI) include but are not limited to:

- An anonymous complaint that is too vague to obtain required information
- Inquiries seeking advice or information
- Courtesy copies of court pleadings
- Courtesy copies of complaints addressed to other local, State or Federal agencies Newspaper articles
- Courtesy copies of internal grievances

V. Investigation

- A. Investigation Plan: The investigator shall prepare a written plan, which includes, but is not limited to the following:

- a. Names of the complainant(s) and respondent(s) Basis for the complaint
- b. Issues, events or circumstances that caused the person to believe that he/she has been discriminated against
- c. Information needed to address the issue
- d. Criteria, sources necessary to obtain the information Identification of key people
- e. Estimated investigation time line Remedy sought by the complainant(s)

B. Conducting the Investigation: The investigation will address only those issues relevant to the allegations in the complaint.

- a. Confidentiality will be maintained as much as possible.
- b. Interviews will be conducted to obtain facts and evidence regarding the allegations in the complaint. The investigator will ask questions to elicit information about aspects of the case.
- c. A chronological contact sheet is maintained in the case file throughout the investigation.

C. Investigation Reporting Process: Within 40 days of receiving the complaint, the investigator prepares an investigative report and submits the report and supporting documentation to the Office of the City Manager for review. The City Manager reviews the file and investigative report. Subsequent to the review, the City Manager makes a determination of "probable cause" or "no probable cause" and prepares the decision letter.

VI. Reporting Requirements to an External Agency

A copy of the complaint, together with a copy of the investigation report and the final decision letter will be forwarded to the Federal Highway Administration Michigan Division Office within 60 days of the date the complaint was received.

VII. Records

All records and investigative working files are maintained in a confidential area. Records are kept for three years.

Appendix Summary

Appendix A applies to all Federal-aid contracts and is included as a contract provision. Provisions include but are not limited to the following:

- A. Construction contracts and vendor/supply agreements.
- B. Consultant agreements for performance of work in connection with Federal-aid roadway projects. Typical contracts of this nature are for design work and environmental studies.
- C. Research agreements with colleges, universities or other institutions.
- D. Fee appraiser and fee attorney contracts in connection with Federally-aided right-of-way work.
- E. Contracts between the City and contractors for relocation of utilities. Appendix A would *not* apply if the utility itself or its contractor relocates utilities.

Appendix B covers determining or distinguishing significant and non-significant adverse effects.

Appendix C is applicable to all deeds, licenses, leases, permits and similar instruments. Examples:

- A. Leases and Property Management Agreements.
- B. Permits and Licenses, except where they are issued for the construction of utilities on roadway right-of-way, the cost of which is paid by the utility company without Federal participation.
- C. Tenancy Agreements.
- D. Air Space Agreements.
- E. Railroad Agreements.

Once the purpose for which the Federal financial assistance is extended terminates and/or the City no longer retains ownership or possession of the property Title VI Assurances do not apply. Examples of agreements where Appendix C is not applicable are as follows:

- Pit Agreements.
- Stockpiling Agreements.
- Relocation Agreements.
- Determination of Vacation and Abandonment.
- Quit Claim Deeds.
- Contracts with property owners, i.e., royalty agreements for obtaining materials.
- Warranty Deeds.

Appendix D outlines the plans for the compliance activities for the current plan year.

Appendix E represents the Title VI Complaint Form.

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 Regulations relative to non-discrimination in Federally-assisted programs of the Department of Transportation, Title 49, code of Federal Regulations, Part 21 as they may be amended from time to time, (hereinafter referred to as the Regulations), 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, shall 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 shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulation, including employment practices when the contractor covers a program set forth in Appendix B of the regulations.
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 shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to non-discrimination on the grounds of race, color, or national origin.
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 City of Berkley to be pertinent to ascertain compliance with such Regulations or directives. 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 State highway department, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Non-compliance:** In the event of the contractor's non-compliance with the non-discrimination provisions of this contract, the City of Berkley shall impose such contract sanctions as it or the Federal Highway Administration 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 through (6) in every subcontract, including procurement 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 City of Berkley 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 City of Berkley to enter into such litigation to protect the interests of the City, and, in addition, the contractor may request the State highway department to enter into such litigation to protect the interests of the State and/or the United States to enter into such litigation to protect the interests of the United States.

APPENDIX B

Determinations of "significant" and "non-significant" effects will be made by the City Manager. If an alternative would provide a beneficial effect, then the alternative would cause no significant adverse effect. If an alternative would provide an adverse effect, the effect might be significant or the effect might be non-significant.

Significantly requires considerations of both context and intensity:

- A. Context means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the local area rather than in the world as a whole. Both short- and long- term effects are relevant.
- B. Intensity refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects of a major action. The following should be considered in evaluating intensity:
 - 1. Impacts that may be both beneficial and adverse. A significant effect may exist even if, on balance, the effect would be beneficial.

Non-significant effect means no substantial change to an environmental component and thus no material bearing on the decision-making process.

Significant effect meaning shall be influenced by Scientific, technical, institutional, the public's value, and the local economic conditions.

APPENDIX C

The following clauses shall be included in all deeds, licenses, lease, permits, or similar instruments entered into by the City of Berkley.

The grantee, licensee, lessee, permittee, etc., (as appropriate) for himself or herself, his or 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 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 City of Berkley 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, Non-discrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

For inclusion in licenses, leases, permits, etc*:

That in the event of breach of any of the above non-discrimination covenants, the City of Berkley 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.

For inclusion in deeds*:

That in the event of breach of any of the above non-discrimination covenants, the City of Berkley shall have the right to re-enter said lands and facilities hereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of the City of Berkley and its assigns.

*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purpose of Title VI of the Civil Rights Act of 1964 and the Civil Rights Act of 1987.

APPENDIX D

Program Compliance/Program Review Goals for Current Plan Year:

1. The City Title VI Policy will be communicated to each City Department Head who will review the Policy with appropriate departmental employees.
2. The City Title VI Policy will be published on the City of Berkley Internet Web Site.
3. Appendix A will be included in all City contracts as outlined in the Title VI Plan.
4. The language in number 2 of the City of Berkley Title VI Assurance will be included in all solicitations for bids for work or material subject to the Regulations and in all proposals for negotiated agreements.
5. A procedure for responding to individuals with Limited English Proficiency will be developed.
6. Appropriate City employees will be trained on the LEP procedure and the Title VI complaint procedure.
7. A review of City facilities will be conducted in reference to compliance with the American with Disabilities Act.
8. The following data will be collected and reviewed by the City Manager and included, where appropriate, in the annual report submitted to MDOT.
 - a. Board and Commissions: The number of vacancies; how vacancies are advertised and filled; the number of applicants; the representation of minorities will be evaluated.
 - b. Public Meetings: The number of open meetings. How meeting dates and times communicated to the general public and to individuals directly effected by the meeting.
 - c. Construction Projects: The number of construction projects, number of minority contractor bidding and the number selected; Verification that Title VI language was included in bids and contracts for each project.
 - d. LED Needs. How many requests for language assistance were requested or required and the outcome of these requests.
 - e. Complaints: The number of Title VI complaints received; nature of the complaints; resolution of the complaints.
 - f. Timeliness of services: Number of requests for services; Amount of time from request to when service was delivered; Number of requests denied.
 - g. Right of Way/Imminent Domain: Numbers of such actions and diversity of individual affected.
 - h. Program Participants; Racial data of program participants where possible.

APPENDIX E

Title VI Discrimination Complaint Form begins next page.



**TITLE VI NON-DISCRIMINATION
 COMPLAINT FORM**

This form may be used to file a complaint with the City of Berkley based on purported violations of Title VI of the Civil Rights Act of 1964 and/or violations of the City of Berkley Non-Discrimination Policy as approved by the City Council of Berkley.

You are not required to use this form; a letter that provides the same information is sufficient to file a complaint. If you need assistance completing this form due to a physical impairment please contact the Office of the City Manager by phone at (248) 658-3350 or by email to cmo@berkleymich.net.

COMPLAINANT INFORMATION [Only the complainant or the complainant’s designated representative should complete this form.]

Name	
Street Address	
City, State, Zip code	
Primary Telephone	
Alternate Telephone	
Email Address	

If a designated representative completed this form on complainant’s behalf, please complete the following:

Name	
Relationship to Complainant	

COMPLAINT TIME LIMITATIONS & WAIVER REQUEST

Generally, complaints of discrimination must be filed within 180 days of the alleged discrimination. If the most recent date of discrimination listed was more than 180 days ago, you may request a waiver of the filing requirement.

If you wish to request a waiver, please explain what caused you to delay submitting a complaint until now:

ALLEGED DISCRIMINATING PARTY

Names of Individuals, if known:	
Departments, Agencies, or Programs:	
Frequency of Alleged Discrimination:	_____ Isolated occurrence _____ Reoccurring occurrences
Date Alleged Discrimination Began:	
Most Recent or Last date of Alleged Discrimination:	
Dates of Alleged Discrimination:	



**TITLE VI NON-DISCRIMINATION
 COMPLAINT FORM**

DETAILS OF ALLEGED DISCRIMINATION

Indicate Alleged Discrimination:	
	Age
	Disability
	Familial Status
	Gender Identity or Expression
	Genetic Information
	Height
	Marital Status
	National Origin
	Race/Color
	Religion
	Sex
	Sexual Orientation
	Veteran Status
	Weight
	Other Reasons <small>(in accordance with applicable federal or state laws)</small>

WITNESS INFORMATION

Please list any witnesses and any contact information you may have:

Please explain as clearly as possible what occurred. Indicate what witnesses may have witnesses and any other individuals involved in the alleged discrimination. (Attach additional sheets if necessary and provide a copy of written materials pertaining to your case.)

Signature of Complainant _____ Date _____

Note: The laws enforced by this department prohibit retaliation or intimidation against anyone because that individual has either taken action or participated in action to secure rights protected by these laws. If you experience retaliation or intimidation separate from the discrimination alleged in this complaint or if you have any question regarding the completion of this form, please contact the Office of the City Manager utilizing the contact information affixed to the top of this form.