

WILMAPCO Council:

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Director, Office of Planning and
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Mayor of Wilmington

Michael Spencer
Mayor of Newport

WILMAPCO Executive Director
Tigist Zegeye

WILMAPCO TITLE VI/NONDISCRIMINATION ASSURANCE

THE WILMINGTON AREA PLANNING COUNCIL (hereinafter referred to as WILMAPCO) hereby agrees that as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (U.S. DOT) through Federal Highway Administration (FHWA) and Federal Transit Administration (FTA), will comply with:

Statutory/Regulatory Authorities

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR Part 21, (*Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964*);
- 28 CFR section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);
- Section 1101(b) of MAP-21 and 49 CFR part 26 regarding the involvement of disadvantaged business enterprises in U.S. DOT funded projects;
- 23 CFR part 230, regarding the implementation of an equal employment opportunity program on Federal and Federal-aid highway construction contracts (including supportive services);
- The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), and 49 CFR parts 27, 37, and 38;
- The Older Americans Act, as amended (42 U.S.C. 6101), prohibiting discrimination on the basis of age in programs or activities receiving Federal financial assistance;
- Section 324 of title 23, U.S.C., regarding the prohibition of discrimination based on gender;
- Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and 49 CFR part 35 regarding discrimination against individuals with disabilities; and
- Executive Order #12898 regarding Environmental Justice and Executive Order #13166 regarding Limited English Proficiency



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

General Assurances

WILMAPCO further assures that in accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, it will promptly take any measures to necessary ensure that:

No person in the United States shall on the grounds of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any program or activity which is administered by WILMAPCO, regardless of the funding source.

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

WILMAPCO agrees to take affirmative action to ensure that applicants for employment, and employees during employment, are treated without regard to their race, creed, color, sex, age, disability, or national origin. Such action shall include, but not be limited to, employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training.

WILMAPCO agrees to comply with current regulations on Disadvantaged Business Enterprise (DBE) participation in accordance with 49 CFR Part 26. WILMAPCO also agrees to take all necessary and reasonable steps required by U.S. DOT regulations to ensure that eligible DBE's have the maximum feasible opportunity to participate in third-party contracts financed with Federal financial assistance. Third-party grantees who meet the threshold for DBE programs shall comply with U.S. DOT regulations surrounding proper payment and return of retainage for subcontractors.

Specific Assurances

More specifically, and without limiting the above general assurances WILMAPCO hereby gives the following specific assurances with respect to its programs:

1. That WILMAPCO agrees that each "program" and each "facility" as defined in subsections 21.23(e) and 21.23(b) of 49 CFR Part 21, will be facilitated, or conducted, or will be operated in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.



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2. That WILMAPCO shall insert, in all solicitations for bids for work or material subject to the Regulations, the U.S. DOT mandatory language and notifications regarding non-discrimination, solicitation for subcontractors which notifies subcontractors and vendors of the obligations to comply with the Regulations, termination as a sanction for breach of the required provisions, and incorporation of the mandatory language in all subcontracts made in connection with all federally-funded activities.
3. That WILMAPCO shall insert the clauses found in Appendix 1 and Appendix 2 of this Assurance in every contract or agreement subject to the acts and the regulations as a covenant running with the land, in any deed form.
4. WILMAPCO shall provide for such methods of administration for a program as are found by the U.S. Secretary of Transportation, or the official to whom he/she delegates specific authority, to give reasonable guarantee that it, other recipients, sub-grantees, contractors, subcontractors, transferees, successors in interest, and other participants of Federal financial assistance under that program will comply with all requirements imposed or pursuant to the Act, the Regulations and this Assurance.
5. WILMAPCO agrees that the U.S. DOT has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and this Assurance.

By signing this Assurance, WILMAPCO also agrees to comply (and agrees to require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the U.S. DOT access to records, accounts, documents, information, facilities, and staff. WILMAPCO will also comply with any program or compliance reviews, and/or complaint investigations conducted by U.S. DOT and/or the Maryland Department of Transportation (MDOT) or Delaware Department of Transportation (DelDOT). WILMAPCO will keep records, reports, and submit the material for review upon request to U.S. DOT, MDOT, and DelDOT, or its designee in a timely, complete, and accurate way. WILMAPCO will comply with all of the reporting, data collection, and evaluation requirements as prescribed by law or detailed in program guidance.

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 WILMAPCO and is binding on it, other recipients, sub-grantees, contractors, subcontractors, transferees, successors in interest and other participants in its programs. The person signing below is authorized to sign this Assurance on behalf of WILMAPCO.



Tigist Zegeye, Executive Director

January 4, 2021

Date

WILMAPCO TITLE VI/NONDISCRIMINATION ASSURANCE

APPENDIX 1

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 Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration (FHWA), or Federal Transit Administration (FTA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, 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 (FHWA), or Federal Transit Administration (FTA) 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 (FHWA), or Federal Transit Administration (FTA), 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 (FHWA), or Federal Transit Administration (FTA) may determine to be appropriate, including, but not limited to:

- withholding payments to the contractor under the contract until the contractor complies; and/or



- 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 five 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 (FHWA), or Federal Transit Administration (FTA) 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 DOT to enter into the litigation to protect the interests of the United States DOT

APPENDIX 2

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

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- 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);
- 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;

- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination 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).