



# CITY COUNCIL AGENDA REPORT

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MEETING DATE: November 1, 2016

ITEM NUMBER: **CC-4**

**SUBJECT:** AMEND EXISTING TITLE VI PROGRAM FOR THE USE OF FEDERAL TRANSIT ADMINISTRATIVE FUNDING

**DATE:** OCTOBER 19, 2016

**FROM:** CEO'S OFFICE – HUMAN RESOURCES DIVISION / PUBLIC SERVICES DEPARTMENT

**PRESENTATION BY:** JULIE SCHALL, HUMAN RESOURCES ANALYST  
BALTAZAR MEJIA, CITY ENGINEER

**FOR FURTHER INFORMATION CONTACT:** LANCE NAKAMOTO,  
HUMAN RESOURCES MANAGER (714) 754-5172

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## **RECOMMENDATION:**

Staff recommends that the City Council amend the City's existing Title VI Plan (Attachments 1 & 2) as required by the California Department of Transportation.

## **BACKGROUND:**

On April 5, 2012, Costa Mesa City Council adopted the City's current Title VI Plan which was required by Federal Transit Administration (FTA) guidelines for grant funding compliance purposes. At that time, the City was a sub-recipient of \$500,000 in grant funding from the FTA for the construction of the Fairview Channel Multipurpose Trail Project.

On September 22<sup>nd</sup> through 24<sup>th</sup> 2015, representatives from the California Department of Transportation (Caltrans) conducted a compliance review of the City's Title VI Plan. As a result of Caltrans' review, the City was directed to update the existing Title VI Plan and include Executive Order 12898 "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" and Executive Order 13166 "Improving Access to Services for Persons with Limited English Proficiency."

## **ANALYSIS:**

Title VI of the Civil Rights Act of 1964 provides that "no person in the United States shall, on the grounds of race, color, national origin, age, sex, or disability be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance." 42 U.S.C. § 2000d. To fulfill this basic civil rights mandate, each federal agency that provides financial assistance for any program is authorized and directed by the United States Department of Justice (U.S. DOJ) to apply provisions of Title VI to each program by issuing general rules, regulations, or requirements. Since 1972, the FTA has required recipients and non-transit grant sub-recipients of Federal assistance to comply with the requirements of Title VI as part of the funding eligibility process. Local governmental agencies that are recipients or sub-recipients of federal financial assistance are required to comply with Title VI. 42 U.S.C. §

2000d-4a. Caltrans is required to conduct a review of these agencies to ensure compliance with Title VI. 23 C.F.R. § 200.9(b)(7). The City, as a sub-recipient of federal FTA funding, is required to comply with Title VI. See 42 U.S.C. §§ 2000d & 2000d-4a. These requirements include: notification to the public of Title VI's protections; development of public complaint procedures; development of a Title VI program; designation of a Title VI coordinator; training to staff; and meaningful access to persons of limited English proficiency. See 49 C.F.R. § 219; 29 C.F.R. § 42.414; 23 C.F.R. § 200.9; 65 Fed. Reg. 50, 121. Failure to comply with Title VI can lead to a refusal to grant or continue FTA funding, initiation of judicial proceedings by the U.S. DOJ, as well as actions for damages and injunctive relief by private persons. See Title VI Legal Manual, U.S. DOJ, January 11, 2001, §§ XII & XIII; *Alexander v. Sandoval* (2001) 532 U.S. 275, 278 (private individuals may sue to enforce section 601 of Title VI).

Based on the Compliance Review Findings and Recommendations (Attachment 3) issued to the City by Caltrans on January 11, 2016, City staff analyzed the existing Title VI Plan in conjunction with other agencies' Title VI Plans to provide comprehensive revisions.

The revisions to the plan are intended to enhance the City's compliance with its obligations to ensure that members of the community are informed of their rights under Title VI of the Civil Rights Act of 1964 and related statutes. The updates for compliance include notifying the public of their Title VI rights, administering a Limited English Proficiency Plan, and updating the City's website in order for the Title VI program to be easily accessed by members of the community.

**ALTERNATIVES CONSIDERED:**

No other alternatives have been considered. Amendment of the City's Title VI Plan is required by the FTA for continued use of federal grant funding.

**FISCAL REVIEW:**

The fiscal impacts of this program are primarily based upon the need for translation services and an estimate is unknown at this time. Costs to the City would occur based on requests from community members seeking translation services or accommodations needed to participate in City meetings or programs. Translation services performed by City staff would not result in additional costs. In addition, the City has an existing contract with Continental Interpreting Service Inc. to provide translations services for languages and services not currently provided by City staff.

**LEGAL REVIEW:**

The City Attorney's Office has reviewed the attached documents and, where appropriate, approved them as to form.

**CONCLUSION:**

Staff recommends that the City Council amend the City's current Title VI Plan in order to bring the program into compliance as required by the California Department of Transportation.

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Human Resources Analyst

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LANCE M. NAKAMOTO  
Human Resources Manager

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BALTAZAR MEJIA  
City Engineer

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RAJA SETHURAMAN  
Interim Public Services Director

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TAMARA S. LETOURNEAU  
Assistant Chief Executive Officer

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THOMAS DUARTE  
City Attorney

ATTACHMENTS:    1    [Title VI Program with Track Change](#)  
                          2    [Title VI Program Revised Version](#)  
                          3    [Compliance Review Findings and Recommendations](#)

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