

RESOLUTION 21-124

A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, ADOPTING AN AMENDED NON-DISCRIMINATION POLICY TO ENSURE ACCESS TO CITY PROGRAMS, SERVICES, AND ACTIVITIES AND REPEALING ALL POLICIES IN CONFLICT.

BE IT RESOLVED by the City Council of the City of Panama City Beach, from and after the effective date of this Resolution, that the Nondiscrimination Policies attached and incorporated herein as Exhibit A to this Resolution, are hereby adopted.

AND BE IT FURTHER RESOLVED that all policies or resolutions or parts of resolutions or policies in conflict herewith are repealed to the extent of such conflict.

THIS RESOLUTION shall be effective immediately upon passage.

PASSED in regular session this 25 day March, 2021.

CITY OF PANAMA CITY BEACH

By: 
Mark Sheldon, Mayor

ATTEST:


Lynne Fasone, City Clerk

**CITY OF PANAMA CITY BEACH
TITLE VI/ NONDISCRIMINATION POLICY AND PLAN**

I. POLICY STATEMENT:

The City of Panama City Beach values diversity and welcomes input from all interested parties, regardless of cultural identity, background, or income level. Moreover, the City believes that the best programs and services result from careful consideration of the needs of all communities and when those communities are involved in the transportation decision-making process. Thus, the City does not tolerate discrimination in any of its programs, services or activities. Pursuant to Title VI of the Civil Rights Act of 1964 and other federal and state authorities, the Agency will not exclude from participation in, deny the benefits of, or subject to discrimination anyone on the grounds of race, color, national origin, sex, age, disability, religion or family status.

II. TITLE VI/ NONDISCRIMINATION ASSURANCE

Pursuant to Section 9 of US DOT Order 1050.2A, the City of Panama City Beach assures the Florida Department of Transportation (FDOT) that no person shall on the basis of race, color, national origin, sex, age, disability, family or religious status, as provided by Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, the Florida Civil Rights Act of 1992, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination or retaliation under any program or activity.

The City of Panama City Beach further assures FDOT that it will undertake the following with respect to its programs and activities:

1. Designate a Title VI Coordinator that has a responsible position within the organization and access to the Recipient's City Manager.
2. Issue a policy statement signed by the City Manager, which expresses its commitment to the nondiscrimination provisions of Title VI. The policy statement shall be circulated throughout the Recipient's organization and to the general public. Such information shall be published where appropriate in languages other than English.
3. Insert the clauses of *Appendices A and E* of this agreement in every contract subject to the Acts and the Regulations.
4. Develop a complaint process and attempt to resolve complaints of discrimination against sub-recipients. Complaints against the Recipient shall immediately be forwarded to the FDOT District Title VI Coordinator.
5. Participate in training offered on Title VI and other nondiscrimination requirements.
6. If reviewed by FDOT or USDOT, take affirmative action to correct any deficiencies found within a reasonable time period, not to exceed ninety (90) calendar days.
7. Have a process to collect racial and ethnic data on persons impacted by

your agency's programs.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all federal funds, grants, loans, contracts, properties, discounts or other federal financial assistance under all programs and activities and is binding. The person whose signature appears below is authorized to sign this assurance on behalf of the Recipient.

Dated 03/15/2021

by 
Interim City Manager
Albert Shott

APPENDICES A and E

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 nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation (hereinafter, "USDOT") 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 Agreement.
- (2.) **Nondiscrimination:** The Contractor, with regard to the work performed during the contract, shall not discriminate on the basis of race, color, national origin, sex, age, disability, religion or family status 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 Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- (3.) **Solicitations for Subcontractors, including Procurements of Materials and Equipment:** In all solicitations made by the Contractor, either by competitive bidding or negotiation for work to be performed under a subcontract, including procurements of materials or leases of equipment; each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this contract and the Regulations relative to nondiscrimination on the basis of race, color, national origin, sex, age, disability, religion or family status.
- (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 *Florida Department of Transportation, the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety Administration* to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information the Contractor shall so certify to the *Florida Department of Transportation, the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety Administration* as appropriate, and shall set forth what efforts it has made to obtain the information.

(5.) **Sanctions for Noncompliance:** In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, the *Florida Department of Transportation* shall impose such contract sanctions as it or the *Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety 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 (1) through (7) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontract or procurement as the

Florida Department of Transportation, the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. In the event a Contractor becomes involved in, or is threatened with, litigation with a sub-contractor or supplier as a result of such direction, the Contractor may request the *Florida Department of Transportation* to enter into such litigation to protect the interests of the *Florida Department of Transportation*, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

- (7.) **Compliance with Nondiscrimination Statutes and 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 non-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).

III. COMPLAINT PROCEDURES:

The City of Panama City Beach has established a discrimination complaint procedure and will take prompt and reasonable action to investigate and eliminate discriminatory actions. Any person who believes that he or she has been subjected to discrimination based upon race, color, national origin, sex, religion, age, disability or family status may file a complaint with the City of Panama City Beach's Title VI Officer:

Name of Title VI Officer: Wyatt Rothwell
Address: 116 South Arnold Road, Panama City Beach, FL. 32413
Phone number: (850) 233-5100 EXT 2421
FAX: (850) 233-5116
Email: wyatt.rothwell@pcbfl.gov

In addition, or in lieu of the City:

Florida Department of Transportation
Equal Opportunity Office
ATTN: Title VI Complaint Processing
605 Suwannee Street MS 65
Tallahassee, FL 32399

If possible, the complaint should be submitted in writing and contain the identity of the complainant; the basis for the allegations (ie, race, color, national origin, sex, religion, age, disability or family status); and a description of the alleged discrimination with the date of occurrence. If the complaint cannot be submitted in writing, the complainant should contact the City of Panama City Beach's Title VI Officer for assistance.

The Title VI Officer will respond to the complaint within thirty (30) days and will take reasonable steps to resolve the matter. Should the City of Panama City Beach be unable to satisfactorily resolve the complaint, the Title VI Officer will forward the complaint, along with a record of its disposition, to the Florida Department of Transportation (FDOT), Equal Opportunity Office, Statewide Title VI Coordinator. FDOT will assume jurisdiction over the complaint for continued processing.

The Agency Title VI Coordinator has 'easy access' to the Agency Chief Executive Officer (CEO) and is not required to obtain management or other approval to discuss discrimination issues with the CEO. However, should the complainant be unable or unwilling to complain to the Agency, the written complaint may be submitted directly to

Florida Department of Transportation (FDOT). FDOT serves as a statewide clearinghouse for Title VI purposes and will either assume jurisdiction over the complaint or forward it to the appropriate federal or state authority for continued processing:

Florida Department of Transportation
Equal Opportunity Office
ATTN: Title VI Complaint Processing
605 Suwannee Street MS 65
Tallahassee, FL 32399

IV. ADA/504 STATEMENT:

The City of Panama City Beach makes great effort to ensure that its facilities, programs, services, and activities are available to those with disabilities. The City of Panama City Beach encourages its citizenry to report any facility, program, service or activity that appears inaccessible to the disabled. Furthermore, the City of Panama City Beach will provide reasonable accommodation to disabled individuals who wish to participate in public involvement or other events, with advance notification of seven (7) days.

Questions, concerns, comments or requests for accommodation should be made to the City of Panama City Beach's ADA Officer:

Name of ADA Officer: Wyatt Rothwell
Address: 116 South Arnold Road, Panama City Beach, FL. 32413
Phone number: (850) 233-5100 EXT 2421
FAX: (850) 233-5116
Email: wyatt.rothwell@pcbfl.gov

V. LIMITED ENGLISH PROFICIENCY (LEP) GUIDANCE:

Executive Order 13166 and title VI of the Civil Rights Act of 1964 prohibits recipients of federal financial assistance from discriminating based on national origin by, among other things, failing to provide meaningful access to individuals who are limited English proficient (LEP). All recipients and sub-recipients of federal funding are required to take reasonable steps to provide meaningful access to LEP individuals.

In adherence with Federal regulations, the City of Panama City Beach will make reasonable efforts to ensure its programs, services and activities are meaningfully accessible to those who do not speak English proficiently. To determine if or when alternate language usage is required for meaningful access, the City of Panama City Beach will assess the program, service or activity using the following four factors.

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by City of Panama City Beach's programs, services or activities.

2. The frequency with which LEP individuals come in contact with these programs, services or activities.
3. The nature and importance of the program, service, or activity to people's lives and;
4. The resources available to the City of Panama City Beach and costs.

1. Using census data, the City of Panama City Beach has determined that LEP individuals speaking English less than well represent approximately 3.30% of the community. The City of Panama City Beach realizes that such statistical data can become outdated or inaccurate. Therefore, the City of Panama City Beach contacted local law enforcement, social services agencies and the school board to validate the proportion of LEP served by those entities. Spanish was reported to be the prevalent LEP language with an estimate of 3.30% eligible to be served.

2. The City of Panama City Beach has not received requests for translation or interpretation of its programs, services or activities into Spanish or other language(s). In addition, City of Panama City Beach sponsored community outreach or public events are not attended by significant numbers of LEP individuals' speakers. Thus, the City of Panama City Beach estimates its contact with LEP individuals to be infrequent.

3. The City of Panama City Beach believes that transportation is of critical importance to its public, as access to health care, emergency services, employment, and other essentials would be difficult or impossible without reliable transportation systems. In that spirit, the City of Panama City Beach defines as essential any document that advises the public of how to access nondiscrimination and public involvement policies, as well as those that impact public safety, health and welfare and emergency services. A full list of translated documents can be requested through the City Clerk or Communication Director.

4. The City of Panama City Beach is fortunate to house within/near its jurisdiction one or more institutions of higher education which have extensive language resources. Further, the City of Panama City Beach maintains cordial relationships with faith based and/or community organizations that offer competent language services at low or no cost to the City of Panama City Beach.

The analyses of these factors suggest that LEP services are not required at this time. At a minimum, the City of Panama City Beach commits to:

- Provide public notification in the LEP language of the availability of language assistance, free of charge with a 7 day notice.

The Agency understands that its community characteristics change and that the four factor analysis may reveal the need for more or varied LEP services in the future. As such, it will at least triennially examine its LEP plan to ensure that it remains reflective of the community's needs.

Persons requiring special language services should contact the City of Panama City Beach's Title VI Coordinator:

Name: Lori Philput

Address: 17007 Panama City Beach Parkway, Panama City Beach Florida 32413

Phone number: (850) 233-5100 EXT 2409

Fax: (850) 233-5116

Email: lori.philput@pcbfl.gov

The City of Panama City Beach will conduct an annual assessment of this policy by reviewing census and county labor-market data or review of statistics from school systems, community agencies and organizations and comparison to demographic data.

The City's LEP Policy statement will be updated annually to ensure compliance with federal laws.

VI. PUBLIC INVOLVEMENT:

In order to plan for efficient, effective, safe, equitable and reliable transportation systems, the City of Panama City Beach must have the input of its public. The City of Panama City Beach spends extensive staff and financial resources in furtherance of this goal and strongly encourages the participation of the entire community. The City of Panama City Beach hosts an informative website that advises the public how it can access information and provide input. The Agency also holds public meetings, workshops and other events designed to gather public input on program/project planning and construction. Further, the City of Panama City Beach sponsors, attends, and participates in other community events to promote its services to the public. Finally, the City of Panama City Beach is constantly seeking ways of measuring the effectiveness of its public involvement.

Persons wishing to request special presentations by the City of Panama City Beach; volunteer in any of its activities; offer suggestions for improvement; or to simply learn more about Agency programs and services should visit:

Or contact:

Name and Title: Debbie Ward Communication

Address: 17007 Panama City Beach Parkway, Panama City Beach Florida, 32413

Email: Debbie.ward@pcbfl.gov

Phone: 850-233-5100 EXT. 2261

VII. DATA COLLECTION:

FHWA regulations require federal-aid recipients to collect racial, ethnic and other similar demographic data on beneficiaries of or those affected by transportation programs, services and activities. The City of Panama City Beach accomplishes this through the use of census data, American Community Survey reports, Environmental Screening Tools (EST), driver and ridership surveys, its community development department and other methods. From time to time, the City of Panama City Beach may find it necessary to request voluntary identification of certain racial, ethnic or other data from those who participate in Agency programs, services or activities. This information assists the Agency with improving service equity and ensuring effective outreach. Self identification of personal data to the City of Panama City Beach will *always* be voluntary and anonymous. Moreover, the City of Panama City Beach will not release or otherwise use this data in any manner inconsistent with the FHWA regulations.