CITY COUNCIL RESOLUTION NO. 2019-011

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LIVE OAK FLORIDA, ADOPTING A NONDISCRIMINATION POLICY PURSUANT TO TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, AND THE CIVIL RIGHTS RESTORATION ACT OF 1987, AND THE FLORIDA CIVIL RIGHTS ACT OF 1992; ADOPTING FURTHER ASSURANCES TO THE FLORIDA DEPARTMENT OF TRANSPORTATION PURSUANT TO SECTION 9 OF ORDER 1050.2A, OF THE U.S. DEPARTMENT OF TRANSPORTATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Live Oak, Florida ("City") receives both federal and state aid for various projects; and

WHEREAS, the Federal Highway Administration ("FHWA") and the Florida Department of Transportation ("FDOT") require the City adopt certain policies and plan to assure compliance with the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, the Florida Civil Rights Act of 1992, and Section 9 of Order 1050.2A, of the U.S. Department of Transportation; and

WHEREAS, the City has sought to protect the civil rights and liberties of its citizens as well as fellow Americans and seeks to work further with the FDOT and FHWA by adopting written policies and assurances such as the *Title VI / Nondiscrimination Assurance* (attached hereto as Exhibit A) and the *Title VI / Nondiscrimination Policy and Plan for Sub-Recipients in FDOT Local Agency Program (LAP)* (attached hereto as Exhibit B); and

WHEREAS, the City will ensure that the clauses of *Appendices A and E* of the *Title VI / Nondiscrimination Assurance* are included in every contract the City

adopts that are subject to the Acts and Regulations of the two aforementioned documents.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LIVE OAK, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are all true and accurate and are incorporated herein and made a part of this resolution.

Section 2. The City administration, or Mayor, is hereby authorized to execute the *Title VI / Nondiscrimination Assurance* and the *Title VI / Nondiscrimination Policy and Plan for Sub-Recipients in FDOT Local Agency Program (LAP).*

Section 3. The City administration is directed to ensure that the clauses of *Appendices A and E* of the *Title VI / Nondiscrimination Assurance* are included within every relevant contract the City adopts.

Section 4. Severability. If any provision or portion of this resolution or the adopted policies, is declared by any court of competent jurisdiction to be void, unconstitutional or unenforceable, then all remaining provisions and portions of this resolution shall remain in full force and effect.

Section 5. Conflict. All resolutions, and policies, or portions of such found in conflict with this resolution are hereby repealed to the extent of such conflict.

Section 6. Effective Date. This resolution shall become effective upon adoption.

PASSED AND ADOPTED at a meeting of the City Council this 9th day of July, 2019.

CITY OF LIVE OAK, FLORIDA

By: _____
Frank Davis, Mayor

ATTEST:

By: _____
John Gill, City Clerk

APPROVED AS TO FORM AND LEGALITY:

By: _____
Frederick L. Koberlein, Jr., City Attorney

CITY OF LIVE OAK
CORPORATE SEAL
SUWANNEE COUNTY, FLORIDA

EXHIBIT A

TITLE VI/ NONDISCRIMINATION ASSURANCE

Pursuant to Section 9 of US DOT Order 1050.2A, the City of Live Oak 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 and other nondiscrimination authorities 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 Live Oak further assures FDOT that it will undertake the following with respect to its programs and activities:

1. Designate a Title VI Liaison that has a responsible position within the organization and access to the Recipient's Chief Executive Officer.
2. Issue a policy statement signed by the Chief Executive Officer, 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 7-9-2019

by _____, Chief Executive Officer

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).

EXHIBIT B

Title VI/Nondiscrimination Policy and Plan for Sub-Recipients in the FDOT Local Agency Program (LAP)

I. Policy Statement:

The City of Live Oak (hereinafter the Agency) values diversity and welcomes input from all interested parties, regardless of cultural identity, background or income level. Moreover, the Agency believes that the best programs and services result from careful consideration of the needs of all of its communities and when those communities are involved in the transportation decision-making process. Thus, the Agency 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. Nondiscrimination Assurances:

Every three years, or commensurate with a change in executive leadership, the Agency must certify to Federal Highway Administration (FHWA) and Florida Department of Transportation (FDOT) that its programs, services and activities are being conducted in a nondiscriminatory manner. These certifications are termed 'assurances' and serve two important purposes. First, they document Agency commitment to nondiscrimination and equitable service to its community. Second, they serve as a legally enforceable agreement by which the Agency may be held liable for breach. Those wishing to view the Agency's Nondiscrimination Assurance may do so by visiting the Agency website or administration offices.

III. Complaint Procedures:

The Agency has established a discrimination complaint procedure and will take prompt and reasonable action to investigate and eliminate discrimination when found. 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 in any Agency program, service or activity may file a complaint with the Agency Title VI/Nondiscrimination Coordinator:

Name:	Mr. Ron E. Williams, City Manager
Address:	101 White Ave SE Live Oak, FL 32064
Email:	rwilliams@cityofliveoak.org
Phone:	386-362-2276
Hearing Impaired:	Accommodations made upon request.

If possible, the complaint should be submitted in writing and contain the identity of the complainant; the basis for the allegations (i.e., 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 Title VI/Nondiscrimination Coordinator for assistance.

The Title VI/Nondiscrimination Coordinator will respond to the complaint within thirty (30) calendar days and will take reasonable steps to resolve the matter. Should the Agency be unable to satisfactorily resolve a complaint, the Agency will forward the complaint, along with a record of its disposition to the appropriate FDOT District Office.

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 Posted Statement:

Section 504 of the Rehabilitation Act of 1973 (Section 504), the Americans with Disabilities Act of 1990 (ADA) and related federal and state laws and regulations forbid discrimination against those who have disabilities. Furthermore, these laws require federal-aid recipients and other government entities to take affirmative steps to reasonably accommodate those with disabilities and ensure that their needs are equitably represented in transportation programs, services and activities.

The Agency will make every effort to ensure that its facilities, programs, services, and activities are accessible to those with disabilities. The Agency will also make every effort to ensure that its advisory committees, public involvement activities and all other programs, services and activities include representation by communities with disabilities and disability service groups.

The Agency encourages the public to report any facility, program, service or activity that appears inaccessible to those who are disabled. Furthermore, the Agency will provide

reasonable accommodation to individuals with disabilities who wish to participate in public involvement events or who require special assistance to access facilities, programs, services or activities. Because providing reasonable accommodation may require outside assistance, organization or resources, the Agency asks that requests be made at least 60 calendar days prior to the need for accommodation.

Questions, concerns, comments or requests for accommodation should be made to the Agency ADA Officer:

Name:	Mr. Ron E. Williams, City Manager
Address:	101 White Ave SE Live Oak, FL 32064
Email:	rwilliams@cityofliveoak.org
Phone:	386-362-2276
Hearing Impaired:	Accommodations made upon request.

V. Limited English Proficiency (LEP) Guidance:

Title VI of the Civil Rights Act of 1964, Executive Order 13166, and various directives from the US Department of Justice (DOJ) and US Department of Transportation (DOT) require federal-aid recipients to take reasonable steps to ensure meaningful access to programs, services and activities by those who do not speak English proficiently. To determine the extent to which LEP services are required and in which languages, the law requires the analysis of four factors:

- The number or proportion of LEP persons eligible to be served or likely to be encountered by the City/County's programs, services or activities;
- The frequency with which LEP individuals come in contact with these programs, services or activities;

- The nature and importance of the program, service, or activity to people's lives and;
- The resources available to the City/County and the likely costs of the LEP services.

1. Using census data, the Agency has determined that LEP individuals speaking English less than well represent approximately 7.70 % of the community. The Agency realizes that such statistical data can become outdated or inaccurate. Therefore, the Agency 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 39.00 % eligible to be served.

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

3. The Agency 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 agency 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 is available on the Agency website or by contacting the Agency Title VI/Nondiscrimination Coordinator.

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

employs a number of proficient Spanish speakers that are able to interpret and/or provide translation services.

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

- Maintain a list of employees who competently speak the LEP language(s) and who are willing to provide translation and/or interpretation services.
- Distribute this list to staff that regularly has contact with the public.
- Provide public notification in the LEP language of the availability of language assistance, free of charge.

In addition, the Agency will:

Utilize online translation services and/or contact a translation service as needed.

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 Agency's Title VI/Nondiscrimination Coordinator.

VI. Public Involvement:

In order to plan for efficient, effective, safe, equitable and reliable transportation systems, the Agency must have the input of its public. The Agency spends extensive staff and financial resources in furtherance of this goal and strongly encourages the participation of the entire community. The Agency 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 Agency sponsors, attends and participates in other community events to promote its services to the public. Finally, the Agency is constantly seeking ways of measuring the effectiveness of its public involvement.

Persons wishing to request special presentations by the Agency; volunteer in any of its activities; offer suggestions for improvement; or to simply learn more about Agency programs and services should visit: http://www.cityofliveoak.org

Or contact:

Name and Title: John Gill, City Clerk

Address: 101 White Ave SE
Live Oak, FL 32064

Email: jgill@cityofliveoak.org

Phone: 386-362-2276

Hearing Impaired: Accommodations are made upon request.

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 Agency 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 Agency 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 Agency will *always* be voluntary and anonymous. Moreover, the Agency will not release or otherwise use this data in any manner inconsistent with the FHWA regulations.