

MATANUSKA-SUSITNA BOROUGH
MARAD TITLE VI PROGRAM PLAN

JUNE 20, 2024

High-level description of the MARAD funded project and the recipient agency:

Port MacKenzie (Port), located within and owned by the Matanuska-Susitna Borough (MSB) Construction of the Port began in 1999 and consists of a 375' sheet pile face barge dock, a 1,200' long deep-draft dock, and a bow ramp. The Port is still developing, and in need of improved cargo handling equipment to meet the regional and national needs of the commercial maritime industry operating in Cook Inlet. The purpose of the MSB applying for this grant is to obtain a rough terrain crane to facilitate the loading and unloading of cargo and freight from the deep-draft dock, the barge dock, and the bow ramp. Additionally, the crane will be used for managing freight and materials that are being stored on the gravel pad and lay down area adjacent to the docks.

Port MacKenzie is a small, rural, coastal port located in Upper Cook Inlet on the west side of Knik Arm. The Port is approximately two miles across the water from the Port of Alaska in Anchorage. While it is notably two miles by water from Anchorage, the state's population center, it is 75 miles by road to Anchorage. It is accessible by road from the George Parks Highway, via Knik-Goose Bay Road and W Point MacKenzie Road, and sits 40 road miles south of the largest population center in the Matanuska-Susitna Borough (Wasilla, AK).

Port MacKenzie is recognized as "...an economic engine for resource development in Alaska, "according to its 2016 adopted Master Plan. Regions of Alaska serviced by the port are statewide and include Cook Inlet and North Slope oil and gas fields, as well as movement of goods and services to Alaska Native villages in the Yukon-Kuskokwim Delta in southwestern Alaska. Outside of the state, exports are typically destined to ports in Asia. Using its strategic location, the Port was envisioned to specialize in bulk commodity exports for resources such as gravel, coal, timber, wood products, and cement. More than 9,000 acres in the adjacent uplands have been zoned as a "Port District", and the lands are planned to support Port activity, and drive opportunities for economic development.

Infrastructure at the port is currently limited to a trestle-accessible deep-water marine port with 1,200-foot deep-draft dock, a small bow ramp, and a 14.7-acre open-cell barge dock. The installation of sleeves to reinforce dock pilings is underway and funded by an EDA grant. The lack of vessel-to-shore equipment and water-to-uplands infrastructure is a significant barrier for operations. Many industries (LNG, timber curing, bulk fuel storage, solid waste disposal, sewage treatment, peat process) have expressed interest in using port facilities but are not currently using the docks. Once completed, the Alaska Railroad's "Port MacKenzie Rail Extension" will dramatically increase transportation of goods and services, as well as encourage bulk commodity exports, but the port needs the infrastructure to accommodate the increasing opportunities. The deep-draft and open-cell barge docks are suitable for a variety of vessel types but the equipment to address activities after vessels dock are needed.

The Matanuska-Susitna Borough intends to use the MARAD grant, and local match to purchase a 75-ton, or larger, rough terrain crane to provide cargo and freight handling operations on the deep-draft dock, the barge dock, and the bow ramp, known as the "Port MacKenzie Rough Terrain Cargo Crane Project" (Project) at a total cost of \$1,181,005. The Project is providing essential infrastructure for the Port by addressing the need for a crane to facilitate the safe and efficient movement of freight and cargo at a location that is a gateway to southcentral and interior parts of Alaska; and a location

that is strategic and provides critical port infrastructure for addressing resiliency and redundancy in the event that the Port of Alaska (in Anchorage) had to close due to an unforeseen natural disaster or emergency negatively impacting road and rail transportation corridors.

Community Information:

The Matanuska-Susitna Borough has an estimated population for 2023 of 113,920, while Point MacKenzie CDP, the community surrounding Port MacKenzie, has a 2023 estimated population of 2117. The purchase of a rough terrain crane to handle and manage cargo and freight, will facilitate a variety of new business opportunities, as well as the possibilities for the Port to be recognized as a bulwark of resiliency and redundancy in the event it needed to be utilized for emergency purposes. Although located on the road system, and just two nautical miles from Anchorage, the port is rural and remote, and the distance to the nearest major community is approximately 40 miles away, which isn't realistic for many business owners hoping to use the Port for import or export activities.

The Matanuska-Susitna Borough owns Port MacKenzie and the surrounding area and will not be acquiring any other property in association with this project.

Notification to Beneficiaries and Participants:

The Matanuska-Susitna Borough has developed a policy in addition to the sections of our Borough Code of Ordinances, that outlines the public's rights, the notice is included as Attachment A to this plan. The borough webpage regarding Title VI can be found at: <https://transparency.matsugov.us/pages/341fc680984b456eae3cd0d03146603> and includes a copy of this plan, along with the Policy. This policy is posted on the bulletin board in the main lobby of the Matanuska-Susitna Borough Building.

Complaint Procedures:

The Matanuska-Susitna Borough has developed a Complaint procedure that is outlined in Attachment B, the Human Resources Director and Staff are the principal investigators, with contact information provided in the complaint process. Attachment C is a copy of the Complaint form. Both the complaint form and procedure can be found on the Title VI page of the Borough website at <https://transparency.matsugov.us/pages/341fc680984b456eae3cd0d03146603>.

External Lawsuits, Investigations or Complaints Alleging Discrimination:

The Matanuska-Susitna Borough has NO complaints at this time.

Status of Corrective Actions Implemented by Recipient to Address Deficiencies Previously Identified During a Civil Rights Compliance Review:

The Matanuska-Susitna Borough has NO complaints at this time.

Planning and Advisory Board Membership:

The Matanuska-Susitna Borough has 52 Advisory boards with a total of 318 Assembly appointed members, we do not ask for their race, or national origin and do not have that data available. Any citizen of the Matanuska-Susitna Borough is eligible to apply and serve on an Advisory Board.

The membership of all 52 advisory boards is selected and appointed by our elected officials consisting of the Borough Mayor and Borough Assembly members.

Legacy Infrastructure:

All Matanuska-Susitna Borough facilities are ADA compliant; we have no legacy infrastructure that requires a plan to become compliant.

Compliance Monitoring:

A signed copy of DOT Order 1050.2A assurances is included as Attachment D.

Community Participation Plan:

The Matanuska-Susitna Borough has a public affairs department that maintains several social media sites that contain Port related material. Citizens can comment on any borough activity at twice monthly Assembly meetings, or on Port Specific items at Port Commission meetings. All Borough boards, committees, and commission are open to the public and include the opportunity for the public to speak.

The Department of Planning and Land Use is beginning the process of updating the Port MacKenzie Master plan, and that process will also include community input through surveys and open meetings.

In addition to our Public Affairs Department, we have independent groups known as Community Councils, these groups are formed by residents of some communities and service as a conduit for information sharing from the borough to the citizens. For Port MacKenzie, anything that could be of interest or impact the residents of the Point MacKenzie Community, is provided to their council, to solicit their input. Generally, any comments made, or concerns raised by the Citizens of the Matanuska-Susitna Borough are addressed by staff or if needed elevated to Borough Administration. The Borough takes pride in our transparency, and keeping our citizens informed on our activities.

Language Access Plan:

The Matanuska-Susitna Borough completed the 4-factor analysis and developed the Limited English Proficiency Implementation plan, (Attachment E). During the analysis a staff survey was conducted, to determine the extent of LEP individuals encountered during a normal workday, week, or month. Of the responses received, 34.78% reported never having served an LEP individual; while 17.39% reported monthly, every few months or once or twice a year; 8.7% reported weekly interactions and 4.35% reported daily interactions.

Attachment A

Public Notice of Non-Discrimination Rights

The Matanuska-Susitna Borough gives public notice of its policy to uphold and assure full compliance with the non-discrimination requirements of Title VI of the Civil Rights Act of 1964 and related nondiscrimination authorities. Title VI and related nondiscrimination authorities stipulate that no person in the United States of America shall on the grounds of race, color, national origin, sex, age, disability, income level or Limited English Proficiency be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance.

Any person who desires more information regarding the Matanuska-Susitna Borough's Title VI and ADA Program can contact the Human Resources Division at the address noted below.

Any person receiving services from the Borough, who believes they have, while receiving those services, individually or as a member of any specific class of persons, been subjected to discrimination based on race, color, national origin, sex, age, disability, income level or Limited English Proficiency has the right to file a formal complaint. Any such complaint must be submitted in writing within 180 days of the date of the alleged occurrence to:

Matanuska-Susitna Borough
Human Resources Department
350 E. Dahlia Avenue
Palmer, Alaska 99645
(907) 861-8404
HumanResources@matsugov.us

A complainant may also file a complaint directly with the Maritime Administration by emailing [civilrights.marad@dot.gov](mailto:civilrights.marad.dot.gov) or mailing a written complaint to:

United States Maritime Administration
Office of Civil Rights
West Building, 2nd Floor MAR-130
1200 New Jersey Avenue, SE
Washington, DC 20590

Matanuska-Susitna Borough Non-Discrimination Policy Statement

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the grounds of race, color, national origin, sex, age, disability, income level or Limited English Proficiency in programs and activities that receive federal financial assistance.

The Matanuska-Susitna Borough is committed to compliance with the non-discrimination requirements of Title VI of the Civil Rights Act of 1964 and all related federal statutes, regulations, and Executive Orders. In accordance with these requirements, the Matanuska-Susitna Borough commits to administer its programs, services, and program activities without regard to race, color, national origin, sex, age, disability, income level or Limited English Proficiency, as required by the nondiscrimination provisions of 49 CFR Part 21, 49 CFR Part 25, 49 CFR Part 27, and the DOT Standard Title VI Assurances and Non-Discrimination Provisions. The Matanuska-Susitna Borough will take reasonable steps to provide access to its services to people with disabilities and those with Limited English Proficiency (LEP).

The Matanuska-Susitna Borough will make every effort to ensure that all its programs that are recipients of federal funds comply with the non-discrimination provisions of its Title VI/ADA Program. The Matanuska-Susitna Borough further certifies that all its programs will be administered in accordance with these provisions.

Any person who believes that they individually or as a group has been subjected to discrimination prohibited under this policy may file a complaint within one hundred and eighty (180) days of the alleged discriminatory conduct. Requests for additional information must be sent to (or complaints must be filed with the Matanuska-Susitna Borough Human Resources Division, or via email at HumanResources@matsugov.us.

Matanuska-Susitna Borough employees and affected personnel are directed to coordinate with their Department Directors or Human Resources to ensure the effective implementation of DOT Title VI and ADA requirements.

This policy is summarized and distributed to all employees as part of the Matanuska-Susitna Borough Employee Handbook, (section 200) and posted on the Civil Rights page of the Borough website. Upon request, this policy will be made available in a language other than English and in alternative formats. Compliance with the nondiscrimination requirements of the Title VI program and the ADA will be monitored by the Human Resources Department.

Matanuska-Susitna Borough

Name of Recipient *Michael Brown, Borough Manager*

by 
(Signature of Authorized Official)

Dated: *7/1/24*

Attachment B

Matanuska-Susitna Borough

Title VI and ADA Discrimination Complaint Procedures

Introduction

The Matanuska-Susitna Borough has established this 'Complaint of Discrimination' Procedure as a mechanism for the review and resolution of allegations of discrimination. **These procedures apply to complaints filed under Title VI of the Civil Rights Act of 1964 and The Americans with Disabilities Act (ADA)** which prohibit discrimination based on race, color, national origin, sex, age, disability, income level or Limited English Proficiency in any program or activity administered by the Matanuska-Susitna Borough or its sub-recipients, consultants and/or contractors. Retaliation or intimidation of any kind is also prohibited by law.

These procedures do not negate or limit the right of the complainant to file formal complaints with other state or federal agencies. These procedures are part of an administrative process that does not provide for remedies such as compensatory damages for the complainant.

The Matanuska-Susitna Borough Human Resources Division serves as a resource for members of the public who wish to file a discrimination complaint under Title VI, ADA, and related statutes. The Human Resources Division is located at 350 E. Dahlia Avenue, Palmer Alaska, in the Dorothy Swanda Jones Building, top floor.

The Human Resources Director, or their designee, is responsible for conducting counseling and investigations of alleged incidences of discrimination. The complainant, the individual making a complaint, is advised of their rights under State and Federal laws and is given a copy of this procedure.

Complaint Basis

Allegations must be based on issues involving race, color, national origin, sex, age, disability, income level or Limited English Proficiency. The term basis refers to the complainant's protected group status. A Protected Group is a group of people with common characteristics who are legally protected from discrimination based on that or those characteristic(s).

Complaint Process

Any individual or group of individuals who believe that they have been subjected to discrimination prohibited by Title VI and ADA nondiscrimination procedures based on race, color, national origin, sex, age, disability, income level or Limited English Proficiency, may file a written complaint to the Human Resources Division. A formal complaint must be filed within 180

calendar days of the alleged occurrence or when the alleged discrimination became known to the complainant.

The complaint must meet the following requirements in that it must:

- Be made in writing or submitted electronically to HumanResources@matsugov.us;
- Be submitted on the 'Title VI and ADA Discrimination Complaint Form' and signed by the complainant(s);
- Include the full name and address(es) of the complainant(s);
- Include the date(s) of the alleged act(s) of discrimination;
- Include the full name(s), job title(s), and work address(es) of the accused party(ies), if known;
- Include a detailed description of the alleged act(s) of discrimination (specify all issues and circumstances of the alleged discrimination);
- Identify the basis of the complaint (i.e. race, color, national origin, sex, age, disability, income level or Limited English Proficiency); and
- Include the name(s), address(es), and telephone number(s) of any person who may have knowledge of the alleged incident.

For complaints to be accepted, they must be filed within 180 days of the alleged act of discrimination; meet the above procedures for filing; and allegations must be based on issues pertaining to race, color, national origin, sex, age, disability, income level or Limited English Proficiency.

A complaint may be dismissed if the complainant requests the withdrawal of the complaint; the complainant does not respond to requests for information on or before the date indicated in the request; or the complaint is not timely filed.

In cases where a complainant cannot provide a written complaint, assistance can be requested by calling Human Resources at (907) 861-8404. However, all complaints must be signed by the complainant or its legal designee. A signature provided by a legal designee must be accompanied by written permission from the complainant.

Complaint Investigation

Following the receipt and review of the complaint the Human Resources Director or a designee will issue a letter acknowledging receipt of the complaint.

1. The accused party(ies) will be notified that a complaint has been filed against him/her/them within 15 days of accepting the complaint. When applicable, the accused party(ies) will be advised of their right to representation by any appropriate representative of their choice.

2. Barring extenuating circumstances outside of the investigators control, the investigator will conduct a fact-finding investigation and provide a resolution, if one is possible, within ninety (90) business days of receipt of the complaint and notify all involved parties in writing whether there was a violation of Title VI. This will include notification to the complainant of their right to appeal the results to the Deputy Borough Manager.
3. All investigation findings will be reported to the complainant or designee, and to the Borough Manager, and Borough Attorney or designees.
4. Should the complainant elect to appeal the decision they must do so in writing to the Deputy Borough Manager within ten (10) business days after receipt of the complaint resolution proposed by the Human Resource Director or investigator designee. Failure to appeal within this period shall be interpreted as acceptance of this resolution.
5. The Deputy Borough Manager or their designee will review the case to determine what, if any additional information is needed. If additional information is required from the appellant, they will be provided reasonable advance notice of a meeting and will be advised of their right to present relevant information at that time.
6. The Deputy Borough Manager or their designee will render a written decision regarding the appeal, no later than thirty (30) business days from the date of the filing of the appeal which will be sent to the appellant. Should this decision differ from the findings of the investigation, it will also be sent to all parties involved and the Borough Attorney. The decision of the Deputy Borough Manager or their designee is final. However, does not preclude the complainant from pursuing other means of resolution under federal and/or state law.
7. All records of complaints and dispositions thereof shall be maintained and regularly reviewed by staff of the Borough Attorney's office who will pay particular attention to the detection of any patterns in the nature of the complaints. Any records created by the Borough Attorney's office shall be retained on a strictly confidential basis, except where disclosure is required by law.

Attachment C

MATANUSKA-SUSITNA BOROUGH - TITLE VI & ADA COMPLAINT FORM

Section I:			
Name:			
Address:			
Telephone (Home):		Telephone (Work):	
Electronic Mail Address:			
Accessible Format Requirements?	Large Print	<input type="checkbox"/>	Audio Tape
	TDD	<input type="checkbox"/>	Other
Section II:			
Are you filing this complaint on your own behalf?		<input type="checkbox"/> Yes*	<input type="checkbox"/> No
*If you answered "yes" to this question, go to Section III.			
If not, please supply the name and relationship of the person for whom you are complaining:			
Please explain why you have filed for a third party:			
Please confirm that you have obtained the permission of the aggrieved party if you are filing on behalf of a third party.		<input type="checkbox"/> Yes	<input type="checkbox"/> No
Section III:			
I believe the discrimination I experienced was based on (check all that apply):			
<input type="checkbox"/> Race <input type="checkbox"/> Color <input type="checkbox"/> National origin <input type="checkbox"/> Sex <input type="checkbox"/> Age <input type="checkbox"/> Disability <input type="checkbox"/> Income level <input type="checkbox"/> Limited English Proficiency			
Date of Alleged Discrimination (Month, Day, Year): _____			
Explain as clearly as possible what happened and why you believe discrimination occurred. Describe all persons who were involved. Include the name and contact information of the person(s) who discriminated (if known) as well as names and contact information of any witnesses. If more space is needed, please use the back of this form.			

Section IV		
Have you previously filed a Title VI or ADA complaint with this agency?	Yes	No
Section V		
Have you filed this complaint with any other Federal, State, or local agency, or with any Federal or State court?		
<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, check all that apply: <input type="checkbox"/> Federal Agency: _____ <input type="checkbox"/> Federal Court _____ <input type="checkbox"/> State Agency _____ <input type="checkbox"/> State Court _____ <input type="checkbox"/> Local Agency _____		
Please provide information about a contact person at the agency/court where the complaint was filed.		
Name:		
Title:		
Agency:		
Address:		
Telephone:		
Section VI		
Name of agency complaint is against:		
Contact person:		
Title:		
Telephone number:		

You may attach any written materials or other information that you think is relevant to your complaint.
 Signature and date required below:

 Signature

 Date

Please submit this form in person or by mail to:
 Matanuska-Susitna Borough
 Human Resources Division - Title VI/ADA Coordinator
 350 E. Dahlia Avenue
 Palmer, Alaska 99645
 Or by email to: HumanResources@matsugov.us

Attachment D

The United States Department of Transportation Standard Title VI/Non-Discrimination Assurances

DOT Order No. 1050.2A

The Matanuska-Susitna Borough (herein referred to as the “Recipient”), **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the United States Department of Transportation (DOT), through the **Maritime Administration (MARAD)**, is subject to and will comply with the following:

Statutory/Regulatory 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);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Title IX of the Education Amendments of 1972, as amended, (20 U.S.C. § 1681 *et seq.*), (prohibits discrimination on the basis of sex in education programs or activities);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability);
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 *et seq.*), (prohibits discrimination on the basis of disability);
- 49 C.F.R. part 21 (entitled *Nondiscrimination In Federally-Assisted Programs Of The Department Of Transportation—Effectuation Of Title VI Of The Civil Rights Act Of 1964*);
- 49 C.F.R. part 27 (entitled *Nondiscrimination On The Basis Of Disability In Programs Or Activities Receiving Federal Financial Assistance*);
- 49 C.F.R. part 28 (entitled *Enforcement Of Nondiscrimination On The Basis Of Handicap In Programs Or Activities Conducted By The Department Of Transportation*);
- 49 C.F.R. part 37 (entitled *Transportation Services For Individuals With Disabilities (ADA)*);
- 49 C.F.R. part 303 (MARAD’s Title VI/Nondiscrimination Regulation);
- 28 C.F.R. part 35 (entitled *Discrimination On The Basis Of Disability In State And Local Government Services*);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

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

Although not applicable to Recipients directly, there are certain Executive Orders and relevant guidance that direct action by Federal agencies regarding their federally assisted programs and

activities to which compliance is required by Recipients to ensure Federal agencies carry out their responsibilities. Executive Order 12898 (1995), entitled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" emphasizes that Federal agencies should use existing laws to achieve Environmental Justice, in particular Title VI, to ensure nondiscrimination against minority populations. Recipients should be aware that certain Title VI matters raise Environmental Justice concerns and MARAD intends that all Recipients evaluate and revise existing procedures (as appropriate) to address and implement Environmental Justice considerations. See the following FHWA website for more information and facts about Environmental Justice:

http://www.fhwa.dot.gov/environment/environmental_justice/index.cfm

Additionally, Executive Order 13166 (2001) on Limited English Proficiency, according to the U.S. Department of Justice in its Policy Guidance Document dated August 16, 2000 (65 Fed. Reg. at 50123), clarifies the responsibilities associated with the "*application of Title VI's prohibition on national origin discrimination when information is provided only in English to persons with limited English proficiency.*" When receiving Federal funds Recipients are expected to conduct a Four-Factor Analysis to prevent discrimination based on National Origin. (See also U.S. DOT's "*Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient (LEP) Persons,*" dated December 14, 2005, (70 Fed. Reg. at 74087 to 74100); the Guidance is a useful resource when performing a Four-Factor Analysis).

General Assurances

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

"No person in the United States shall, on the grounds of race, color, national origin, sex, age, disability, low-income, or LEP be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance from DOT, including MARAD."

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.

Specific Assurances

More specifically, and without limiting the above general Assurances, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted **MARAD Program**:

1. The Recipient agrees that each “activity,” “facility,” or “program,” as defined in 49 C.F.R. §§ 21.23 (b) and 21.23 (e) will be (with regard to an “activity”) facilitated, or will be (with regard to a “facility”) operated, or will be (with regard to a “program”) conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations;
2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with the MARAD Program and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

*“The **Matanuska-Susitna Borough** in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, all contractors will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of the owner’s race, color, national origin, sex, age, disability, income-level, or LEP in consideration for an award.”;*

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations;
4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient;
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith;
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property;
7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
 - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.

8. That this Assurance obligates the Recipient 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 Recipient, 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 Recipient retains ownership or possession of the property.

9. The Recipient will 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-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.

10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the Matanuska-Susitna Borough also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the **MARAD** access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by **MARAD**. You must keep records, reports, and submit the material for review upon request to **MARAD**, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law, or detailed in program guidance.

The Matanuska-Susitna Borough gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the Department of Transportation under the **MARAD Program**. This ASSURANCE is binding on [insert State], other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the **MARAD Program**. The person (s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

Matanuska-Susitna Borough by 
Michael Brown, Borough Manager DATED 7/1/24

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 (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Maritime Administration (MARAD, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP 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 as set forth in Appendix E, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 C.F.R. 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, national origin, sex, age, disability, income-level, or LEP.
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 MARAD 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 MARAD, 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 MARAD may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. 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 six 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 MARAD 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 to enter into the litigation to protect the interests of the United States.

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

APPENDIX B

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW, THEREFORE, the Department of Transportation as authorized by law and upon the condition that the Matanuska-Susitna Borough will accept title to the lands and maintain the project constructed thereon in accordance with *(Name of Appropriate Legislative Authority)*, the Regulations for the Administration of **Maritime Administration (MARAD) Program**, and the policies and procedures prescribed by the **MARAD** of the Department of Transportation in accordance and in compliance with all requirements imposed by 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 pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the Matanuska-Susitna Borough all the right, title and interest of the Department of Transportation in and to said lands described in Exhibit "A" attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto Matanuska-Susitna Borough and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the Matanuska-Susitna Borough, its successors and assigns.

The Matanuska-Susitna Borough, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the Matanuska-Susitna Borough will use the lands and interests in lands and interests in lands so conveyed, in compliance with 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, and as said Regulations and Acts may be amended, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert

to and vest in and become the absolute property of the Department of Transportation and its assigns as such interest existed prior to this instruction.*

(*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.)

CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY OR PROGRAM

APPENDIX C

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the Matanuska-Susitna Borough pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/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:
 - 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, Matanuska-Susitna Borough will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the Matanuska-Susitna Borough will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the Matanuska-Susitna Borough and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to effectuate the purpose of Title VI.)

CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

APPENDIX D

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by Matanuska-Susitna Borough pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/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 (1) no person on the ground of race, color, national origin, sex, age, disability, income-level, or LEP will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, national origin, sex, age, disability, income-level, or LEP will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, Matanuska-Susitna Borough will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, Matanuska-Susitna Borough will there upon revert to and vest in and become the absolute property of Matanuska-Susitna Borough and its assigns. *

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to effectuate the purpose of Title VI.)

APPENDIX E

During the performance of this contract, the contractor, 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:

- Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. § 2000d *et seq.*), (prohibits discrimination on the basis of race, color, national origin), as implemented by 49 C.F.R. § 21.1 *et seq.* and 49 C.F.R. part 303;
- 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, as amended (29 U.S.C. § 794 *et seq.*) (prohibits discrimination on the basis of disability); and 49 C.F.R. 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 (Pub. L. 97-248 (1982)), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (102 Stat. 28) (“...which restore[d] the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964.”);
- 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 Justice regulations at 28 C.F.R. parts 35 and 36, and 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.*).

Attachment E

**Improving Access for People with
Limited English Proficiency (LEP)
Implementation Plan
2024 Update**



Matanuska-Susitna Borough

Grants Section

350 E. Dahlia Avenue

Palmer, AK 99654

Phone: (907) 861-8408

The Matanuska Susitna Borough has completed a four-factor analysis and adopted the following implementation plan to meet requirements under Title VI of the Civil Rights Act of 1964, which seeks to improve access to services for persons with Limited English Proficiency (LEP). The purpose is to ensure that no person shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Summary and Plan for Implementation

1. Identifying LEP individuals who need language assistance.

The Census data that was researched during the completion of the four-factor analysis included the 2022 American Community Survey data. This data indicates that 28.8% percent of the Matanuska-Susitna Borough population speaks English "less than very well". The data shows that 17.1% speak Spanish, 21.1% speak other Indo-European Languages, 56% speak Asian and Pacific Island languages, and 43.8% speak other languages.

The results of a survey of borough staff indicates that 17.39% of borough employees serve citizens with no or limited English proficiency monthly. The same percentage reported every few months, and once or twice a year. While 8.7% indicate "weekly" interactions, and another 4.35% reported daily interactions, most employees that responded, a total of 34.78%, reported never.

2. Language assistance measures

The employee survey indicated that for those citizens with limited English proficiency 30.43% brought an interpreter with them, while 13.04% of our employee spoke the language and were able to work directly with the citizen, and 8.7% called for an interpreter.

A number of borough employees, Speak, Read & Write languages other than English, and are comfortable enough that if needed fellow employees can ask for their assistance.

Verbal and Written language:

A list of specific employees and languages they can interpret is available managed by the Grants Coordinator, in the Finance Department. This list will be updated annually at a minimum, or as employees retire or leave the borough or new employees are hired.

Borough staff will work to develop a list of Borough forms and resources that should be available in written translations. Once that list is compiled, those staff member that are able to transcribe the documents will be asked to provide written translations of the documents on the compiled list. If staff is unable to translate the documents, then Microsoft Translator will be used. This plan along with the boroughs Title IV Civil Right Policy will be available in Spanish and Russian using the Microsoft Translator available through Microsoft WORD.

Other resources include:

Language Interpreter Center, Alaska Immigration Justice Project, 431 w. 7th Ave., Suite 208 Anchorage, AK 99501; 907.279.2457 Fax: 907.279.2450

When a phone call from an LEP customer is received, or when the customer comes into the customer service or administrative offices in person, the first step will be to contact the Grants Coordinator to secure for an appropriate interpreter.

When written communication from an LEP person is received it should be routed through Administration to the appropriate interpreter.

It may be difficult for a non-bilingual staff person at the borough to provide assistance to an LEP person who requests project information. In such circumstances, the borough staff person will contact the Grants Coordinator and request a list of translators available at the borough offices who could serve as a translator or contact the Alaska Immigration Justice Project.

3. Providing notice to LEP persons

The Matanuska-Susitna Borough incorporates a variety of methods to communicate with the public. These include printed information, signs, web sites, customer service phone line, press releases, advertising, community meetings, and participation in local events. The Borough will continue to use these methods to notify LEP persons of the availability of language assistance, and when applicable, to notify customers of the availability of translated documents.

4. Monitoring and Updating the LEP Plan

Ongoing outreach efforts will include a process to obtain feedback on the borough's language assistance measures.

Based on the feedback received, the borough may make incremental changes to the type of written and oral language assistance provided. Evaluation may result in expansion of language assistance measures that are effective, or the modification or elimination of measures which are not effective.