



KENAI PENINSULA BOROUGH

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**MIKE NAVARRE
BOROUGH MAYOR**

MEMORANDUM

TO: Dale Bagley, Assembly President
Members, Kenai Peninsula Borough Assembly

FROM: Mike Navarre, Mayor *MN*

DATE: June 5, 2015

SUBJECT: Resolution 2015-033, A Resolution Approving the First Amendment To Loan Agreement Between the Kenai Peninsula Borough and the City of Homer Regarding Financing a Utility Special Assessment District

In 2013 the Kenai Peninsula Borough entered a loan agreement with the City of Homer ("City") in which the borough agreed to finance the City's construction of a natural gas pipeline. The original agreement said payments would be paid solely from assessments levied against property in the special assessment district and funds pledged for payment under City of Homer Ordinance 13-03(S).

After that agreement was entered a lawsuit was filed against the City challenging its method of assessing condominiums in *Castner v City of Homer*. The superior court ruled that the assessment method was invalid. It found that assessing each condominium unit the same amount as was assessed against all other parcels was disproportionate to the benefit conferred upon each unit. The court later ruled that this decision applied to the assessment of all condominiums in the assessment district. The Alaska Supreme Court denied the City's petition for review of this later decision. The effect of these decisions is to reduce the amount of funds the City can collect, which reduces the source of funds to repay the borough's bond.

Additionally, the Homer city council is considering whether to exempt certain additional properties from this assessment on a showing that property will not benefit from the improvements because it could not be connected to the gas line. The city council is also considering allowing a period for an owner of multiple adjoining lots to combine the lots with the property being assessed. These actions would reduce the number of properties subject to assessment in the district and therefore reduce the assessment revenues for the City.

The City would like to amend the agreement to provide it authority to make these changes and the Administration supports this request. Your approval is respectfully requested.