

# Kenai Peninsula Borough

## Assessing Department

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### MEMORANDUM

TO: Brent Johnson, Assembly President  
Members, Kenai Peninsula Borough Assembly

THRU: Peter Micciche, Mayor *PAM*  
Adeena Wilcox, Director of Assessing *aw*

FROM: Marie Payfer, Special Assessment Coordinator *MP*

DATE: March 14, 2023

RE: Resolution 2023-015, to Form the Whale-of-a-Tail Avenue Utility Special Assessment District and Proceed with the Improvement of a Natural Gas Main Line Extension (Mayor)

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### MAYOR'S REPORT

Property owners in the proposed Whale-of-a-Tail Avenue Utility Special Assessment District (USAD) have worked with the borough administration to form the proposed USAD. Pursuant to the requirements of KPB 5.35.105, on October 17, 2022, the mayor approved the administrative review of the petition report, approving the petition for formation of this USAD prior to its circulation among benefited property owners (see Exhibit 1).

This resolution to form the Whale-of-a-Tail Avenue USAD and proceed with the improvement approves the formation of the USAD and authorizes the mayor to proceed with the construction of the improvement. This is the first step in a three-step process requiring assembly action for the Whale-of-a-Tail Avenue USAD: 1) resolution to form the district and proceed with the improvement; 2) ordinance of appropriation of funds; and, 3) ordinance of assessment.

KPB 5.35.107(C) requires the petition must contain the signatures of (a) the owners of record of at least 60% of the total number of parcels subject to assessment within the proposed district, and (b) the owners of at least 60% in value of the property to be benefited, in order to be considered by the assembly for formation. A completed petition for the formation of the Whale-of-a-Tail Avenue USAD was received by the Assessing Department on December 2, 2022. On December 12, 2022, the borough clerk certified the petition with 26 of 39 property owners, 66.67 percent, supporting the proposed district (see Exhibit 2, Certification of Petition), and with 88.18 percent of the value of the district (see Exhibit 1, estimate assessment roll, pages 19 & 20). Additionally, the borough clerk sent all required notices to the property owners and published the required information concerning the proposed district as required by borough code.

The resolution is supported by the exhibits listed herein which provide the documentation required by code to support forming this USAD and proceeding with construction.

Pursuant to KPB 5.35.110(A), the mayor shall prepare for the assembly consideration a resolution to form the special assessment district and proceed with the improvement. The mayor shall submit to the assembly with the resolution the following information, all of which is detailed in the referenced Exhibits #1 & #2 to this memo.

- 1) The administrative review of the petition report prepared by borough staff under KPB 5.35.105, updated to account for any change in information. The administrative review of the petition report (Exhibit 1) includes the following exhibits:
  - a) Administrative Review Memo (Exhibit 1, pages 1 to 4)
  - b) Petition Signature Page (Exhibit 1, page 5 & 6)
  - c) Petition Report (Exhibit 1, page 7)
  - d) The Petition Information Sheet which provided a description of the proposed improvement, and a description of the limitations on withdrawing a petition signature under KPB 5.35.107(E) (Exhibit 1, pages 9 to 12);
  - e) Enstar's letter of commitment to support the 2023 construction of the extension and a written estimate of the total cost of construction, with attached engineer's map, dated August 15, 2022 (Exhibit 1, pages 13 to 16);
  - f) A map of the proposed USAD district and boundaries (Exhibit 1, page 17);
  - g) The estimate assessment roll spreadsheet which provides the total estimated cost of the improvement, the name of the record owner of each parcel, the tax parcel number of each parcel, the legal description of each parcel, the assessed valuation of each parcel, the estimate of the amount to be assessed to each parcel, the status of tax payments, if there are other special assessment liens against any of the parcels in the proposed district, and the description of any benefited parcel that exceed the assessment-to-value ratio set forth in KPB 5.35.070(C). Additionally, the description of two (2) parcels owned by the Kenai Peninsula Borough which are not included in the calculation for petition signature threshold percentages, however, these two parcels are subject to the assessment, and will receive the benefit from the improvement. (Exhibit 1, pages 19 & 20);
  - h) A memorandum from the Finance Director stating the method of financing, interest rate to be paid, and setting forth the number and frequency of payments (Exhibit 1, pages 21 & 22);
  - i) Written comments timely received per KPB 5.35.030(E)(5), including any objections from parcel owners regarding inclusion of their property district. (Exhibit 1, pages 23 to 36);
- 2) Certification of Petition, Whale-of-a-Tail Avenue USAD, dated December 12, 2022.

PROJECT BACKGROUND:

The total project is estimated to cost is \$249,000.38. This includes direct costs of \$240,131.00 and indirect administrative costs of \$8,869.38. There are a total of 41 benefited parcels within this district.

KPB 5.35.090 requires the method of assessment shall be an allocation of costs on a per parcel basis so that each benefited parcel is charged an equal amount. The per-parcel cost is estimated to be \$6,073.18. Equal allocation is reasonable because the immediate benefit of being able to connect a service line to the main line is the same for all parcels.

Pursuant to KPB 5.35.070(C), in no case may a property be assessed an amount in excess of 50 percent of the fair market value of the property. Within this project there are zero (0) properties that exceed the 50 percent limitation. No prepayments are required for this district. See Exhibit 1, pages 19 & 20.

Per KPB 5.35.070(D), a special assessment district may not be approved where properties which will bear more than 10 percent of the estimated costs of the improvement are delinquent in payment of borough property taxes. There are zero properties within this proposed district which are delinquent in payment of real property taxes. Additionally, pursuant to KPB 5.35.105(A)(4)(g), there no other special assessment liens against any of the parcels in the proposed district.

Pursuant to KPB 5.35.105(B), the mayor shall exclude from the proposed district any real property, or any interest in real property, that is not directly benefited by the improvement. If the physical characteristics of a benefited property make it legally impermissible, physically impossible, or financially infeasible to develop or improve the property in a manner that would enable the property to benefit from the proposed utility improvement. Pursuant to KPB 5.35.107(C)(7) and 5.35.110(E)(4), any property excluded from a USAD district will not be included in the calculation of the signature thresholds, as those parcels will not receive the benefit of the improvement and will not be subject to the assessment. For this district, there was one (1) property whose owner requested consideration to exclude their respective property from the assessment, and the mayor has determined that this property will directly benefit from the improvement, therefore the request was denied. See Exhibit 1, Estimate Assessment Roll, pages 19 & 20, and Written Comments & Objections to Inclusion (Exclusion Request), pages 23 to 36.

Pursuant to KPB 5.35.030(E), the legal description of parcels within the proposed district as of the date the mayor approves the petition report will be used to determine assessments per KPB 5.35.070(B). Any action to replat parcels within the proposed district shall be completed and recorded before the date the mayor approves the petition report. Additionally, per KPB 5.35.070(A), in the event a property owner seeks to subdivide a benefited parcel after the date of the mayor's approval of the petition report, the property owner shall be required to prepay estimated costs if the final assessment as not been determined, prior to approval of the final plat pursuant to KPB 20.60.030.

Per KPB 5.35.107(C)(6): the mayor shall be the designee for signing any petition when borough land is part of the proposed district. There are two (2) parcels within this district which are currently owned by the Kenai Peninsula Borough: (1) parcel 065-072-01, and, (2) parcel 065-072-04, are both benefited parcels and will be subject to the assessment. The mayor elected to abstain from the petition process for this district. See Exhibit 1, pages 19 & 20. These 2 parcels were not included in the petition process; therefore, they were not included in the required signature percentage thresholds, resulting in a total of 39 parcels for the calculation of signature percentages. However, these Kenai Peninsula Borough parcels are both included in the calculation for allocation of assessments, resulting in 41 parcels for the calculation for allocation of assessments.

On March 6, 2023, a public comment was received from Walter and Rosemary Holben, owners of PIN 065-077-02, located at 38792 Adkins Road, Stoneburr Sub No 2 Lot 8B. The owners are under the impression this parcel is currently being served from the existing main line along Adkins Road and should not be included in the USAD district. Assessing verified with the utility company on April 15, 2022, and on March 7, 2023, that this parcel cannot be served by the existing main line.

Per Enstar, *“The property in question 38792 Adkins Road is currently not served by our main extension. For a lot to be considered served, our main extension must fully front one side of the lot if under 5 acres. If a lot is 5 acres or above, we require the main to front past the driveway or the structure on lot, whichever is further. This lot is not over 5 acres, so the main would need to be extended as shown in our engineered drawing to be considered served.”* See Exhibit 1, page 14 of the engineering drawings.

This matter is now presented to the assembly for approval to proceed with the project. Any objections received will be provided to the assembly on the hearing date.