

Introduced by: Mayor
Date: 08/15/23
Action: Adopted as Amended
Vote: 9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH
RESOLUTION 2023-052**

**A RESOLUTION FORMING THE OXFORD AVENUE UTILITY
SPECIAL ASSESSMENT DISTRICT AND PROCEEDING WITH
THE IMPROVEMENT OF A NATURAL GAS MAIN LINE**

- WHEREAS,** KPB Chapter 5.35 authorizes the formation of utility special assessment districts within the Kenai Peninsula Borough; and
- WHEREAS,** an application for a petition to form a utility special assessment district (“USAD”) was received from the property owners within the proposed district; and
- WHEREAS,** on May 20, 2023, the Mayor approved the Administrative Review of the Petition Report, pursuant to KPB 5.35.105 requirements, for the formation of the Oxford Avenue USAD for construction of a natural gas main line; and
- WHEREAS,** KPB 5.35.107(C) requires signatures of the owners of record of (a) at least 60 percent of the total number of parcels subject to assessment within the proposed district and (b) at least 60 percent in value of the property to be benefited, in order to be considered by the assembly for formation; and the owners of record of 75 percent of the total number of parcels, and 98.41 percent in value of the properties to be benefited, have signed the petition; and
- WHEREAS,** the petition was submitted timely by the sponsor on June 29, 2023, and on June 30, 2023, the Borough Clerk determined that the petition received bears sufficient signatures meeting the signature thresholds as required by KPB 5.35.107, and acknowledged receipt of a filing fee for \$1,000 as required by KPB 5.35.030(D), Exhibit #2; and
- WHEREAS,** the Borough Clerk gave notice of the public hearing for this resolution by certified mail, return receipt requested, mailed not less than 35 days before the date of the hearing, to each record owner of a parcel in the proposed district; and
- WHEREAS,** the clerk further gave notice by publication once a week for two consecutive weeks in a newspaper of general circulation in the Borough, with the first publication appearing not less than 30 days before the date of the hearing; and

WHEREAS, more than 35 days have passed since the mailing of the notice of the public hearing to each record owner of a parcel in the proposed district, and no written objection to the necessity of formation of the district has been filed with the Borough Clerk per KPB 5.23.110(D) due to the fact that a written objection was not formally received by the deadline; however, a property owner or owner's agent within the proposed USAD did provide a verbal objection to the formation of the USAD on July 28, 2023, and that objection was memorialized by Borough staff and provided to the Assembly for due consideration, as such, the Assembly properly considered it as an objection to the necessity of formation of the district; and

WHEREAS, KPB 5.35.110(A) requires the Mayor to prepare for assembly consideration a resolution to form the special assessment district and proceed with the improvement, and to submit with the resolution a copy of the petition as described in KPB 5.35.107(A);

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That the Kenai Peninsula Borough shall form the Oxford Avenue Utility Special Assessment District, and the Mayor is authorized to proceed with the construction of the improvement in accordance with the provisions of KPB Chapter 5.35, and negotiate and execute such documents as are determined to be in the best interests of the Borough to accomplish this project.

SECTION 2. That pursuant to the requirements of KPB 5.35.110, this resolution is supported by the Mayor's Report, which is incorporated herein by reference.

SECTION 3. That the proposed Oxford Avenue USAD is necessary and should be made and is hereby formed, and the Borough shall proceed with the construction of an extension of Enstar's natural gas main line to a district encompassing four benefited parcels in the area of Kalifornsky, including Oxford Avenue, east of Echo Lake Road.

SECTION 4. That the boundaries of the USAD for the natural gas main line set forth in the district map as Mayor's Report Exhibit 1, page 15, and the properties legally described in the Estimate Assessment Roll as Mayor's Report Exhibit 1, page 17, are hereby approved as comprising the USAD.

SECTION 5. That the estimated cost of the project of \$47,987.00, which includes direct costs of \$41,707.00, and Borough administrative costs of \$6,280.00, is approved.

SECTION 6. That the attached Estimate Assessment Roll, Mayor’s Report Exhibit 1, page 17, which includes properties within the district to be properly included and subject to an assessment of \$11,996.75 per parcel for the improvement, is incorporated by reference herein and adopted.

SECTION 7. Pursuant to the requirements of KPB 5.35.105(B) and 5.35.110(E)(4), that the following one (1) property shall be excluded from the district and will not receive the benefit of the improvement and will not be subject to the assessment as the Mayor has determined this property as not directly benefiting from the improvement due to the property’s physical characteristic, T 4N R 11W SEC 15 Seward Meridian KN 0830273 ECHO LAKE SUB ANDREWS 1983 NORTH ADDN TRACT 1 (PIN 131-720-01); see Exhibit 1, pages 17, 25 & 26 attached.

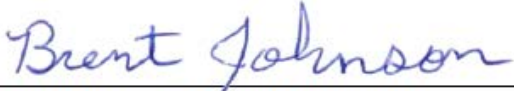
SECTION 8. That the Mayor is authorized to negotiate and execute such documents as are determined to be in the best interests of the Borough to proceed with construction of the improvement and to accomplish this project.

SECTION 9. That the Borough Clerk shall cause a copy of this resolution and the estimated assessment roll to be recorded in the District Recorder's office for the State of Alaska in Kenai.

SECTION 10. That notice is hereby given that a property owner within the boundaries of the Oxford Avenue USAD, unless excluded by Section 6 of this resolution, must pay off the remaining balance of any special assessment on property to be subdivided, or prepay estimated costs if the final assessment has not been determined, before a final plat may be signed and recorded pursuant to KPB 20.60.030.


SECTION 11. That this resolution shall take effect immediately.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 15TH DAY OF AUGUST, 2023.



Brent Johnson, Assembly President

ATTEST:



Michele Turner, CMC, Borough Clerk



Yes: Chesley, Cox, Derkevorkian, Ecklund, Elam, Hibbert, Ribbens, Tupper, Johnson
No: None
Absent: None

Kenai Peninsula Borough
Assessing Department

MEMORANDUM

TO: Peter A. Micciche, Borough Mayor

FROM: Adeena Wilcox, Director of Assessing
Marie Payfer, Special Assessment Coordinator *MP*

DATE: June 16, 2023

RE: Administrative Review of the Petition Report for the Oxford Avenue Utility
Special Assessment District (USAD)

Review Period: Friday, June 16, 2023, through Monday, July 3, 2023

In accordance with KPB Code Chapter 5.35, a petition application has been submitted for formation of a utility special assessment district in the community of Kalifornsky. Known as the Oxford Avenue Utility Special Assessment District (hereinafter "USAD"), the proposed main line including Oxford Avenue east of Echo Lake Road. The project would benefit 5 parcels.

The attached Petition Report, and associated exhibits, is provided to the mayor for consideration and approval. Pursuant to 5.35.105(C), the mayor will consider the petition report (draft petition) for the proposed USAD and make a final determination to approve or to acquire additional or amended information not less than 45 days and not more than 60 days from the date the assessing department mailed notices to the affected property owners to allow for the comment period as described in KPB 5.35.030(E).

The notices were mailed out to the affected property owners on May 3, 2023; therefore, the mayor may consider the petition report **not earlier than Friday, June 16, 2023, and not later than Monday, July 3, 2023.**

Your review and approval of the proposed petition report is hereby requested so that the sponsor may pursue the signatures of owners of property within the approved boundaries. If sufficient signatures are obtained and the completed petition certified, the project may move forward with assembly approval of the resolution to form the district and proceed with the improvement. The sponsor hopes for this to occur no later than the first Assembly meeting in September of 2023, to stay on schedule to meet the utility company's deadline of September 19, 2023, for assembly approval to form the district, and to allow for construction of the proposed project during the 2023 construction season.

SECTION 1. IMPROVEMENT PROPOSAL:

On April 24, 2023, the utility company, Enstar Natural Gas Company, submitted a letter of approval for the proposed natural gas main line extension and a written estimate of the utility's estimated cost of constructing the extension. The sponsor was informed of the total estimated cost for this project. On May 1, 2023, the sponsor provided the assessing department with written notice of intent to proceed with administrative review of the petition report, and has submitted a non-refundable filing fee as established in

Date: June 16, 2023
To: Kenai Peninsula Borough Mayor
RE: Admin Review of the Petition Report – Oxford Avenue USAD

the most current Schedule of Rates, Charges and Fees. Pursuant to KPB 5.35.03(E), the assessing department mailed notices of the proposed USAD to all parcel owners in the proposed district on May 3, 2023.

The project proposes to install a natural gas line of approximately 1,110 lineal feet of 2-inch pipe. The total project cost for a 2023 construction is estimated at **\$48,057**, which includes Enstar's 2023 standard construction cost of \$41,707 (based on \$28.74 per lineal foot), and \$0.00 for Enstar's Non-Standard costs, plus the Kenai Peninsula Borough administrative cost of \$6,350. The allocated ¹cost per-parcel is estimated to be **\$9,611.40** for each of the 5 benefited parcels. If the project is approved by the assembly by September 19, 2023, Enstar will attempt to construct the project in 2023. If the project is delayed beyond that date, another engineering estimate will be required with updated construction costs for the proposed year of construction.

SECTION 2. RESTRICTIONS ON FORMATION PER 5.35.070:

Pursuant to 5.35.070 (B), the legal description of parcels within the proposed district as of the date of the mayor's approval of the petition report under KPB 5.35.105 will establish the parcels for assessment. No subdivision, reversion of acreage, or lot line adjustment will be recognized for USAD assessment purposes after the mayor's approval of the petition report. Additionally, KPB 5.35.030(E)(4), requires "any action to replat parcels within the proposed district shall be completed and recorded before the date the mayor approves the petition report under KPB 5.35.105(C)".

Currently, no parcels within the boundary of this proposed district are in the process of subdividing.

Additional restrictions on formation: (C), in no case may a property be assessed an amount in excess of 50% of the fair market value of the property, (D), a special assessment district may not be approved where properties which will bear more than 10% of the estimated costs of the improvement are subject to unpaid, past-due borough property taxes, and (E), no one owner may own more than 40% of the total number of parcels to be benefited.

Within this proposed district there is one parcels that exceed the 50% assessment-to-value limitation, requiring a partial pre-payment of the assessment; there are zero parcels which are delinquent in payment of the 2022 property taxes; and, there is no one owner who own more than 40% of the total number of parcels to be benefited. Additionally, there are no other special assessment liens against any of the parcels in the proposed district; and,

SECTION 3. KENAI PENINSULA BOROUGH OWNED PROPERTY:

Pursuant to 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. When the mayor abstains from participating in the petition signature process, the total number of parcels within the district, for the purpose of calculating the signature thresholds, shall be reduced by the number of parcels owned by the borough within the proposed district. Should the petition receive meet the percentages thresholds, KPB will pay the full assessment per parcel.

Within this proposed district, there are zero benefited parcels which are currently owned by the Kenai Peninsula Borough.

SECTION 4. PUBLIC COMMENTS – EXCLUSION REQUESTS

(A) Public Comments: The assessing department has received one (1) written comment regarding the proposed project from a member of the public, Kevin & Denise Dukowitz. This letter is included as public comment.

¹ Cost per parcel may be adjusted based on the mayor's decision regarding the exclusion request, see Section 4(B).

(B) Exclusion Requests: 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 a property owner claims the *physical characteristics* of his or her property make it legally impermissible, physically impossible, or financially infeasible to develop or improve it in a manner that would enable the property to benefit from the proposed improvement, the property owner has the burden of demonstrating that the property has such physical characteristics and therefore cannot benefit from the proposed improvement. Any property which is excluded from the district will “not receive the benefit of the improvement and will not be subject to the assessment”, per KPB 5.35.110 (E)(4).

Within this proposed district, there is one (1) property owners objecting to their parcel’s inclusion in the proposed district. If approved for exclusion, the estimated assessment roll would be adjusted to reflect the change in the number of benefited parcels for equal allocation of total costs, from the current five parcels, to four parcels, and the cost per parcel would be adjusted.

Norman Dean & Darlene Glick, PIN 131-720-01: Echo Lake Sub Andrews 1983 No Addn Tract 1.

Property review, 2023 assessment: Parcel size is .98 acres, residential rural; 2023 total assessed value is \$18,500 (land value \$12,600, improvement value \$5,900 (gravel driveway, carport, container van/conex)).

Owner’s comment: This parcel “is flooded by surrounding parcels in the spring and continue wet ground till the following winter.” The owner further states they have contacted the Borough (Roads Department) “and the conclusion was that nothing can be done. No construction could take place on this parcel. The cost to build on this parcel would exceed the increase in value due to development.” On May 17, 2021, the KPB Roads department verified their office received a call from Mrs. Glick: “Culvert is draining water into her driveway 31930 Hatman [PIN 131-720-17]. The culver on Oxford is causing this issue and it needs to be replaced. Her property is starting to flood.”

Roads Director comments: “the parcel in question is predominantly covered by a drain marsh that extends to the SW corner of the lot to the north road (PIN 131-042-32). All of the cumulative runoff appears to seek the kettle lake to the south. [Road Director is] not in the position to make a buildability determination, but it is true that the lot does see drainage runoff that would require a considerable effort to resolve...”

Assessing comments: In reviewing this parcel, Assessing agrees with the owners’ statements for consideration for exclusion from the assessment, as this parcel appears to have wetland and drainage issues cumulating along that portion of Oxford Avenue which the natural gas line extension section for service would be constructed. Assessing agrees this parcel should be excluded from this district for assessment purposes.

SECTION 5. PETITION REPORT AND EXHIBITS:

The following list of exhibits to the Petition Report support and are incorporated by reference as follows:

- 1) **Petition Information Sheet** describes the proposed improvement, including the total estimated project cost, and the estimated cost per parcel; provides a statement notifying the property owners to contact the applicable utility for any additional costs that may be required to utilize the improvement; provides notification that any costs to connect individual parcels to the main improvement are not included in the assessment; and contains notice of restrictions and requirements regarding the withdrawal of signatures on a petition; and important information about the petition process and payment options;
- 2) **Enstar’s commitment letter** to support the 2023 construction of the extension and a written estimate of the total cost of construction, dated April 24, 2023. If the assembly approves the resolution to form

Date: June 16, 2023
To: Kenai Peninsula Borough Mayor
RE: Admin Review of the Petition Report – Oxford Avenue USAD

the district and proceed with the improvement on or before September 19, 2023, Enstar will construct the project in 2023; however, if the project is delayed and is constructed in 2024, the rate will increase to an undetermined 2024 construction rate;

- 3) **a map** of the proposed USAD district and boundaries;
- 4) **estimate assessment roll** contains a spreadsheet listing the total estimated cost of the improvement, the name of the record owner of each parcel, tax parcel number, legal description, assessed valuation, the estimate of the amount to be assessed to each parcel, whether there are other special assessment liens against any of the parcels in the proposed district, and a description of any parcels that violate the restrictions listed in KPB 5.35.0740(C) or (D); and
- 5) **memo from the Finance Director** stating the method of financing, interest rate to be paid, and setting forth the number and frequency of payments.

District Sponsor information:

Mr. Kevin Dukowitz	47973 Oxford Avenue, Soldotna AK 99669	(907) 252-7391	GoPhatDadGo@Gmail.com
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SECTION 6. ADMINISTRATIVE REVIEW:

KPB chapter 5.35.105(C) stipulates the mayor will consider the petition report and make a final determination to approve the report or to require additional or amended information not less than 45 days and not more than 60 days from the date the assessing department mails notices to affected property owners under KPB 5.35.030(E), and that upon the mayor’s approval, at least one copy of the petition report shall be provided to the sponsor for distribution to pursue the signatures of owners of property within the approved boundaries.

Your review and approval of the proposed petition report is hereby requested so that the sponsor may proceed to pursue the signatures of owners of the property within the approved boundaries and continue the process to request assembly approval to form the district and proceed with the improvement.

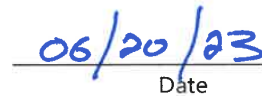
Review period: not earlier than June 16, 2023, and no later than July 3, 2023

ACTION ITEMS:

Additional Information is Required: _____

- Exclusion request, Glick property, Section 4(B), is hereby: APPROVED DENIED
- Petition Report, as submitted, is hereby: APPROVED DENIED

X 
Peter A. Micciche, Borough Mayor


Date

PETITION SIGNATURE PAGE OXFORD AVENUE - USAD

NOTICE TO PETITION SIGNERS:

1. Signed petition pages **must be returned to the SPONSOR(S)** by: _____
2. Signatures must be in ink and dated.
3. See back of this page for important [deadline for signatures](#) and [signature requirements](#).
4. **Your signature(s)** represents a **vote in favor** of the project for the parcel listed below. You must sign and date your approval for each parcel you own which is included within the district. A signature on a petition may be withdrawn only by written notice from the signer submitted to the assessing department *prior* to the final filing of the petition signatures by the sponsor. A withdrawal is effective only if notice of the withdrawal is submitted before the completed petition is filed, per KPB 5.35.107(E). This does not preclude the property owner(s) from filing a written objection to the necessity of the formation of the district as provided in KPB 5.35.110(D).
5. This Petition consists of the following:
 - This Petition Signature Page; and
 - The Petition Report, and includes the following exhibits:
 - **Petition Information Sheet** describes the proposed improvement, including the total estimated project cost, and the estimated cost per parcel; provides a statement notifying the property owners to contact the applicable utility for any additional costs that may be required to utilize the improvement; provides notification that any costs to connect individual parcels to the main improvement are not included in the assessment; and contains notice of restrictions and requirements regarding the withdrawal of signatures on a petition; and important information about the petition process and payment options;
 - **Enstar’s commitment letter** to support the 2023 construction of the extension and a written estimate of the total cost of construction, dated April 24, 2023. If the assembly approves the resolution to form the district and proceed with the improvement on or before September 19, 2023, Enstar will construct the project in 2023; however, if the project is delayed and is constructed in 2024, the rate will increase to an undetermined 2024 construction rate;
 - **a map** of the proposed USAD district and boundaries;
 - **estimate assessment roll** contains a spreadsheet listing the total estimated cost of the improvement, the name of the record owner of each parcel, tax parcel number, legal description, assessed valuation, the estimate of the amount to be assessed to each parcel, whether there are other special assessment liens against any of the parcels in the proposed district, and a description of any parcels that violate the restrictions listed in KPB 5.35.0740(C) or (D); and
 - **memo from the Finance Director** stating the method of financing, interest rate to be paid, and setting forth the number and frequency of payments.

6. RETURN COMPLETED SIGNATURE PAGE TO USAD SPONSORS:

Mr. Kevin Dukowitz	47973 Oxford Avenue, Soldotna AK 99669	(907) 252-7391	GoPhatDadGo@Gmail.com
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THE OWNER(S) OF RECORD, BY HIS/HER SIGNATURE ACKNOWLEDGES THAT HE/SHE HAS HAD THE OPPORTUNITY TO READ THE DOCUMENTS COMPRISING THE PETITION REPORT LISTED IN #5 ABOVE AND APPROVES THE PROPOSED THE UTILITY SPECIAL ASSESSMENT DISTRICT.

Owner(s) of Record

«OWNER»
«ADDRESS»
«CITY_STATE_ZIP»

Parcel No.: «PARCEL_ID»
Assessed Value: «M_2022_ASSESSED_VALUE»
Legal: «LEGAL»

Signature: _____ Date _____

Signature: _____ Date _____

IMPORTANT INFORMATION

Petition Signature Page

IN ORDER FOR THE SPONSOR TO MEET THE DEADLINE FOR SIGNATURE OF THE COMPLETED PETITION:
IT IS IMPORTANT TO COORDINATE THE TIMING OF THE DISTRIBUTION OF THE PETITIONS TO THE PROPERTY OWNERS, AND THE SIGNING & COLLECTION OF THE COMPLETED PETITIONS SIGNATURE PAGES.

KPB 5.35.107(B): Deadline for Signature. Completed petition signature pages must be filed with the assessing department within 45 days of the date the assessing department distributes the petitions to the sponsor. For district’s over

IMPORTANT: Contact the USAD sponsors directly regarding the deadline for signatures:

Mr. Kevin Dukowitz	47973 Oxford Avenue, Soldotna AK 99669	(907) 252-7391	GoPhatDadGo@Gmail.com
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KPB 5.35.107(C): Signature requirements. 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 record of at least 60% in value of the property to be benefited, in order to be considered by the assembly for formation.

1. Multiple owners: When a parcel is owned by more than one person or entity, signatures for each record owner are required in order for the parcel to count towards the signature thresholds. All signatures shall be consistent with the requirements listed in KPB 5.35.107(C)(2) – (6), as applicable [if the joint owner is deceased a copy of the death certificate must be provided]. The following are those requirements:
2. Signature by Proxy: Signatures by proxy will not be accepted by the clerk.
3. Power of Attorney: The signature of a power of attorney will only be accepted by the borough if the signature is accompanied by a copy of the Power of Attorney document providing authority for such signatures.
4. Business entities:
 - a. *Corporations:* Where a parcel is owned by a corporation, the petition shall be signed by two individuals, one of whom is the chairman of the board, the president, or the vice president, and the other of whom is the secretary or treasurer, or by another person or persons who have been given authority via corporate resolution.
 - b. *Limited liability companies:* Where a parcel is owned by a LLC, the petition must be signed by a member if the LLC is member-managed, or by the manager, if a manager has been designated.
 - c. *Other business owners:* Where a parcel is owned by another type of business entity, only those persons who have signatory authority to bind the business entity under Alaska Statutes may sign the petition as owner.
5. Trusts: Where a parcel is owned by a trust, only the trustee may sign as the property owner. If there are co-trustees, a majority must sign the petition in order for the parcel to count towards the signature thresholds unless otherwise provided in the trust document. The signature of the trustee(s) shall be accepted by the clerk if it is accompanied by a copy of the trust document.
 - [A *Certificate of Trust* which complies with AS 13.36.079 may be submitted in lieu of the entire trust document. **WARNING:** owners should consult with an attorney to advise them if the *Certificate of Trust* complies with AS 13.36.079, or assist them in preparing a *Certificate of Trust*.]

KPB 5.35.107(E): Signature withdrawal. A signature on a petition may be withdrawn only by written notice from the signer submitted to the assessing department prior to the final filing of the petition signatures by the sponsor. A withdrawal is effective only if notice of the withdrawal is submitted before the filing of the completed petition.

PETITION REPORT OXFORD AVENUE UTILITY SPECIAL ASSESSMENT DISTRICT (USAD)

In accordance with KPB Code Chapter 5.35, a petition application has been submitted for formation of a utility special assessment district in the community of Kalifornsky. Known as the Oxford Avenue Utility Special Assessment District (hereinafter "USAD"), the proposed main line including Oxford Avenue east of Echo Lake Road. The project would benefit 4 parcels.

The project proposes to install a natural gas line of approximately 1,110 lineal feet of 2-inch pipe. ¹The total project cost for a 2023 construction is estimated at **\$48,057**, which includes Enstar's 2023 standard construction cost of \$41,707 (based on \$28.74 per lineal foot), and \$0.00 for Enstar's Non-Standard costs, plus the Kenai Peninsula Borough administrative cost of \$6,350. The allocated cost per-parcel is estimated to be **\$12,014.25** for each of the 4 benefited parcels. If the project is approved by the assembly by September 19, 2023, Enstar will attempt to construct the project in 2023. If the project is delayed beyond that date, another engineering estimate will be required with updated construction costs for the proposed year of construction.

This Petition Report is supported by the attached exhibits:

- 1) **Petition Information Sheet** describes the proposed improvement, including the total estimated project cost, and the estimated cost per parcel; provides a statement notifying the property owners to contact the applicable utility for any additional costs that may be required to utilize the improvement; provides notification that any costs to connect individual parcels to the main improvement are not included in the assessment; and contains notice of restrictions and requirements regarding the withdrawal of signatures on a petition; and important information about the petition process and payment options;
- 2) **Enstar's commitment letter** to support the 2023 construction of the extension and a written estimate of the total cost of construction, dated April 24, 2023. If the assembly approves the resolution to form the district and proceed with the improvement on or before September 19, 2023, Enstar will construct the project in 2023; however, if the project is delayed and is constructed in 2024, the rate will increase to an undetermined 2024 construction rate;
- 3) **a map** of the proposed USAD district and boundaries;
- 4) **estimate assessment roll** contains a spreadsheet listing the total estimated cost of the improvement, the name of the record owner of each parcel, tax parcel number, legal description, assessed valuation, the estimate of the amount to be assessed to each parcel (updated to reflect the exclusion of one parcel), whether there are other special assessment liens against any of the parcels in the proposed district, and a description of any parcels that violate the restrictions listed in KPB 5.35.0740(C) or (D); and
- 5) **memo from the Finance Director** stating the method of financing, interest rate to be paid, and setting forth the number and frequency of payments.

The USAD sponsor(s) are:

Mr. Kevin Dukowitz	47973 Oxford Avenue, Soldotna AK 99669	(907) 252-7391	GoPhatDadGo@Gmail.com
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For additional information, contact:

Marie Payfer, KPB Special Assessment Coordinator

(907) 714-2250 or Email: mpayfer@kpb.us

¹ July 1, 2023, corrections required after final petition: Total Project Cost to \$47,987; KPB Admin. Cost to \$6,280; and, Cost Per Parcel to \$11,996.75, see Exhibit #1, page 17

**UTILITY SPECIAL ASSESSMENT DISTRICT
PETITION INFORMATION SHEET
OXFORD AVENUE – USAD**

In accordance with KPB Code Chapter 5.35, a petition application has been submitted for formation of a utility special assessment district in the community of Kalifornsky. Known as the Oxford Avenue Utility Special Assessment District (hereinafter "USAD"), the proposed main line including Oxford Avenue east of Echo Lake Road. The project would benefit 4 parcels.

The project proposes to install a natural gas line of approximately 1,110 lineal feet of 2-inch pipe. The total project cost for a 2023 construction is estimated at **\$48,057**, which includes Enstar's 2023 standard construction cost of \$41,707 (based on \$28.74 per lineal foot), and \$0.00 for Enstar's Non-Standard costs, plus the Kenai Peninsula Borough administrative cost of \$6,350. The allocated cost per-parcel is estimated to be **\$12,014.25** for each of the 4 benefited parcels. If the project is approved by the assembly by September 19, 2023, Enstar will attempt to construct the project in 2023. If the project is delayed beyond that date, another engineering estimate will be required with updated construction costs for the proposed year of construction. *(July 1, 2023, corrections required after final petition: Total Project Cost to \$47,987; KPB Admin. Cost to \$6,280; and, Cost Per Parcel to \$11,996.75, see Exhibit #1, page 17)*

Regarding each benefited parcel within this district, PR Exhibit #4 (the *Estimate Assessment Roll*) contains the tax parcel number, name of record owner, legal description, assessed value, estimated amount of special assessment, the existence of other special assessment liens (if any), and any violations of KPB 5.35.070.

The sponsor of this petition is:

Mr. Kevin Dukowitz	47973 Oxford Avenue, Soldotna AK 99669	(907) 252-7391	GoPhatDadGo@Gmail.com
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What costs are covered: This estimated assessment will only cover the cost to install the extension of the utility's main line of services. Property owners will need to contact the utility company for any additional costs associated with the service connection from the utility's main line to their private structures or facilities on the benefited parcels. Private hookups, service connections, and/or conversion costs are NOT included in the assessment. Enstar Natural Gas Company is located at 36225 Kenai Spur Hwy, Soldotna, AK 99669; or by phone at 907-262-9334, or online at www.enstarnaturalgas.com.

Assessment lien: If the project is approved and constructed, and once the actual cost of the public improvement has been ascertained, the assembly will assess the parcels of property directly benefited by the improvement on a per-parcel basis by equal allocation of the total cost. This cost will be assessed in the form of a lien on the benefited parcel. In no case may a property be assessed (lien) an amount in excess of 50% of the current fair market value (assessed value) of the property. Within this proposed district there is one parcel that exceeds the 50% assessment-to-value limitation, and a prepayment of the assessments will be required (a partial payment of the *allocated cost*).

Payment options: The cost assessed can be paid in full, or in 10 annual installments with interest to accrue on the unpaid amount of the assessment. The assessment may be paid at any time prior to the 10 year period without penalty. Interest will be added to any assessments not paid within 30 days of the Notice of Assessment. The interest rate charged is the *prime rate* plus 2% as of the date the ordinance confirming the assessment roll is enacted by the assembly. The penalty for delinquent installment and assessment payments is the same as the penalty for delinquent real property taxes in effect on the date of the delinquency. The lien will remain on the parcel until the debt has been paid in full.

Deferral of payment of principle: Property owners who meet the income and residency requirements established by KPB 5.35.155, may be eligible for a deferral of payment of principal. Deferral is for the *principle* balance only; accrued interest must be paid by the due date each year. Deferment will only apply to benefited property *owned and occupied as the primary residence and permanent place of abode* of the qualifying applicant. Per KPB 5.35.155(F), *"the deferred assessment, including all unpaid accrued interest, becomes due and payable in full when the property ceases to be owned or occupied by the resident who qualified for the deferral. Any remaining balance due shall be paid on the same schedule as would have been in place if no deferral had applied."* Interested property owners should contact the KPB Finance Department for complete details, including income qualifiers, all restrictions and requirements, and to obtain an annual application.

Legal description of parcels: Pursuant to KPB 5.35.070(B), the legal description of the parcels subject to the special assessment within this proposed district was established on June 20, 2023, the date of the mayor's approval of the petition report. Any action to replat parcels within the proposed district must have been completed and recorded before the date the mayor approved the petition report. No further subdivision, reversion of acreage, or lot line adjustment will be recognized for USAD assessment purposes.

Currently, no parcels within the boundary of this proposed district are in the process of subdividing.

Excluded Parcels: 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 a property owner claims the *physical characteristics* of his or her property make it (1) legally impermissible, (2) physically impossible, or (3) financially infeasible to develop or improve it in a manner that would enable the property to benefit from the proposed improvement, the property owner has the burden of demonstrating that the property cannot be developed or improved. One of the factors which may allow a parcel to be excluded from the district may be financial infeasibility, as the cost to develop or improve the property in a manner which would enable the property to benefit from the proposed improvement.

Within this proposed district, one property owner has submitted an objection to their parcel's inclusion in the proposed district: Norman Dean & Darlene Glick, PIN 131-720-010, *Echo Lake Sub Andrews 1983 North Addn Tract 1*. Mr. & Mrs. Glick object to this parcel's inclusion due to the cost to develop the property would exceed the increase in value due to development, or the factor of financially infeasible.

The mayor has ¹approved the request for this parcel's exclusion from this district.

Per KPB 5.35.107(C)(7), when a parcel is excluded from the district by the mayor under KPB 5.35.105(B) or by law, the total number of parcels within the district, for the purpose of calculating the signature thresholds, shall be reduced by the number of excluded parcels within the proposed district. Additionally, per KPB 5.35.110(E)(4), parcels within the boundaries which are excluded from the district, will not receive the benefit of the improvement and will not be subject to the assessment. The estimated assessment roll spreadsheet reflects the mayor's decision regarding this parcel.

Petition requirements: This petition proposes to assess all the benefited parcels. In order to qualify, the petition must have the signatures of: **(a)** owners of record of at least 60% of the total number of parcels subject to assessment within the proposed USAD; *and* **(b)** the owners of at least 60% in value of the property to be benefited. Approval of the project is signified by property owners in the district properly signing and dating the petition signature page. Failure to secure enough signatures to meet these thresholds will cause the petition to fail.

Petition signature requirements: An owner's signature represents a **vote in favor** of the project. All signatures must be in ink and dated. The completed Petition Signature Page must be returned to the USAD sponsor timely. For parcels

¹ If the Mayor approves to exclude this parcel from the district, the Estimated Assessment Roll Spreadsheet will be adjusted to reflect this parcel's exclusion, including the change in cost per parcel, and the number of parcels for the petition percentages, prior to the disbursement of the final petition to the sponsor.

with joint ownership *each owner of record must sign and date the petition*. If the joint owner is deceased a copy of the death certificate must be provided. For all signature requirements established by KPB 5.35.107(C), see page 2 of the Petition Signature Page. Please note, for properties owned by business entities (e.g., *corporations, limited liability corporations, etc.*), and properties held by *trusts*, additional signature authorization documentation will be required which must be included with the signed Petition Signature Page in order to be considered for signature percentages thresholds.

Kenai Peninsula Borough owned property: Pursuant to 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. When the mayor abstains from participating in the petition signature process, the total number of parcels within the district, for the purpose of calculating the signature thresholds, shall be reduced by the number of parcels owned by the borough within the proposed district. Within this proposed district, there are zero properties which are currently owned by the Kenai Peninsula Borough

Signature withdrawal: A signature on a petition may be withdrawn only by written notice from the signer submitted to the assessing department *prior* to the final filing of the completed petition signature pages by the sponsor. A *withdrawal is effective only if notice of the withdrawal is submitted to the assessing department before the completed petition is filed*. This restriction does not preclude the property owner(s) from filing an objection to the necessity of formation of the district as provided in KPB 5.35.110(D).

A **Petition Signature Page** will be provided to the benefited property owners with the final petition. Only the Petition Signature Page will need to be returned to the district sponsor (*including any required signature authorization documentation, see above*). The district sponsor will be responsible for collecting the signed petitions signature pages and for submitting the completed petition to the Borough. The Borough will accept the original or an electronic copy of the signed petition signature pages (scanned or copied).

Deadline for signatures:

Property owners must contact the **USAD Sponsor** regarding the deadline to return the signed petition signature pages & any required signature authorization documentation, to the sponsor for final collection.

Pursuant to KPB 5.35.107(B), the sponsor will be responsible to file the completed petition signature pages to the assessing department within 45 days of the date on which the assessing department distributes the petition to the sponsor for distribution to property owners. The 45 day period begins as of date the sponsor receives the final petition from Assessing.

Certification of petition: Once the sponsor files the completed petition signature pages with the assessing department, the borough clerk shall determine whether the petition contains sufficient signatures as required. If the petition meets code requirements for percentage thresholds, the borough clerk shall certify the petition and submit the petition to the mayor for preparation of a resolution to form the district and proceed with the improvement.

Submit signed petition signature pages directly to the USAD sponsors:

Mr. Kevin Dukowitz	47973 Oxford Avenue, Soldotna AK 99669	(907) 252-7391	GoPhatDadGo@Gmail.com
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For additional information, contact:

Marie Payfer, *KPB Special Assessment Coordinator*

Dir. Line: 907-714-2250

Email: mpayfer@kpb.us

Terms & Definitions:

Special Assessments: Authorized under AS 29.46, a funding method used to finance capital improvements that benefit specific (limited) property within a certain designated area (*special assessment districts*). Capital improvements may include roads improvements or the extension of the lines of service of those public utilities regulated by the Regulatory Commission of Alaska. Special assessments spread the cost of the improvement among all the properties that directly benefit from the improvement, with the idea is that it is easier for property owners to afford the benefits if they share the cost as a group rather than paying individually. Special assessments are a way for property owners and the municipality to work together to finance capital improvements that directly benefit the property owners.

Per KPB 5.35.19:

Benefit: an advantage gained from the improvement greater than that shared by the general public. Benefit may include, for example, increased property value and marketability, a special adaptability of the land, or a relief from some burden (e.g., lower energy costs).

Deferral of Payment: payment is postponed or suspended until a certain time or event, but is not forgiven.

Directly benefited: the property may hook up a private service line to the main service line without any further extension of the main line, based upon the utility's guideline.

District: an area composed of individual parcels of land that are connected to the public improvement for which the special assessment is to be levied.

Petition: the formal written request signed by record owners within the proposed boundaries to form the utility special assessment district. There are three stages of the petition:

Petition Report: the document created by the assessing department, for the mayor's review, which contains all pertinent information regarding the proposed district and special assessment project.

Final Petition: contains the petition report and all exhibits approved by the mayor, and a petition signature page with instructions. It is the final petition which is distributed by the sponsor to all owners of property within the proposed district.

Completed Petition: refers to all signed and dated petition signature pages collected by the sponsor, including any required signature authorization documentation. The sponsor is required to submit the completed petition to the assessing department prior to the end of the 45 day signature collection period, for review and certification.



3000 Spenard Road
PO Box 190288
Anchorage, AK 99519-0288
www.enstarnaturalgas.com

April 24, 2023

Marie Payfer, Special Assessment Coordinator
Kenai Peninsula Borough
148 N. Binkley
Soldotna, AK 99669

RE: Oxford Ave USAD

Dear Ms. Payfer,

The Oxford Ave USAD engineering revision has been complete. The project would install 1,110 feet of gas main. ENSTAR's 2023 construction rate for 2-inch pipe is \$28.74 per foot at a total standard cost of \$31,901. This project will also require additional Non-Standard construction cost items. These items include a 150 foot 2" road bore as anticipated at a total Non-Standard cost of \$9,806. The total estimated ENSTAR cost for this project in 2023 is \$41,707.

This is a non-refundable project in which a Contribution in Aid of Construction (CIAC) agreement will be used. The cost of service lines to individual lots are not included in this estimate. Service lines are to be paid by individual property owner, as they desire service.

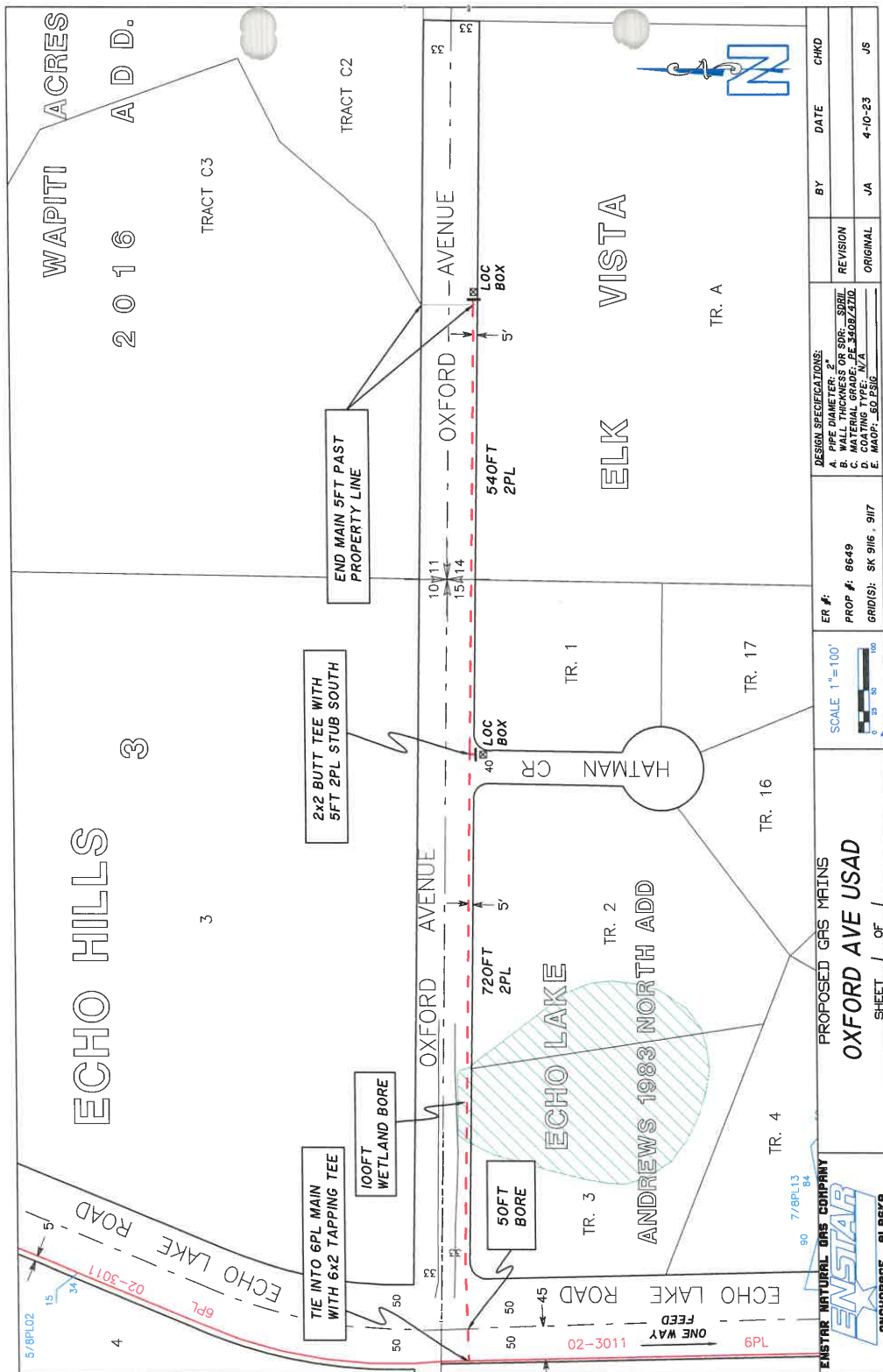
In the event the Oxford Ave USAD is approved by the Kenai Peninsula on or before September 19th, 2023, ENSTAR will construct the project in 2023 weather permitting. If the project is approved after this date, ENSTAR cannot guarantee construction in 2023. If construction gets delayed to 2024, the rate for ENSTAR's gas main will change to the 2024 construction rate.

Best Regards,

David Bell
Director of Business Development

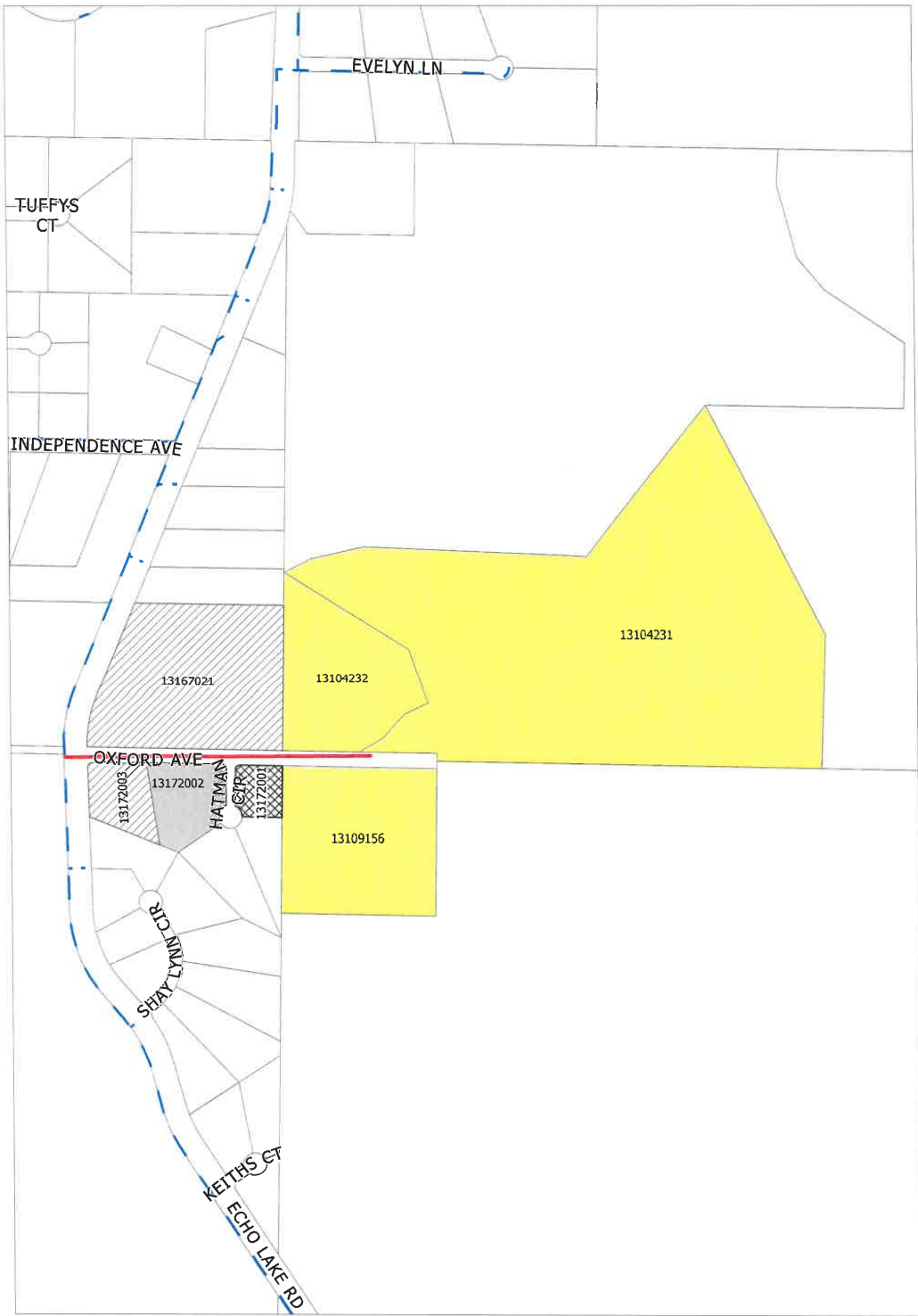
Anchorage: 907-277-5551 • Kenai Peninsula Office: 907-262-9334 • Mat-Su Office: 907-376-7979

All Our Energy Goes Into Our Customers



DESIGN SPECIFICATIONS:	ER #:	PROPOSED GFS MAINS	DATE	CHKD
A. PIPE DIAMETER: 2"	PROP # 6649	OXFORD AVE USA D	BY	DATE
B. WALL THICKNESS OR SDR: SDR11	GRID(S): SK 916, 917		REVISION	
C. MATERIAL GRADE: PE 3508/472D			ORIGINAL	
D. COATING TYPE: N/A				
E. MANCP: 300 LBS				

RECEIVED
MAY 11 2023



OXFORD AVE USAD



OXFORD AVENUE USAD - ESTIMATED ASSESSMENT ROLL
 Resolution to form the district and proceed with the improvement

Enstar Construction Cost:	31,901.00
Enstar Non-Standard Cost:	9,806.00
Enstar Estimated Cost:	41,707.00
KPB Administration Cost:	6,280.00
Total Estimated Project Cost:	47,987.00

Total # of Parcels for Assessments:	4
Cost Per Parcel:	11,996.75

Non-Refundable Filing Fee per 5.35.030(D): \$1,000 KPB 5.35.030(D)
 Paid: 5/1/2023

Total Assessed Value: 2022 Assessed Value (AV)	47,987.00
Total Project Cost:	47,987.00
(Less) Total Prepayments of Assessments:	(1,414.25)
Total Assessments:	46,572.75

% Parcels Delinquent for Real Property Taxes (<1.0%): 0.00% KPB 5.35.070(D), <1.0%
 Total number of parcels for petition % thresholds: 75.00% KPB 5.35.107(B)
 Total number of parcels for petition in favor of project: 3 KPB 5.35.107(C)(a), 60%
 Percentage of District Value for petition in favor of project: 98.41% KPB 5.35.107(C)(b), 60%

PARCEL ID	LEGAL	2023 ASSESSED VALUE	LIEN LIMIT <50% A.V. 5.35.070(C)	MAX ASSMT Less Prepayments	Prepayments of Assmts 5.35.070(B)&(C)	OWNER	MAILING ADDRESS	CITY ST ZIP	DEL TAX DUE	OTH SPC ASSMTS	IN FAVOR 'YES'	IN FAVOR AV
131-042-31	T 04N R 11W SEC 11 Seward Meridian KN 2016081 WAPITI ACRES 2016 ADDN TRACT C2	700,700	1.71%	11,996.75	0.00	HUTCHISON MARY E & MICHAEL L	26562 HEAVY DOWN DR	SOLDOTNA AK 99669	NO	NO	YES	700,700
131-042-32	T 04N R 11W SEC 11 Seward Meridian KN 2016081 WAPITI ACRES 2016 ADDN TRACT C3	503,600	2.38%	11,996.75	0.00	TONIONE JOSHUA K DUKOWITZ KENDRA L	47962 OXFORD AVE	SOLDOTNA AK 99669	NO	NO	YES	503,600
131-091-56	T 4N R 11W SEC 14 Seward Meridian KN 0920019 ELK VISTA SUB TRACT A	107,200	11.19%	11,979.25	17.50	DUKOWITZ DENISE L DUKOWITZ KEVIN R	47973 OXFORD AVE	SOLDOTNA AK 99669	NO	NO	YES	107,200
131-720-02	T 4N R 11W SEC 15 Seward Meridian KN 0830273 ECHO LAKE SUB ANDREWS 1983 NORTH ADDN TRACT 2	21,200	56.59%	10,600.00	1,396.75	ANDREWS BARBARA J	31851 ECHO LAKE RD	SOLDOTNA AK 99669	NO	NO		0
4	# Benefited Parcels	1,332,700		46,572.75	1,414.25						3	1,311,500

The following parcel has been excluded by the Mayor from the assessment due to the physical characteristics of the property, on the basis of financially infeasible to develop, as the cost to develop the property would exceed the increase in value due to development.


PARCEL ID	LEGAL	2023 ASSESSED VALUE	LIEN LIMIT <50% A.V. 5.35.070(C)	MAX ASSMT Less Prepayments	Prepayments of Assmts 5.35.070(B)&(C)	OWNER	MAILING ADDRESS	CITY ST ZIP	DEL TAX DUE	OTH SPC ASSMTS	IN FAVOR 'YES'	IN FAVOR AV
131-720-01	T 4N R 11W SEC 15 Seward Meridian KN 0830273 ECHO LAKE SUB ANDREWS 1983 NORTH ADDN TRACT 1	18,500	64.85%	0.00	0.00	GLICK DARLENE C & NORMAN	31930 HATMAN CIR	SOLDOTNA AK 99669				
5	# of Parcels located within District											

as of 7/21/2023

Kenai Peninsula Borough
Finance Department

MEMORANDUM

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

THRU: Peter A. Micciche, Kenai Peninsula Borough Mayor
Brandi Harbaugh, Finance Director 

FROM: Nolan Scarlett, Auditor/Accountant *NS*

DATE: 6/7/2023

RE: Oxford Avenue Special Assessment District (USAD) Financing

The Borough plans to provide the funds necessary to finance the Oxford Avenue USAD from internal sources. KPB 5.10.040 allows the investment of borough monies in special assessment districts that are authorized under KPB 14.31. The total of such investments is limited to not more than \$5,000,000 at the end of any fiscal year. As of June 7, 2023, the borough has \$335,349 invested in special assessment districts; South Bend Bluff Estates RIAD and Whale-of-a-Tail Ave USAD are pending billing for \$634,082. If Oxford Avenue USAD is approved, the \$48,057 project will increase the total special assessment district investment to approximately \$1,017,488.

The owners of property located within the USAD will be required to make principal and interest payments each year for a ten-year period to retire the indebtedness to the borough. The rate of interest will be equal to the prime rate (currently 8.25%) plus 2% or 10.25%. Property owners can avoid or reduce the interest charge by making accelerated payments on the principal. Penalties will not be imposed for accelerated payments. The assessment constitutes a lien on each parcel within the district.

Kenai Peninsula Borough
 Currently Proposed USAD/RIAD Projects
 6/7/2023

	Appropriated Proposal	Outstanding Proposals
Max Allowed	\$ 5,000,000	\$ 5,000,000
Current Balance (100.10706) as of:		
6/7/2023	335,349	335,349
Previously Approved Projects:		
South Bend Bluff Estates RIAD	385,082	385,082
Whale-of-a-Tail Ave USAD	249,000	249,000
Projects Awaiting Approval:		
Oxford Avenue USAD		48,057
Total	\$ 969,431	\$ 1,017,488

Public Comment & Exclusion Request

OXFORD AVE USAD

*Administrative Review
of the
Petition Report*

RECEIVED

MAY 25 2023

KPB ASSESSING DEPT

May 25, 2023

Kenai Peninsula Borough / Assessing Dept.
144 N. Binkley St.
Soldotna, AK 99669

RE: Natural Gasline Extension for
Oxford Ave. USAD

Dear Mayor Michelle,

We are in favor of this gasline extension and appreciate the borough having a program in place, supporting utility improvements. This program makes it feasible for our neighborhood property owners to pay for the expense of natural gas extension, by spreading the cost out over a 10 year period.

Currently, we are in the process of building a house on Oxford Av. and are looking forward to having natural gas as an option to keeping our utility bills down.

Please keep all 5 parcels included

PIN: 131-091-56

in this proposal to make it
economical for all Oxford Dr.
property owners.

Thank you for your
consideration,

Kevin & Denise Dukowicz
4797B Oxford Av.
Soldotna, AK 99669
(907) 252-7391

PIN: 131-091-56

Kenai Peninsula Borough
Assessing Dept

To Whom it may concern,

This letter is in regards to the proposed natural gas line for Oxford Ave USAD. We are officially objecting to our parcel inclusion (PID 13172001) on Oxford Ave. There is no benefit to us to have to pay the share 9611.40 for a gas line that we have no intention connecting for service. Also, the increase in the assess value once it has been completed. The parcel indicated is flooded by surrounding parcels in the spring and continued wet ground till the following winter. We notified the Borough of this problem and the conclusion was that nothing could be done. No construction could take place on this parcel. The cost to build on this parcel would exceed the increase in value due to development.

Secondly, the total cost for us to convert over from diesel to natural gas would be approximately 41,400. For us to benefit from this we would need to live another 18 ½ years to recoup the original cost. Being 70 years old, the numbers don't add up.

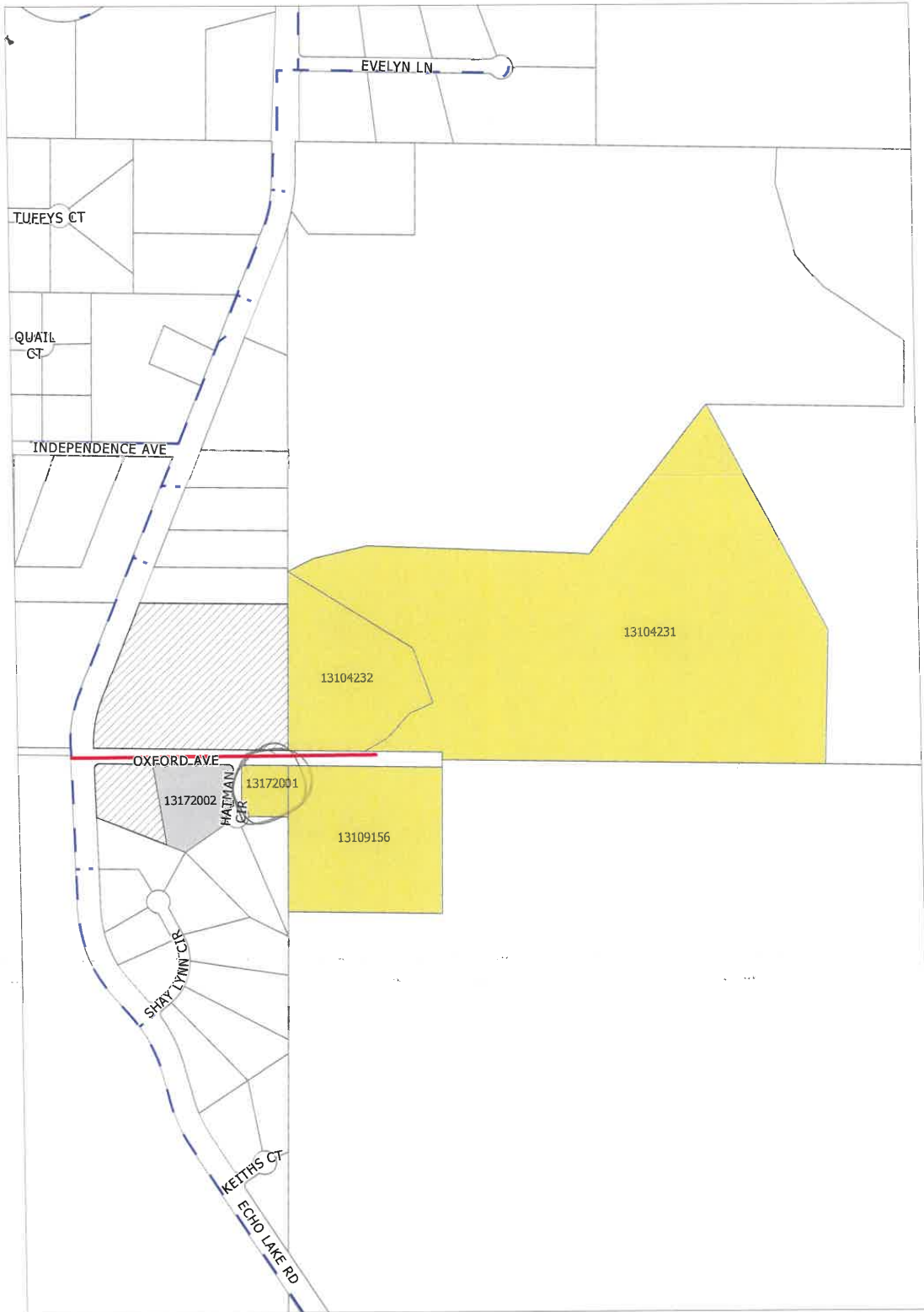
My wife and I chose this parcel and others because of privacy, knowing the option for heat is diesel fed boiler. We built our home in 2013, with only one other parcel occupied off Oxford.

For these reasons we have stated, please reconsider this parcels involvement in this USAD. Again, this proposed project has no benefit to us and we want no part of it.

Dean and Darlene Glick
31930 Hatman Circle
Soldotna, AK
907-741-1046

RECEIVED
MAY 30 2023
BY: *ml*

PIN: 131-720-01
Echo Lake Sub Andrews 1983 North Addition Tract 1



OXFORD AVE USAD





Office of the Borough Clerk

144 North Binkley Street, Soldotna, Alaska 99669 • (907) 714-2160 • (907) 714-2388 Fax

Michele Turner, CMC
Acting Borough Clerk

CERTIFICATION OF PETITION

Oxford Avenue Utility Special Assessment District

A petition for formation of the Oxford Avenue Utility Special Assessment District was received in the Office of the Borough Clerk on Thursday, June 29, 2023. I hereby certify the petition as sufficient per the requirements set forth in KPB 5.35.107. Signatures of owners of record of at least 60% of the total number of parcels subject to the assessment were required as well as at least 60% in value of the property to be benefited. Signatures of property owners of 3 parcels or 75% were validated representing 98.41% of the assessed value of the property being benefited.

A check in the amount of \$1,000 was received May 1, 2023.

Dated this 30th day of June, 2023.

Michele Turner, CMC
Acting Borough Clerk



Copies Provided to:

Petition Sponsor: Kevin Dukowitz
Marie Payfer, KPB Special Assessment Coordinator
KPB Assembly President Johnson and Assembly Members
KPB Mayor Peter A. Micciche