

# Kenai Peninsula Borough

## Assessing Department

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### MEMORANDUM

TO: Kelly Cooper, Assembly President  
Members, Kenai Peninsula Borough Assembly

THRU: Charlie Pierce, Mayor *CP*  
Melanie Aeschilman, Director of Assessing *MA*

FROM: Marie Payfer, Special Assessment Coordinator *MP*

DATE: April 23, 2020

RE: Resolution 2020-024, to Form the South Kalifornsky Beach Road Utility Special Assessment District (USAD) and Proceed with the Improvement of a Natural Gas Main Line Extension (Mayor)

### MAYOR'S REPORT

Property owners in the proposed South Kalifornsky Beach Road 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 November 5, 2019, 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 South Kalifornsky Beach Road USAD and proceed with the improvement approves the formation of the district 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 South Kalifornsky Beach Road 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 to 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 South Kalifornsky Beach Road USAD was received by the Assessing Department on March 6, 2020. On March 10, 2020, the borough clerk certified the petition with 112 of 179 property owners, 62.57 percent, supporting the proposed district (see Exhibit 2, Certification of Petition), and with 73.63 percent of the value of the district (see Exhibit 1, estimate assessment roll, page 26). 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.

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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 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, see Exhibit 1. The administrative review of the petition report includes (see Exhibit 1) the following exhibits:
  - a) Petition Signature Page (see Exhibit 1, pages 10 & 11)
  - b) Petition Report (see Exhibit 1, page 12)
  - c) 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) (see Exhibit 1, pages 13 to 16);
  - d) Enstar's letter of commitment to support the 2020 construction of the extension and a written estimate of the total cost of construction (**Option A**), with attached engineer's map, dated August 26, 2019 (see Exhibit 1, pages 17 to 24);
  - e) A map of the proposed USAD district and boundaries (see Exhibit 1, page 25);
  - f) 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 parcels that exceed the assessment-to-value ratio set forth in KPB 5.35.070(C). Additionally, the description of six (6) parcels within the boundary which have been excluded from the district, which will not receive the benefit of the improvement and will not be subject to the assessment. (see Exhibit 1, pages 26 to 33);
  - g) Written comments timely received per KPB 5.35.030(E)(5), including any objections from parcel owners regarding inclusion of their property district. (See Exhibit 1, pages 34 to 49);
  - 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 (see Exhibit 1, pages 50 & 51);

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- 2) Certification of Petition, South Kalifornsky Beach Road USAD, dated March 10, 2020, see Exhibit 2.

PROJECT BACKGROUND:

The total project is estimated to cost is \$1,031,034.60. This includes direct costs of \$1,012,437.90 and indirect administrative costs of \$18,596.70. There are a total of 180 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 \$5,727.97. 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), a property may not be assessed an amount in excess of 50 percent of the fair market value of the property. Within this project there are two (2) properties that exceed the 50 percent limitation, parcels 133-310-02 and 133-350-02. The owner(s) of record for each parcel prepaid the estimated amount of special assessment in full on March 16, 2020, meeting code requirements that prepayment must be received no later than 15 days prior to the date the assembly is scheduled to act on the resolution. See Exhibit 1, pages 29 and 31.

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 five (5) properties, representing 2.78 percent, within this proposed district delinquent in payment of real property taxes. Additionally, pursuant to KPB 5.35.105(A)(4)(g), there are 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 were a total of eight (8) properties whose owners requested consideration to exclude their respective property from the assessment, and the mayor has determined that six (6) of those properties will not directly benefit from the improvement due to each property's

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physical characteristics. The legal descriptions and the names of record owners are included in the estimate assessment roll. See Exhibit 1, Estimate Assessment Roll, page 33, and Written Comments & Objections to Inclusion, pages 34 to 49.

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 has not been determined, prior to approval of the final plat pursuant to KPB 20.60.030. The mayor approved the petition on November 5, 2019. On December 27, 2019, parcel number 133-081-08 was subdivided and recorded per KN2019075 DUNCAN SUB ADDN NO 3. The owner of record paid the estimated special assessment of \$5,727.97 prior to recording on December 10, 2019. See Exhibit 1, page 33, parcel 133-081-08 (inactive).

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 133-031-43, has been determined not to directly benefit from the improvement, and has been excluded from the assessment; and, (2) parcel 133-031-09, a benefited parcel. The mayor chose to abstain from the petition process for this district. See Exhibit 1, page 33. Parcel 133-031-09 was not included in the petition process, therefore, was not included in the required signature percentage thresholds, resulting in a total of 179 parcels for the calculation of signature percentages; however, this parcel is included in the calculation for allocation of assessments, resulting in 180 parcels for the calculation for allocation of assessments.

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.

Your consideration of this resolution is appreciated.