

ALASKA INDUSTRIAL DEVELOPMENT AND EXPORT AUTHORITY

RESOLUTION NO. G20-04

**RESOLUTION OF THE ALASKA INDUSTRIAL
DEVELOPMENT AND EXPORT AUTHORITY
APPROVING A SUBORDINATION AGREEMENT
RELATING TO THE ISSUANCE OF CONDUIT REVENUE
BONDS FOR THE BENEFIT OF THE INTERIOR GAS
UTILITY**

WHEREAS, the Alaska Industrial Development and Export Authority (the “Authority”) has provided financing to the Interior Gas Utility (IGU) through the Sustainable Energy Transmission and Supply Development (“SETS”) Program and Fund;

WHEREAS, the SETS loan the Authority made to IGU is governed by the Financing Agreement the parties signed effective as of December 13, 2017;

WHEREAS, the Financing Agreement has been amended twice to increase the amount of the SETS loan available to IGU;

WHEREAS, the Authority is in the process of issuing conduit revenue bonds for the benefit of IGU, with the bonds being in the maximum amount of \$78 million;

WHEREAS, the sale of the bonds will be facilitated if the Authority subordinates the SETS loan and the Authority’s SETS loan collateral in favor of the bonds;

WHEREAS, a proposed Subordination Agreement has been prepared that would have the effect of giving priority to the payment of the bonds over the SETS loan and restricting the enforcement action the Authority can take with respect to the collateral for the SETS loan until the bonds are paid off; and

WHEREAS, finalizing the Subordination Agreement will facilitate the completion of the conduit revenue bond issuance and advance IGU's work to expand and improve its natural gas utility systems.

NOW, THEREFORE, BE IT RESOLVED BY THE ALASKA INDUSTRIAL DEVELOPMENT AND EXPORT AUTHORITY AS FOLLOWS:

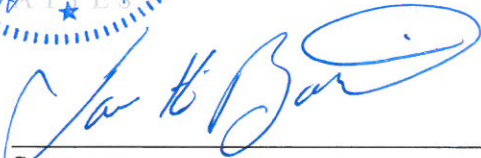
Section 1. The proposed Subordination Agreement with IGU and the bond trustee is approved. The Executive Director is authorized and directed to execute the Subordination Agreement on behalf of the Authority and to deliver the signed agreement to the other parties. The Executive Director is further authorized and directed to cause the Authority to perform its obligations under the Subordination Agreement.

DATED at Anchorage, Alaska this 4th day of March 2020.





Chair



Secretary

SUBORDINATION AGREEMENT

This SUBORDINATION AGREEMENT, dated as of _____, 2020 (“Agreement”) is entered into by and among: (a) U.S. BANK NATIONAL ASSOCIATION, as master trustee (together with its permitted successors and assigns in such capacity, “Master Trustee”) under the Master Trust Indenture dated as of April 1, 2020 (the “Master Trust Indenture”), between the Master Trustee and the INTERIOR ALASKA NATURAL GAS UTILITY, also known as INTERIOR GAS UTILITY; (b) ALASKA INDUSTRIAL DEVELOPMENT AND EXPORT AUTHORITY (together with its permitted successors and assigns in such capacity, “Subordinated Lender”); and INTERIOR GAS UTILITY.

RECITALS

WHEREAS, pursuant to the terms of that certain Financing Agreement, dated December 13, 2017, as the same has been amended and as the same may be hereafter amended (the “Financing Agreement”), Subordinated Lender extended a loan to Interior Gas Utility, and the loan (the “SETS Loan”) was evidenced by a note (the “Promissory Note”);

WHEREAS, Pentex Alaska Natural Gas Company, LLC; Fairbanks Natural Gas LLC; Titan Alaska LNG, LLC; Arctic Energy Transportation, LLC; Polar LNG, LLC; and Cassini LNG Storage (collectively, the “Affiliates”), and Interior Gas Utility (which together with the Affiliates constitute the “Borrower”), entered into a Commercial Security Agreement with Subordinated Lender, dated June 13, 2018, under which Borrower granted Subordinated Lender a security interest in property described in the Commercial Security Agreement;

WHEREAS, Fairbanks Natural Gas, LLC made a Deed of Trust, Security Agreement and Fixture Filing, dated June 13, 2018 (the “FNG Deed of Trust”), for the benefit of Subordinated Lender, encumbering real property located in the Fairbanks Recording District, and the FNG Deed of Trust was recorded June 14, 2018 under Reference No. 2018-0008752-0;

WHEREAS, Titan Alaska LNG, LLC made a Deed of Trust, Security Agreement and Fixture Filing, dated June 13, 2018 (the “Titan Deed of Trust”), for the benefit of Subordinated Lender, encumbering real property located in the Palmer Recording District, and the Titan Deed of Trust was recorded June 14, 2018 under Reference No. 2018-011989-0;

WHEREAS, the Financing Agreement, Promissory Note, Commercial Security Agreement, FNG Deed of Trust, and Titan Deed of Trust, were executed along with other documents relating to the SETS Loan, all of which, as the same have been amended and restated prior to this date and as the same may be hereafter amended and restated, are the “SETS Loan Documents”;

WHEREAS, the property in which Subordinated Lender holds a security interest under the Commercial Security Agreement, and the property that is subject to the liens and security interests created by the FNG Deed of Trust and the Titan Deed of Trust are collectively the “SETS Loan Collateral”;

WHEREAS, pursuant to the Master Trust Indenture and First Supplemental Indenture, dated as of April 1, 2020, and other ancillary documents (“the Bond Documents”), Borrower is issuing Direct Note Obligation Series 2020A in the principal amount of \$ _____ (together with all other “Bonds” and “Other Bonds” as defined in, and issued and outstanding in accordance with the provisions of, the Financing Agreement, “Bond Debt”);

WHEREAS, in connection with the Bond Documents, Borrower pledged its Net Revenue (as defined in the Bond Documents) to Master Trustee to secure and provide a means of payment of the Bond Debt (the Net Revenue constitutes the “Pledged Revenues”); and

WHEREAS, Subordinated Lender, as an inducement to the purchasers and holders of the Bond Debt, has agreed in the Financing Agreement to subordinate the payment of the SETS Loan and the liens and security interests Subordinated Lender has in the SETS Loan Collateral and other revenues and assets of Borrower to the priority of the Bond Debt.

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I TERMS OF SUBORDINATION

Section 1.01 Subordination.

(a) Subordinated Lender covenants and agrees that, until the Bond Discharge Date:

(1) the payment of the Bond Debt from the Pledged Revenues shall at all times have priority over the payment of the SETS Loan, and shall include the application of Pledged Revenues to: (A) any delinquent payment of Bond Debt, together with interest accrued thereon, (B) replenishing any reserve fund that secures the payment of Bond Debt to the required balance, and (C) reimbursing any bond insurer or reserve account security provider that has provided credit enhancement for Bond Debt, together with all required interest, fees, and expenses;

(2) Subordinated Lender shall not accelerate the maturity of the SETS Loan; and

(3) Subordinated Lender shall not take any action against Borrower or foreclose on or otherwise proceed against the SETS Loan Collateral or other revenues or assets of Borrower pursuant to any judicial or non-judicial foreclosure, including acceptance of the SETS Loan Collateral or other revenues or assets of Borrower in full or partial satisfaction of Borrower’s obligations on the SETS Loan or under the SETS Loan Documents; provided, however, Subordinated Lender shall be entitled to accept and retain payments in accordance with Section 1.01(g).

(b) For purposes of this Agreement, the “Bond Discharge Date” means the date on which all obligations under the Bond Documents have been fully performed and irrevocably and indefeasibly paid in full in immediately available funds or are otherwise discharged (other than obligations under the Bond Documents that by their terms survive and with respect to which no claim has been made by Master Trustee).

(c) For purposes of this Agreement, the “Standstill Period” means the period of time of 180 days after Subordinated Lender has given written notice to Master Trustee and Borrower of the occurrence and continuance of a Payment Default and of Subordinated Lender’s intent to take enforcement action against Borrower; provided, however, that, if within 90 days after such notice is given, Borrower retains a Consultant (as defined in the Master Trust Indenture) to make recommendations with respect to the rates, fees, and charges of Borrower and Borrower’s methods of operation and other factors affecting its financial condition, the Standstill Period shall be extended for so long as Borrower uses its best efforts to

follow each recommendation of the Consultant to the extent permitted by law, for a period not to exceed two years.

(d) For purposes of this Agreement, “Payment Default” has the meaning assigned in the Financing Agreement.

(e) Notwithstanding (a) above or anything below in this Agreement, upon expiration of the Standstill Period, so long as a Payment Default has occurred and is continuing, Subordinated Lender may, with the Consent of the Master Trustee (as defined in the First Supplemental Indenture), engage a manager (“Manager”) to take possession of, manage, and operate the SETS Loan Collateral and Borrower’s business as an on-going concern in accordance with prudent utility practices. Subordinated Lender’s right to engage the Manager shall be in accordance with Section 11.5.7 of the Financing Agreement. The Manager’s authority with respect to Borrower’s operations shall include, but not be limited to: hiring and firing employees and contractors; setting rates for natural gas sales and services provided; paying the Manager’s compensation as operating costs; collecting Pledged Revenues for payment to Master Trustee; paying Subordinated Lender from funds available under the Bond Documents for that purpose; and acquiring, maintaining and improving property, and disposing of assets in compliance with the Bond Documents and the SETS Loan Documents. The Manager shall be obligated to honor the priority given to the Bond Debt in this Agreement with respect to the Net Revenue generated in Manager’s operation of Borrower’s business or in Manager’s use of the SETS Loan Collateral. Borrower shall surrender possession and control of the SETS Loan Collateral and Borrower’s business to the Manager engaged under this provision, and Borrower shall cooperate with the efforts of Subordinated Lender and the Manager to secure any necessary regulatory approvals.

(f) Notwithstanding (a) above or anything below in this Agreement, Subordinated Lender may:

(1) file and pursue a claim or statement of interest with respect to the SETS Loan and the SETS Loan Collateral in any bankruptcy, insolvency, or similar proceeding involving Borrower that Subordinated Lender does not initiate;

(2) exercise any right or remedy in order to protect the SETS Loan Collateral from destruction, damage, environmental contamination, or material loss in value; or

(3) exercise any right or remedy expressly provided herein and take any action to enforce the same.

(g) Nothing in this Section 1.01 shall restrict Subordinated Lender from accepting and retaining a payment from or on behalf of Borrower, directly or indirectly, against the indebtedness represented by the SETS Loan Documents so long as, at the time of such payment or immediately after giving effect thereto, (1) no default exists with respect to the payment of the Bond Debt, funding of reserves that secure the Bond Debt, or payments to credit enhancement providers of Bond Debt, and (2) Subordinated Lender has not received a default notice from the Master Trustee stating that a covenant default exists or would be created under the Bond Documents by the making of such payment.

Section 1.02 No Interference. Subordinated Lender agrees that:

(a) it will not take or cause to be taken any action the purpose or effect of which is, or could be, to make its security interests or liens in the SETS Loan Collateral or other revenues or assets of

Borrower *pari passu* with, or to give the Subordinated Lender any preference or priority relative to, the Bond Debt in the Pledged Revenues;

(b) it will not challenge or question in any proceeding the validity or enforceability of any obligations of Borrower or the Bond Documents with respect to the Bond Debt, or the validity, attachment, perfection or priority of the Master Trustee's rights in the Pledged Revenues, or the validity or enforceability of the priorities, rights or duties established by this Agreement;

(c) it will not interfere with, hinder or delay, in any manner, whether by judicial proceedings or otherwise, any enforcement action by Master Trustee or the holders of the Bond Debt in accordance with the Bond Documents, other than to assert Subordinated Lender's rights as a junior creditor and holder of subordinated liens and security interests in the SETS Loan Collateral and (if any) in other revenues or assets of Borrower;

(d) it shall have no right to direct Master Trustee to exercise, or consent to the exercise by Master Trustee of, any right, remedy or power with respect to the Pledged Revenues, except as otherwise expressly provided herein or except as the Bond Documents permit a junior security holder to so act; and

(e) it will not institute any suit or assert in any suit, bankruptcy, insolvency or other proceeding any claim with respect to the SETS Loan Collateral or other revenues or assets of Borrower against the Master Trustee seeking damages from or other relief by way of specific performance, instructions or otherwise with respect thereto, and the Master Trustee shall not be liable for, any action taken or omitted to be taken by it with respect to the SETS Loan Collateral or other revenues or assets of Borrower.

Section 1.03 Certain Agreements With Respect to Bankruptcy or Insolvency Proceedings.

In the event a proceeding under the Bankruptcy Code (Title 11 of the United States Code) or any other federal, state or foreign bankruptcy, insolvency, receivership or similar law shall be commenced by or against Borrower, Subordinated Lender agrees that it shall not, prior to the Bond Discharge Date:

(a) oppose or object to any relief from or modification of the automatic stay as provided in Section 362 of the Bankruptcy Code by the Master Trustee related to the Pledged Revenues,

(b) oppose or object to position of the Master Trustee as to the extent of the Pledged Revenues or the value of any claims of the Master Trustee under Section 506(a) of the Bankruptcy Code (provided that any such matters are consistent with the terms of this Agreement), or

(c) oppose or object to the status of Pledged Revenues as "special revenues" within the meaning of Section 902 of the Bankruptcy Code.

Section 1.04 Reinstatement. In the event that any obligations under the Bond Documents shall be paid in full and such payment or any part thereof shall subsequently, for whatever reason (including, but not limited to, an order or judgment for disgorgement of a preference under the Bankruptcy Code, or any similar law, or the settlement of any claim in respect thereof), be required to be returned or repaid, the terms and conditions of this Agreement shall be fully applicable thereto until the Bond Discharge Date.

ARTICLE II
CERTAIN ACTIONS OF MASTER TRUSTEE OR SUBORDINATE LENDER

Section 2.01 No Other Duties of Master Trustee. Subordinated Lender acknowledges and agrees that Master Trustee shall not have any duties or other obligations to the Subordinated Lender with respect to the SETS Loan Collateral or other revenues or assets of Borrower.

Section 2.02 Modifications to Obligations. Subordinated Lender and Master Trustee may, at any time and without the consent of or notice to the other party, without incurring liability to the other party and without impairing or releasing any rights hereunder:

(a) except as provided in Section 2.03, change the manner, place or terms of payment or change or extend the payment of or renew or alter the obligations secured by the Pledged Revenues or the SETS Loan Collateral or other revenues or assets of Borrower or amend the SETS Loan Documents or the Bond Documents in any manner or enter into or amend in any manner any other agreement relating to the foregoing;

(b) sell, exchange, release otherwise deal with any property by whoever at any time pledged or mortgaged to secure, or howsoever securing, any obligations owed to Subordinated Lender, Master Trustee, or the holders of the Bond Debt (subject only to the obligations, rights and remedies hereunder with respect to the SETS Loan Collateral);

(c) release any person or entity liable in any manner of the payment or collection of any obligations owed to Subordinated Lender, Master Trustee, or the holders of the Bond Debt;

(d) exercise or refrain from exercising any right against Borrower or any other person or entity, and

(e) apply any sum by whomsoever paid or however realized to any obligations owed to Subordinated Lender or Master Trustee.

Section 2.03. Additional Bond Debt. No Additional Obligations shall be issued under the Bond Documents except in compliance with the SETS Loan Documents. This Agreement shall not require Subordinate Lender to subordinate to any Additional Obligation not issued in accordance with the SETS Loan Documents.

Section 2.04. Priorities Not Affected. The priorities provided for herein shall not be altered or otherwise affected by

(a) any amendment, modification, supplement, extension, increase, replacement, renewal, restatement or refinancing of the SETS Loan Documents or the Bond Documents;

(b) the securing of any obligations owed to Subordinated Lender or Master Trustee with any additional collateral or guarantees;

(c) the release of any collateral (including the SETS Loan Collateral) or guarantees securing any obligations owed to Subordinated Lender or Master Trustee;

(d) the failure of any person to comply with any SETS Loan Documents or Bond Documents;
or

(e) any action that Subordinated Lender may take or fail to take in respect to the SETS Loan Collateral or other revenues or assets of Borrower or the Master Trustee may take or fail to take in respect of the Pledged Revenues.

**ARTICLE III
MISCELLANEOUS**

Section 3.01 Notices and Other Communications. All notices, requests, demands or other communications hereunder shall be in writing and shall be addressed to the address of the recipient shown below (or to such other address as either party may designate in a written notice delivered in accordance with the terms hereof) and shall become effective when hand-delivered, upon delivery by nationally recognized overnight courier or three (3) days after deposited in the United States mail (if sent by first-class mail, postage prepaid).

If to Master Trustee:
U.S. Bank National Association
1420 Fifth Ave 7th Floor
Mail Code PD-WA-T7CT
Seattle, Washington 98101
Attention: Corporate Trust Department

If to the Subordinated Lender:
Alaska Industrial Development and Export Authority
813 West Northern Lights Blvd.
Anchorage, Alaska 99503
Attention: Executive Director

If to Borrower:
Interior Gas Utility
3408 International Street
Fairbanks, Alaska 99701
Attention: General Manager

Section 3.02 Termination. The term of this Agreement shall commence on the date hereof and shall continue until the earlier to occur of the Bond Discharge Date; provided, however that any obligations of the parties under Section 1.04 shall survive termination.

Section 3.03 Miscellaneous.

(a) THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF ALASKA, without giving effect to the principles of conflict of laws. Nothing herein shall affect the right to serve process in any other manner permitted by law.

(b) No forbearance or delay shall be deemed to create a waiver or course of dealing between the parties.

(c) This Agreement, together with the other agreements and instruments mentioned herein or executed contemporaneously herewith, constitute the entire agreement of the parties with respect to the subject matter hereof.

(d) If a court of competent jurisdiction finds any provision of this Agreement to be illegal, invalid, or unenforceable as to any circumstances, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be modified, it shall be considered deleted from this Agreement.

(e) This Agreement shall inure to the benefit of and be binding on the parties, their successors and permitted assigns.

(f) This Agreement may be executed in any number of counterparts, which together shall constitute a single fully executed agreement. Executed counterparts transmitted by fax or electronic means shall be binding on the parties.

(g) Time is of the essence in the performance of this Agreement.

(h) The terms "herein" or "hereunder" or like terms shall be deemed to refer to this Agreement as a whole and not to a particular section. Whenever terms such as "include" or "including" is used in this Agreement, they mean "include" or "including", as the case may be, without limiting the generality of any description or word preceding such term. The captions or headings in this Agreement are made for convenience and general reference only and shall not be construed to describe, define, or limit the scope or intent of the provisions of this Agreement. As used herein, all masculine pronouns shall include the feminine or neuter, and all singular terms the plural form thereof, and vice versa.

(i) The Recitals to this Agreement are hereby incorporated into and are made a part of this Agreement.

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IN WITNESS WHEREOF, the parties have caused this Subordination Agreement to be duly executed and delivered by their respective officers as of the day and year first above written.

U.S. BANK NATIONAL ASSOCIATION

ALASKA INDUSTRIAL DEVELOPMENT AND EXPORT AUTHORITY

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

INTERIOR ALASKA
NATURAL GAS UTILITY

By: _____

Print Name: _____

Title: _____