

ORDINANCE NO. 5895

**AN ORDINANCE APPROVING THE CONDITIONAL TRANSFER OF
NATURAL GAS UTILITY POWER TO THE FAIRBANKS NORTH STAR
BOROUGH**

WHEREAS, the need for energy cost relief is paramount for all residents of Interior Alaska, and past efforts to solve the problem have been unsuccessful; and

WHEREAS, the construction of a natural gas pipeline from the North Slope to utilize the stranded gas is a fundamental infrastructure need for the State of Alaska that is long overdue; and

WHEREAS, constructing liquefied natural gas (“LNG”) processing facilities on the North Slope and trucking gas to Fairbanks is the most promising short term solution since a gas pipeline is still years away; and

WHEREAS, Flint Hills Resources and Golden Valley Electric Association are jointly working on the construction of an LNG facility that will produce 9 billion cubic feet (“BCF”) per year leaving only approximately 2 BCF/year potentially available for space heating; and

WHEREAS, Fairbanks Natural Gas is also planning a North Slope LNG facility that will produce up to 7 BCF/year for space heating needs through an expansion of its existing natural gas distribution system; and

WHEREAS, the Fairbanks North Star Borough is proposing the creation of an Interior Alaska Natural Gas Utility (“IANGU”) to explore available public-private partnership options; creation of this utility would require the City of North Pole and the City of Fairbanks to transfer powers to the Borough; and

WHEREAS, the Borough does not currently have the legal authority to create such a utility, but it may acquire that power on an areawide basis if the cities of Fairbanks and North Pole transfer their utility powers to the Borough by ordinance; and

WHEREAS, the City of Fairbanks has made several requests that have been incorporated into the Borough’s draft implementing ordinance, including retention of all earnings by the utility financially separating it from the Borough, a change in board member makeup which gives each municipality an appointment to the utility board, and expansion of the “purpose” definition; and

WHEREAS, the City of Fairbanks has concerns about the creation of a public utility that could potentially compete with a private sector provider and views IANGU first as a facilitator, second as an implementing corporation that contracts, partners or joint ventures with private

companies, and third as a provider/competitor if services are not currently being provided or if the private entity is unwilling to provide them or will not do so in a timely manner; and

WHEREAS, the City of Fairbanks has a long history of running utilities and is very much aware of the difficulties associated with them and the challenges a board faces in controlling costs over a period of time, costs which could be greatly mitigated if the utility, rather than being an operating company, accomplishes its goals by contracting, partnering, and/or joint venturing with private industry, and

WHEREAS, the IANGU could be of upmost help by providing a conduit for low interest financing and grants available to public entities,

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, as follows:

Section 1. The City of Fairbanks transfers to the Fairbanks North Star Borough its power to own and operate a natural gas utility.

Section 2. Transfer of this power is conditioned upon the adoption by the Borough Assembly of an ordinance containing the provisions regarding the management organization as set out in the attached proposed Borough Ordinance No. 2012 - 52, including:

- a. The City of Fairbanks and the City of North Pole shall each have the right to appoint one board member of the seven member board of directors.
- b. Direct competition in an area covered by a Certificate of Public Convenience & Necessity by the Regulatory Commission of Alaska will not be initiated without approval of the Fairbanks North Star Borough, the City of Fairbanks and the City of North Pole by separate resolutions. In the event such authority is given, IANGU is only authorized to operate via a contract with a private entity unless this option is not available.
- c. Compensation of the IANGU Board of Directors shall not exceed compensation paid to the Assembly Members of the Fairbanks North Star Borough.
- d. IANGU shall report its activities to the public on at least a quarterly basis.
- e. To the extent the power is not exercised within three years from the date of this ordinance, the City of Fairbanks revokes the unexercised portion of this transfer of power. Any extension must be authorized by a new ordinance.

Section 3. That the effective date of transfer of power provided by this Ordinance shall be November 15, 2012.

Jerry Cleworth, City Mayor

AYES:
NAYS:
ABSENT:
ADOPTED:

ATTEST:

APPROVED AS TO FORM:

Janey Hovenden, CMC, City Clerk

Paul Ewers, City Attorney