

City of Philadelphia



(Bill No. 080501)

AN ORDINANCE

Approving the Fiscal Year 2009 Capital Budget providing for expenditures for the capital purposes of the Philadelphia Gas Works (including the supplying of funds in connection therewith) subject to certain constraints and conditions, and acknowledging receipt of the Forecast of Capital Budgets for Fiscal Years 2010 through 2014.

WHEREAS, Section IV.2.b. of the Agreement Between The City Of Philadelphia And The Philadelphia Facilities Management Corporation For The Management And Operation Of The Philadelphia Gas Works (“Management Agreement”) requires the Philadelphia Facilities Management Corporation (“PFMC”) to prepare annually for the Philadelphia Gas Works (“PGW”) a proposed capital budget for the ensuing year and a forecast for the six (6) years comprising the ensuing budget year and the five (5) years next following; and

WHEREAS, Section IV.2.b. of the Management Agreement also requires that the proposed capital budget and forecast be submitted to the Director of Finance and the Gas Commission for their review and for submission of said budget and forecast, together with their recommendations thereon, to City Council for its approval; and

WHEREAS, Section IV.2.c. of the Management Agreement requires that all PGW expenditures be made pursuant to approved budgets; and

WHEREAS, PGW filed with the Gas Commission on January 2, 2008 a proposed Fiscal Year (“FY”) 2009 Capital Budget of seventy three million four hundred thirty six thousand dollars (\$73,436,000) and a Five Year Forecast of Capital Budgets (FY 2010 - FY 2014); and

WHEREAS, the Gas Commission’s review of said Budget proposal in its FY 2009 Budgets/ Oversight Proceeding culminated in deliberations taken at a public meeting held on April 30, 2008 whereby the Gas Commission endorsed a proposed FY 2009 Capital Budget in an amount not to exceed seventy one million nine hundred fifty six thousand dollars (\$71,956,000) with related constraints and conditions for said Budget; and

WHEREAS, on May 5, 2008 PGW filed with the Gas Commission a Compliance FY 2009 Capital Budget Proposal of seventy one million nine hundred fifty six thousand dollars (\$71,956,000) together with its Forecast of Capital Budgets for FY 2010 through FY 2014.

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THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Approval and Acknowledgment.

Pursuant to the provisions of Section IV.2.b. and IV.2.c. of the Management Agreement, the Council:

- A. does hereby approve the Fiscal Year (“FY”) 2009 Capital Budget for the Philadelphia Gas Works (“PGW”) in an amount not exceeding seventy one million nine hundred fifty six thousand dollars (\$71,956,000) as reflected in the Compliance FY 2009 Capital Budget Proposal which is attached as Exhibit #1 to this Ordinance, subject to the provisions of Sections 3 through 8 of this Ordinance; and
- B. does hereby acknowledge receipt of PGW’s Forecast of Capital Budgets for FY 2010 through FY 2014.

SECTION 2. Spending Authorization.

The amounts shown in the approved FY 2009 Capital Budget are hereby authorized for the purposes shown and shall be available for expenditure upon the effective date of this Ordinance during FY 2009 defined as September 1, 2008 through August 31, 2009 in an amount not exceeding seventy one million nine hundred fifty six thousand dollars (\$71,956,000) as reflected in the Compliance FY 2009 Capital Budget Proposal which is attached as Exhibit #1 to this Ordinance, subject to the provisions of Sections 3 through 8 of this Ordinance.

SECTION 3. Constraints And Conditions - Conditional Spending Authorizations.

No spending authority will attach to the following line items until the Gas Commission approves in writing such spending authority as the Gas Commission may make available after appropriate review and good cause shown:

- A. the line item styled "Conditional Funding for Capital Needs Related to Safety (#13-01-2-01) (\$250,000)" to provide spending authority for safety-related (i.e., Priority 1) capital projects which cannot be addressed by proposing a line item in the FY 2010 Capital Budget;
- B. the line item styled "Conditional Funding for Capital Needs Related to Reliability of Service (#13-01-2-02) (\$250,000)" to provide spending authority for reliability-related (i.e., Priority 2) capital projects which cannot be addressed by proposing a line item in the FY 2010 Capital Budget;
- C. the line item styled "Conditional Funding for Cost-Justified Load Growth (#13-01-2-03) (\$500,000)" to provide spending authority for load growth-related (i.e., Priority 4) capital projects which are justified by appropriate documentation and

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which cannot be addressed by proposing a line item in the FY 2010 Capital Budget; and

- D. the line item styled "Conditional Funding - Cast Iron Main Replacement Program (#52-21-2-04) (\$811,000)" to provide spending authority for capital projects which support the goal of eliminating eighteen (18) miles of cast iron main per year through main replacements, enforced relocations and abandonments.

SECTION 4. Constraints And Conditions - Line Item Lifespans.

- A. The following line items will expire and any associated spending authority shall end by the close of business on November 30, 2009:

- (i). the line item styled "Conditional Funding for Capital Needs Related to Safety (#13-01-2-01) (\$250,000)";
- (ii). the line item styled "Conditional Funding for Capital Needs Related to Reliability of Service (#13-01-2-02) (\$250,000)";
- (iii). the line item styled "Conditional Funding for Cost-Justified Load Growth (#13-01-2-03) (\$500,000)";
- (iv). the line item styled "Renovate Customer Service Training Room – 1800 N. 9th Street – 4th Floor (#72-01-2-08) (\$216,000)"; and
- (v). the line item styled "Upgrade Training Room for Information Technology Training – 1800 N. 9th Street – 7th Floor (#72-01-2-09) (\$177,000)".

The Gas Commission shall have the authority to extend the lifespan of said line items as necessary after appropriate review and good cause shown for such period(s) as shall end by no later than the close of business on August 31, 2010.

- B. All other line items will expire and any associated spending authority shall end by the close of business on August 31, 2010. The Gas Commission shall have the authority to extend the lifespan of such line items as necessary after appropriate review and good cause shown for such period(s) as shall end by no later than the close of business on August 31, 2011.

SECTION 5. Constraints And Conditions - Line Item Lapse.

Line items shall automatically lapse on August 31, 2009 if no work order has been opened for any such line item by the close of business that day with the exception of the following:

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- A. the line item styled “Conditional Funding for Capital Needs Related to Safety (#13-01-2-01) (\$250,000)”;
- B. the line item styled “Conditional Funding for Capital Needs Related to Reliability of Service (#13-01-2-02) (\$250,000)”;
- C. the line item styled “Conditional Funding for Cost-Justified Load Growth (#13-01-2-03) (\$500,000)”;
- D. the line item styled “Conditional Funding - Cast Iron Main Replacement Program (#52-21-2-04) (\$811,000)”.

SECTION 6. Constraints And Conditions - Line Item Transfers.

- A. PGW shall have discretion on a trial basis to implement intradepartmental transfer transactions in the approved FY 2009 Capital Budget subject to Sections 6.B. and 6.C.
- B. PGW discretion to implement intradepartmental transfers pursuant to Section 6.A. shall be subject to the following constraints, conditions and reporting requirements.
 - (i). PGW discretion shall end at the close of business on October 31, 2009.
 - (ii). Each department included in the approved FY 2009 Capital Budget must retain its identity for purposes of line item transfers, notwithstanding whether it is or was part of a larger business unit in PGW’s organizational structure.
 - (iii). Transfer of spending authority from one capital budget to another capital budget is forbidden.
 - (iv). PGW discretion shall apply to the line items referenced in Sections 3.A. through 3.D. only if PGW has filed with the Gas Commission a Transfer Advisory to communicate its intent to exercise said discretion followed by a Request for Release of Conditional Funding. Such Request must be premised on and be solely for the purpose(s) stated and the transfer transaction(s) described in the Transfer Advisory. Any such release of conditional funding will be null and void if PGW subsequently abandons or modifies such transactions or attempts to apply the released funding to other purposes. The line item referenced in Section 3.D. may be used as a transfer source only if the recipient line item(s) is/are a main replacements or enforced relocations line item.

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- (v). PGW shall report all transfers in the monthly Capital Budget Authorization/Spending Review reports and the Capital Spending Forecasts filed with the Gas Commission. PGW shall reflect the dollar impact of such transfers on all affected line items and disclose the justification for each transfer.
 - (vi). PGW discretion shall not apply to a new project not identified in line items or supporting documentation unless said project properly falls within the scope of the recipient line item in a transfer transaction.
- C. PGW discretion to implement intradepartmental transfers of line item spending authority pursuant to Section 6.A. shall not apply to the following:
- (i). the line item styled “Renovate Customer Service Training Room – 1800 N. 9th Street – 4th Floor (#72-01-2-08) (\$216,000)”;
 - (ii). the line item styled “Upgrade Training Room for Information Technology Training – 1800 N. 9th Street – 7th Floor (#72-01-2-09) (\$177,000)”;
 - (iii). the line item styled “Replace Air Conditioning Units at District Offices (#72-01-2-06) (\$200,000)”;
 - (iv). the line item styled “Replace Roof – West Garage – 1800 N. 9th Street (#72-01-2-15) (\$986,000)”.
- D. The Gas Commission shall have authority to review and approve for good cause shown interdepartmental transfer transactions and hybrid transfer transactions that combine intradepartmental and interdepartmental shifts of spending authority in the approved FY 2009 Capital Budget subject to Sections 6.E. and 6.F.
- E. Gas Commission approval authority shall be subject to the following constraints, conditions and exclusions.
- (i). Gas Commission approval authority shall end at the close of business on December 31, 2009.
 - (ii). PGW shall file with the Gas Commission any requests for approval of line item transfers together with the supporting PFMC Board Resolution(s) authorizing such request(s) by no later than the close of business on September 4, 2009 for line items expiring on November 30, 2009 and by no later than the close of business on November 2, 2009 for line items expiring on August 31, 2010.

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- (iii). Transfer of spending authority from one capital budget to another capital budget is forbidden.
 - (iv). The line item referenced in Section 3.D. may be used as a transfer source only if the recipient line item(s) is/are a main replacements or enforced relocations line item.
 - (v). PGW shall report all transfers in the monthly Capital Budget Authorization/Spending Review reports and the Capital Spending Forecasts filed with the Gas Commission. PGW shall reflect the dollar impact of such transfers on all affected line items.
 - (vi). Gas Commission approval authority shall not apply to a new project not identified in line items or supporting documentation unless said project properly falls within the scope of the recipient line item in a transfer transaction.
- F. Gas Commission approval authority shall not apply to the following:
- (i). the line item styled “Renovate Customer Service Training Room – 1800 N. 9th Street – 4th Floor (#72-01-2-08) (\$216,000)”;
 - (ii). the line item styled “Upgrade Training Room for Information Technology Training – 1800 N. 9th Street – 7th Floor (#72-01-2-09) (\$177,000)”;
 - (iii). the line item styled “Replace Air Conditioning Units at District Offices (#72-01-2-06) (\$200,000)”;
 - (iv). the line item “Replace Roof – West Garage – 1800 N. 9th Street (#72-01-2-15) (\$986,000)”.
- G. The Gas Commission is hereby requested to monitor line item transfer activity in the FY 2009 Capital Budget and make appropriate recommendations to City Council with respect to transfers of line item spending authority in the FY 2010 Capital Budget proposal.

SECTION 7. Constraints And Conditions – Gas Commission Principles.

- A. During the lifespan of the line items in the approved FY 2009 Capital Budget, PGW shall adhere to the “Philadelphia Gas Works Capital Budgets - Principles” promulgated by the Gas Commission. A copy of said Principles as revised by the Gas Commission on September 20, 2004 is attached as Exhibit #2 to this Ordinance and is incorporated herein.

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- B. For purposes of Capital Budget Principle 2.4., if PGW is in danger of exceeding a spending authorization, PGW shall notify the Gas Commission of this possibility as soon as possible with justification for the potential overrun and a proposal for an appropriate remedial solution.

SECTION 8. Exhibits.

Exhibits #1 and #2 referenced in this Ordinance and incorporated herein shall be kept on file by the Chief Clerk of City Council and shall be available to the public for inspection, reading or copying at reasonable times.

[Note: Exhibits to this Bill are on file in the Office of the Chief Clerk.]

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on June 19, 2008. The Bill was Signed by the Mayor on July 2, 2008.

A handwritten signature in cursive script that reads "Patricia Rafferty".

Patricia Rafferty
Chief Clerk of the City Council