

City of Philadelphia



(Bill No. 000583)

AN ORDINANCE

Authorizing the amendment of the Philadelphia Facilities Management Corporation Agreement to provide for a temporary change in the amount of temporary financing that the City may provide to the Philadelphia Gas Works under certain terms and conditions, and authorizing the temporary advance of up to \$45,000,000 to the Philadelphia Gas Works pursuant to that Agreement under certain terms and conditions.

WHEREAS, The Philadelphia Gas Works is in the process of management reorganization in order to benefit ratepayers and residents of the City of Philadelphia; and

WHEREAS, The Philadelphia Gas Works has submitted a plan of cost containment and rate increases to the Pennsylvania Public Utility Commission, and has submitted proposed budgets and budget forecasts to the Philadelphia Gas Commission; and

WHEREAS, The Philadelphia Gas Works is in a fiscal crisis, and that any appropriate rate relief will not come sufficiently soon to enable the responsible and prudent operation of the Philadelphia Gas Works through the winter of 2000-2001; and

WHEREAS, The existing ceiling on the amount the City of Philadelphia is able to loan certain money to the Philadelphia Gas Works in anticipation of future revenues may be insufficient during the coming year or two; and

WHEREAS, The Council of the City of Philadelphia anticipates that the above Commission will act on the above requests in accordance with the law, to ensure both the responsible operation and the long-term viability of the Philadelphia Gas Works, in compliance with the requirements of bond ordinances and the agreement pursuant to which the Philadelphia Gas Works is operated; and

WHEREAS, The City has in the past authorized the amendment of the Philadelphia Facilities Management Corporation Agreement to permit the City to advance up to forty-five million dollars to the Philadelphia Gas Works to be repaid within 24 months, and to loan up to forty-five million dollars to be repaid within 12 months; and

WHEREAS, The new management of the Philadelphia Gas Works has represented that it will be able to operate through the current fiscal year with loans from the City of no more than forty-five million dollars, and will be able to repay those amounts within 24 months; and

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WHEREAS, The City is willing and able to advance up to forty-five million dollars to the Philadelphia Gas Works to be repaid within 24 months, provided the Philadelphia Gas Commission and the Director of Finance approve such advances; now, therefore

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. The City Council of the City of Philadelphia ("City") hereby authorizes the amendment of that certain Agreement Between the City of Philadelphia and the Philadelphia Facilities Management Corporation for the Management and Operation of the Philadelphia Gas Works, originally dated December 29, 1972, authorized pursuant to an Ordinance of City Council, approved December 29, 1972 (Bill No. 455), and to resolutions of the Board of Directors of the Philadelphia Facilities Management Corporation adopted on December 13, 1972, as further amended by Ordinance on numerous other occasions, as follows:

To revise Paragraph 3 of Section IV (Accounting Methods) to read as follows, with new text double-underlined in bold:

3. *Temporary Financing*

Short-term loans not exceeding twenty million dollars in amount or twelve months in duration may be negotiated in anticipation of revenues, except that short-term loans exceeding twenty million dollars but not exceeding forty-five million dollars in amount may be negotiated in anticipation of revenues for Fiscal Year 1982 of the Philadelphia Gas Works and may be outstanding during the period July 1, 1981 through June 30, 1982. If such loans are required, plans therefor shall be submitted to the Gas Commission and the Director of Finance for approval of amount of loan. The amount of any such loan shall also be subject to the approval by resolution or by ordinance of City Council.

The Gas Works may also receive temporary advances from the City in anticipation of revenues which are anticipated to be received by the Gas Works provided that such advances do not exceed twenty million dollars in amount or twenty-four months in duration; provided further, however, that during the period June 30, 1981 through June 30, 1983 **and the period September 1, 2000 through August 31, 2002**, such advances may exceed twenty million dollars in amount but shall not exceed forty-five million dollars in amount. The amount of each such advance shall be subject to the prior approval of the Director of Finance and the Gas Commission and to the approval by resolution or ordinance of City Council.

In addition to the foregoing authorized borrowings, loans not exceeding one hundred million dollars in aggregate principal amount at any time outstanding may be incurred for financing accounts receivable and the purchase of inventory for the Gas

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Works, as authorized by applicable law. If such loans are required, plans therefor shall be submitted to the Gas Commission and the Director of Finance for approval of the aggregate principal amount of such loans which may be outstanding at any single time. Such aggregate principal amounts shall also be subject to the approval by resolution or by ordinance of City Council.

SECTION 2. Pursuant to Section IV.3 of the PFMC Agreement as amended above, the City is hereby authorized to make a temporary advance to the Philadelphia Gas Works (hereinafter "PGW") in the amount of forty-five million dollars, or such lesser amount as may be approved by the Director of Finance and the Gas Commission; provided, however, that total temporary advances authorized by this Ordinance and any other ordinance or resolution shall not exceed forty-five million dollars at any one time, and provided further that:

- a. Such advance will be placed in a restricted account, against which PGW can draw in any month when PGW and the Director of Finance certify that its cash flow is insufficient to meet operating requirements, and which shall be repaid on an ongoing basis as soon as PGW's cash flow is sufficient to permit its repayment; and
- b. Interest on the account shall accrue to the City; and
- c. PGW is hereby limited to drawing no more than twenty-five million dollars from this restricted account until such time as the Gas Commission has informed City Council, and City Council has concurred by Resolution, that PGW has submitted an adequate Five Year Financial and Management Plan; and
- d. During the term of the temporary advance, PGW shall file with the City Council, the Gas Commission, and the Director of Finance:
 - (i) No later than the fifth business day of each month, an update of its "Budget of Cash Receipts and Disbursements" report covering the preceding month; and
 - (ii) Monthly status reports regarding achievement of interim PGW management's stated goals for productivity/cost savings and collection of billed revenues.

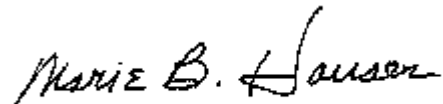
The outstanding principal balance due by the Gas Works on such temporary advances shall be repaid no later than twenty-four months following the date of PGW's first draw of the full amount of the temporary advances authorized pursuant to this Ordinance, but in any event, no later than June 30, 2003.

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on November 2, 2000. The Bill was Signed by the Mayor on November 15, 2000.

A handwritten signature in black ink that reads "Marie B. Hauser". The signature is written in a cursive style with a large, looped initial "M".

Marie B. Hauser
Chief Clerk of the City Council