



City of Philadelphia

City Council
Chief Clerk's Office
402 City Hall
Philadelphia, PA 19107

BILL NO. 190384

Introduced May 9, 2019

Councilmember Green

**Referred to the
Committee on Finance**

AN ORDINANCE

Approving the amendment of the Fiscal Year 2018 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 the receipt of the Revised Forecast of Capital Budgets for Fiscal Years 2019 through 2023, as amended.

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 next following 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 the Council of the City of Philadelphia ("City Council") for its approval; and

WHEREAS, Section IV.2.b of the Management Agreement further requires that the proposed capital budget and forecast include a showing of the amounts needed and how the funds required are to be supplied as between funds generated within the business through charges to customers or otherwise and funds to be obtained through capital loans ("Financing Plan"); 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 Philadelphia Gas Commission ("Gas Commission") on January 3, 2017 a proposed Fiscal Year ("FY") 2018 Capital Budget of one hundred fifteen million ninety-nine thousand dollars (\$115,099,000) ("FY 2018 Capital Budget" or "Budget") and a Five Year Forecast of Capital Budgets (FY 2019 - FY 2023) ("Forecast"); and

City of Philadelphia

BILL NO. 190384 continued

WHEREAS, PGW filed with the Gas Commission on March 23, 2017 proposed amendments that would increase the Budget by five hundred nineteen thousand one hundred twenty-five dollars (\$519,125) (subsequently revised to four hundred seventy-four thousand sixty dollars (\$474,060)), for the purpose of reauthorizing two line items from the FY 2016 Capital Budget; and

WHEREAS, the Gas Commission's review of the Budget in its FY 2018 Budgets/Oversight Proceeding culminated in deliberations taken at a public meeting held on April 25, 2017 at which the Gas Commission endorsed a proposed FY 2018 Capital Budget in an amount not to exceed one hundred fourteen million four hundred nine thousand dollars (\$114,409,000) with related constraints and conditions related thereto; and

WHEREAS, on April 28, 2017, PGW filed with the Gas Commission a FY 2018 Compliance Capital Budget of one hundred fourteen million four hundred nine thousand dollars (\$114,409,000), including its revised Financing Plan and revised Forecast; and

WHEREAS, on June 21, 2017, the Mayor approved Bill No. 170433, wherein City Council approved the foregoing FY2018 Compliance Capital Budget; and

WHEREAS, on November 1, 2018, PGW submitted a proposed amendment that would increase the Budget by nine million three hundred thirty-three thousand three hundred dollars (\$9,333,300) (the "Amendment") for certain capital purposes, including vehicle replacement, facilities, gas processing and gas main replacement/addition projects; and

WHEREAS, on December 7, 2018, PGW revised the proposed Amendment to request additional funding only for main replacement/additions in the lesser amount of four million six hundred fifty thousand dollars (\$4,650,000) and a one-time waiver to the 2018 Capital Program Protocols for these projects; and

WHEREAS, the Gas Commission's review of the proposed Amendment culminated in deliberations taken at a public meeting held on December 18, 2018, whereupon the Gas Commission endorsed amendments to the FY 2018 Capital Budget adding four million six hundred fifty thousand dollars (\$4,650,000) for the purpose of gas main replacement/additions, thereby increasing the total Budget to an amount not to exceed one hundred nineteen million fifty-nine thousand dollars (\$119,059,000) with related constraints and conditions; and

WHEREAS, on December 18, 2018, PGW filed with the Gas Commission an Amended FY 2018 Compliance Capital Budget of one hundred nineteen million fifty-nine thousand dollars (\$119,059,000) ("Amended Compliance Budget"), a revised Financing Plan and a revised Forecast; and

WHEREAS, City Council seeks to provide for evolving capital needs and related expenditures of PGW by incorporating the Gas Commission endorsed amendment to the FY 2018 Capital Budget reflected in Exhibit 1 hereto; now, therefore,

THE COUNCIL OF THE CITY OF PHILADELPHIA 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:

City of Philadelphia

BILL NO. 190384 continued

- A. does hereby approve the Fiscal Year (“FY”) 2018 Capital Budget for the Philadelphia Gas Works (“PGW”) in total amount not exceeding one hundred nineteen million fifty- nine thousand dollars (\$119,059,000) as reflected in the Amended FY 2018 Compliance Capital Budget and associated revised Financing Plan, subject to the provisions of Sections 3-5 of this Ordinance which include a waiver to 2018 Capital Program Protocols, **Part 3, Subpart A.2** for designated **Distribution** projects; and
- B. does hereby acknowledge receipt of PGW’s revised Forecast of Capital Budgets for FY 2019 - FY 2023.

SECTION 2. Spending Authorization

The amounts approved in the Amended FY 2018 Compliance Capital Budget (“Amended Compliance Budget”) are hereby authorized for the purposes shown and shall be available for expenditure as of FY 2018 and thereafter in an aggregate amount not to exceed one hundred nineteen million fifty-nine thousand dollars (\$119,059,000), as reflected in the Amended FY 2018 Compliance Capital Budget and subject to Sections 3 through 5 of this Ordinance. The Amended Compliance Budget (including the revised Financing Plan) is attached as Exhibit 1.

SECTION 3. Constraints and Conditions – Capital Program Protocols

During the lifespan of the line items in the approved FY 2018 Amended Compliance Budget, as a condition of approval, PGW shall adhere to the “Capital Program Protocols” adopted by the Gas Commission on April 25, 2017, subject to the one-time waiver of **Part 3, Subpart A.2, allowing the amendment of the FY 2018 Capital Budget after the March 1 deadline and thereby** extending lifespans for designated **Distribution** projects approved by this Ordinance. Said Protocols are incorporated herein by reference.

SECTION 4. Constraints and Conditions – Conditional Spending Authorization

Except as necessitated by Emergency Circumstances as set forth in the Capital Program Protocols at Part 1 – Subpart I.3, no spending authority will attach to the following line items until the Gas Commission releases such spending authority, in writing, after appropriate review and good cause shown:

- A. the line item styled “Conditional Funding for Capital Needs Related to Safety (Project #13-01-2-01) (\$250,000);”
- B. the line item styled “Conditional Funding for Capital Needs Related to Reliability of Service (Project #13-01-2-02) (\$250,000);” and
- C. the line item styled “Conditional Funding for Capital Needs Related to Cost-Justified Load Growth (Project #13-01-2-03) (\$250,000);”

SECTION 5. Constraints and Conditions – Line Item Transfer Exclusions

Except as necessitated by Emergency Circumstances as set forth in the Capital Program Protocols at Part 1 – Subpart I.3, the following line items shall be unavailable as a source of spending authority in transfer transactions:

City of Philadelphia

BILL NO. 190384 continued

- A. the line item styled “Conditional Funding for Capital Needs Related to Safety (Project #13-01-2-01) (\$250,000);” and
- B. the line item styled “Conditional Funding for Capital Needs Related to Reliability of Service (Project #13-01-2-02) (\$250,000).”

SECTION 6. Exhibit

Exhibit 1 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.]