

City of Philadelphia



(Bill No. 100186)

AN ORDINANCE

Further amending Bill No. 090325, entitled “An Ordinance approving the Fiscal Year 2010 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 2011 through 2015,” as previously amended by Bill No. 090705, by approving a further amended Capital Budget for Fiscal Year 2010.

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, a Fiscal Year (“FY”) 2010 Capital Budget for PGW in the “not-to-exceed” amount of seventy two million two hundred fifteen thousand dollars (\$72,215,000) was adopted by the City on June 3, 2009; and

WHEREAS, an amended FY 2010 Capital Budget for PGW in the “not-to-exceed” amount of seventy four million seven hundred sixty seven thousand dollars (\$74,767,000) was adopted by the City on November 4, 2009; and

WHEREAS, on January 6, 2010 PGW filed with the Gas Commission a request to increase the FY 2010 Capital Budget by nine hundred fifty four thousand dollars (\$954,000) to install a 200 kilowatt natural gas-fired microturbine and a 40 ton absorption chiller (Combined Heat and Power (“CHP”) project) at the 800 West Montgomery Avenue complex, of which four hundred sixty-five thousand dollars (\$465,000) is expected to be reimbursed through a Commonwealth of Pennsylvania Green Energy Works! grant; and

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WHEREAS, on January 26, 2010 PGW filed with the Gas Commission a revised request to increase the FY 2010 Capital Budget by one million two hundred forty thousand dollars (\$1,240,000) for the aforesaid CHP project, with the same expected grant reimbursement; and

WHEREAS, the Gas Commission's review of said revised request culminated in deliberations taken at a public meeting held on March 9, 2010 at which the Gas Commission endorsed an amendment to said Budget not to exceed one million two hundred forty thousand dollars (\$1,240,000) subject to certain constraints and conditions; and

WHEREAS, said amendment would result in a new "not-to-exceed" FY 2010 Capital Budget of seventy six million seven thousand dollars (\$76,007,000); and

WHEREAS, on March 9, 2010 PGW filed with the Gas Commission a Second Amended FY 2010 Compliance Capital Budget Proposal of seventy six million seven thousand dollars (\$76,007,000); and

WHEREAS, Council seeks to provide for the evolving capital needs and related expenditures of PGW by further amending the FY 2010 Capital Budget to support the CHP project at PGW's 800 West Montgomery Avenue complex; now, therefore

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1.

Section 1 of Bill No. 090325 (adopted on June 3, 2009), as previously amended by Bill No. 090705 (adopted on November 4, 2009), is further amended as follows:

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") 2010 Capital Budget for the Philadelphia Gas Works ("PGW") in an amount not exceeding **seventy six million seven thousand dollars (\$76,007,000)** ~~seventy four million seven hundred sixty seven thousand dollars (\$74,767,000)~~ as reflected in the **Second Amended Revised** Compliance FY 2010 Capital Budget Proposal which is attached as Exhibit **#1-B #1-A** to this Ordinance, subject to the provisions of Sections 3 through 9 of this Ordinance; and
- B. does hereby acknowledge receipt of PGW's Revised Forecast of Capital Budgets for FY 2011 through FY 2015.

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SECTION 2.

Section 2 of Bill No. 090325 is amended as follows:

Section 2. Spending Authorization.

The amounts shown in the approved FY 2010 Capital Budget are hereby authorized for the purposes shown and shall be available for expenditure upon the effective date of this Ordinance during FY 2010, defined as September 1, 2009 through August 31, 2010, in an amount not exceeding **seventy six million seven thousand dollars (\$76,007,000)** ~~seventy four million seven hundred sixty seven thousand dollars (\$74,767,000)~~ as reflected in the **Second Amended Revised** Compliance FY 2010 Capital Budget Proposal which is attached as Exhibit ~~#1-A~~ **#1-B** to this Ordinance, subject to the provisions of Sections 3 through 9 of this Ordinance.

SECTION 3.

Section 6 of Bill No. 090325 is amended as follows:

Section 6. Constraints and Conditions – Line Item Lifespans.

* * *

B. The line item styled “Install 200 kW Microturbine and 40 Ton Chiller at 800 W. Montgomery Avenue (#72-01-1-03) (\$1,240,000)” will expire and any associated spending authority shall end by the close of business on August 31, 2011. The Gas Commission shall have no authority to extend the lifespan of such line item.

~~C.B.~~ All other line items will expire and any associated spending authority shall end by the close of business on August 31, 2011. 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, 2012.

SECTION 4.

Section 7 of Bill No. 090325 is amended as follows:

Section 7. Constraints And Conditions – Line Item Transfers.

A. PGW shall have discretion on a trial basis to implement intradepartmental transfer transactions in the approved FY 2010 Capital Budget subject to Sections 7.B. and 7.C.

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- B. PGW discretion to implement intradepartmental transfers pursuant to Section 7.A. shall be subject to the following constraints, conditions and reporting requirements.

* * *

- (viii). **The line item styled “Install 200 kW Microturbine and 40 Ton Chiller at 800 W. Montgomery Avenue (#72-01-1-03) (\$1,240,000)” shall not serve as a source of spending authority in line item transfer transactions.**

- C. 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 2010 Capital Budget subject to Sections 7.D. and 7.E.

- D. Gas Commission approval authority shall be subject to the following constraints, conditions and exclusions.

* * *

- (vi). **The line item styled “Install 200 kW Microturbine and 40 Ton Chiller at 800 W. Montgomery Avenue (#72-01-1-03) (\$1,240,000)” shall not serve as a source of spending authority in line item transfer transactions.**

SECTION 5.

Section 9 of Bill No. 090325 is amended as follows:

Section 9. Exhibits

Exhibits ~~#1-B~~ ~~#1-A~~ 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.

Explanation:

~~Strikethrough~~ indicates matter deleted.

Bold indicates new matter added.

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

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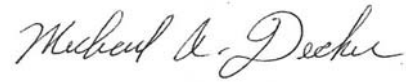
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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on April 22, 2010. The Bill was Signed by the Mayor on April 28, 2010.



Michael A. Decker
Chief Clerk of the City Council