

# City of Philadelphia



(Bill No. 040765)

## AN ORDINANCE

Approving the Fiscal Year 2005 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 2006 through 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/Ordinance”) 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/Ordinance 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/Ordinance requires that all PGW expenditures be made pursuant to approved budgets; and

WHEREAS, PGW filed with the Gas Commission on April 30, 2004 a proposed Fiscal Year (“FY”) 2005 Capital Budget of fifty nine million eight hundred twelve thousand dollars (\$59,812,000) and a Five Year Forecast of Capital Budgets (FY 2006 - FY 2010); and

WHEREAS, PGW subsequently filed with the Gas Commission two (2) proposed amendments and various line item adjustments to said budget; and

WHEREAS, the Gas Commission’s review of said budget in its FY 2005 Budgets/Oversight Proceeding culminated in deliberations taken on September 20, 2004 whereby the Gas Commission endorsed a proposed FY 2005 Capital Budget of fifty eight million six hundred fifty two thousand dollars (\$58,652,000) as stated in the Gas Commission Resolution And Order dated September 20, 2004; and

WHEREAS, PGW subsequently filed with the Gas Commission a Compliance FY 2005 Capital Budget Proposal of fifty eight million six hundred fifty two thousand dollars (\$58,652,000) as required by Ordering Paragraph 1 of said Resolution And Order.

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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/Ordinance, the Council:

- A. does hereby approve the Fiscal Year 2005 Capital Budget for the Philadelphia Gas Works in an amount not exceeding fifty eight million six hundred fifty two thousand dollars (\$58,652,000) as reflected in the Compliance FY 2005 Capital Budget Proposal which is attached as Exhibit #1 to this Ordinance subject to the provisions of Sections 3 through 6 of this Ordinance; and
- B. does hereby acknowledge receipt of PGW's Forecast of Capital Budgets for Fiscal Year 2006 through Fiscal Year 2010.

## SECTION 2. Spending Authorization.

The amounts shown in the approved FY 2005 Capital Budget are hereby authorized for the purposes shown and shall be available for expenditure upon the effective date of this Ordinance during Fiscal Year 2005, defined as September 1, 2004 through August 31, 2005, in an amount not to exceed fifty eight million six hundred fifty two thousand dollars (\$58,652,000) as reflected in the Compliance FY 2005 Capital Budget Proposal which is attached as Exhibit #1 to this Ordinance subject to the provisions of Sections 3 through 6 of this Ordinance.

## SECTION 3. Constraints And Conditions - Conditional Spending Authorizations

- A. No spending authority will attach to the line item styled "Conditional Funding for Unforeseen Capital Needs Related to Safety (#13-01-2-01) (\$250,000)" until the Gas Commission approves in writing such spending authority as the Gas Commission may make available after appropriate review.
  - (i). The "unforeseen" situation must be something that PGW could not address by proposing a line item in the FY 2006 Capital Budget or by amending the FY 2005 Capital Budget.
  - (ii). PGW's response to the "unforeseen" situation must require spending authority for a safety-related (i.e., Priority 1) capital project only.
  - (iii). This line item is not a reserve for reconciling cost overruns in other line items.
- B. No spending authority will attach to the line item styled "Conditional Funding for Unforeseen Capital Needs Related to Reliability of Service (#13-01-2-02)

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- (\$250,000)" until the Gas Commission approves in writing such spending authority as the Gas Commission may make available after appropriate review.
- (i). The "unforeseen" situation must be something that PGW could not address by proposing a line item in the FY 2006 Capital Budget or by amending the FY 2005 Capital Budget.
  - (ii). PGW's response to the "unforeseen" situation must require spending authority for a reliability-related (i.e., Priority 2) capital project only.
  - (iii). This line item is not a reserve for reconciling cost overruns in other line items.
- C. No spending authority will attach to the line item styled "Conditional Funding for Credit Scoring/Positive I.D. Pilot (#29-01-1-03) (\$356,000)" until the Gas Commission approves in writing such spending authority as the Gas Commission may make available after appropriate review.

## SECTION 4. Constraints And Conditions - Line Item Lifespans.

- A. The line item styled "Conditional Funding for Unforeseen Capital Needs Related to Safety (#13-01-2-01) (\$250,000)" will expire and such spending authority as the Gas Commission may approve with respect to said line item shall end by the close of business on August 31, 2005. The Gas Commission shall have the authority to extend the lifespan of said line item as necessary after appropriate review for such period(s) as shall end by no later than the close of business on August 31, 2006.
- B. The line item styled "Conditional Funding for Unforeseen Capital Needs Related to Reliability of Service (#13-01-2-02) (\$250,000)" will expire and such spending authority as the Gas Commission may approve with respect to said line item shall end by the close of business on August 31, 2005. The Gas Commission shall have the authority to extend the lifespan of said line item as necessary after appropriate review for such period(s) as shall end by no later than the close of business on August 31, 2006.
- C. The line item styled "Conditional Funding for Credit Scoring/Positive I.D. Pilot (#29-01-1-03) (\$356,000)" will expire and such spending authority as the Gas Commission may approve with respect to said line item shall end by the close of business on August 31, 2006. The Gas Commission shall have the authority to extend the lifespan of said line item as necessary after appropriate review for such period(s) as shall end by no later than the close of business on August 31, 2007.
- D. All other line items will expire and any available spending authority with respect to such line items shall end by the close of business on August 31, 2006. The Gas

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Commission shall have the authority to extend the lifespan of such line items as necessary after appropriate review for such period(s) as shall end by no later than the close of business on August 31, 2007.

## SECTION 5. Constraints And Conditions - Transfers of Line Item Spending Authority.

A. PGW shall have the authority to implement intra-departmental transfers of line item spending authority in the approved FY 2005 Capital Budget at its discretion subject to the following constraints and conditions.

- (i). PGW may not transfer from a line item in total more than twenty percent (20%) of the line item authorization approved by City Council.
- (ii). PGW may not make more than one (1) transfer from a line item.
- (iii). PGW may not make any transfer to or from the line item styled "Conditional Funding for Unforeseen Capital Needs Related to Safety (#13-01-2-01) (\$250,000)".
- (iv). PGW may not make any transfer to or from the line item styled "Conditional Funding for Unforeseen Capital Needs Related to Reliability of Service (#13-01-2-02) (\$250,000)".
- (v). PGW may not make any transfer to or from the line item styled "Conditional Funding for Credit Scoring/Positive I.D. Pilot (#29-01-1-03) (\$356,000)".
- (vi). PGW must report all transfers to the Gas Commission and City Council in writing at the time of the transfer and include the dollar amount, justification and cumulative impact of said transfers on the line items affected.
- (vii). PGW's discretion to implement transfers ends on November 30, 2005.
- (viii). PGW's discretion will not apply in situations where the approved FY 2005 Capital Budget is to be amended by the proposed insertion of a new line item or by the proposed increase or decrease in the spending authorization applicable to an existing line item.
- (ix). In no event will the total bottom-line amount of fifty eight million six hundred fifty two thousand dollars (\$58,652,000) for the FY 2005 Capital Budget herein approved be exceeded.
- (x). Transfer of spending authority from one capital budget to another capital budget is forbidden.

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- B. The Gas Commission shall have the authority to approve intra-departmental transfers of spending authority for line items in the approved FY 2005 Capital Budget that would otherwise exceed PGW's discretion upon review and approval of any request(s) by PGW subject to the following constraints and conditions.
- (i). The authority of the Gas Commission to approve such line item transfers ends by the close of business on November 30, 2005.
  - (ii). In no event will the total bottom-line amount of fifty eight million six hundred fifty two thousand dollars (\$58,652,000) for the FY 2005 Capital Budget herein approved be exceeded.
  - (iii). Transfer of spending authority from one capital budget to another capital budget is forbidden.
- C. The Gas Commission shall have the authority to approve inter-departmental transfers of spending authority for line items in the approved FY 2005 Capital Budget upon review and approval of any request(s) by PGW subject to the following constraints and conditions.
- (i). The authority of the Gas Commission to approve such line item transfers ends on November 30, 2005.
  - (ii). In no event will the total bottom-line amount of fifty eight million six hundred fifty two thousand dollars (\$58,652,000) for the FY 2005 Capital Budget herein approved be exceeded.
  - (iii). Transfer of spending authority from one capital budget to another capital budget is forbidden.
- D. The Gas Commission is hereby requested to review PGW's implementation of line item transfers with respect to the FY 2005 Capital Budget and make appropriate recommendations to City Council with respect to transfers of line item spending authority in the FY 2006 Capital Budget proposal.

## SECTION 6. Constraints And Conditions - Gas Commission Principles.

During the lifespan of the line items in the approved FY 2005 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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## SECTION 7. 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.

CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on October 28, 2004. The Bill was Signed by the Mayor on November 18, 2004.



Patricia Rafferty  
Chief Clerk of the City Council