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Approving the Fiscal Year 2013 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 2014 through 2018.

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.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 Gas Commission on January 3, 2012 a proposed Fiscal Year ("FY") 2013 Capital Budget of ninety three million three hundred sixteen thousand dollars ($93,316,000) and a Five Year Forecast of Capital Budgets (FY 2014 - FY 2018); and

WHEREAS, The Gas Commission's review of said Budget proposal in its FY 2013 Budgets/ Oversight Proceeding culminated in deliberations taken at a public meeting held on April 19, 2012 whereby the Gas Commission endorsed a proposed FY 2013 Capital Budget in an amount not to exceed ninety million nine hundred forty one thousand dollars ($90,941,000) with related constraints and conditions for said Budget; and

WHEREAS, On April 23, 2012, PGW filed with the Gas Commission a Compliance FY 2013 Capital Budget Proposal of ninety million nine hundred forty one thousand dollars ($90,941,000) including its Revised Financing Plan for said Budget and its Revised Forecast of Capital Budgets for FY 2014 through FY 2018.

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") 2013 Capital Budget for the Philadelphia Gas Works ("PGW") in an amount not exceeding ninety million nine hundred forty one thousand dollars ($90,941,000) as reflected in the Compliance FY 2013 Capital Budget Proposal which includes the associated Financing Plan and which is attached as Exhibit #1 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 2014 through FY 2018.

SECTION 2. Spending Authorization.
The amounts shown in the approved FY 2013 Capital Budget are hereby authorized for the purposes shown and shall be available for expenditure as of FY 2013 defined as September 1, 2012 through August 31, 2013 in an amount not exceeding ninety million nine hundred forty one thousand dollars ($90,941,000) as reflected in the Compliance FY 2013 Capital Budget Proposal which is attached as Exhibit #1 to this Ordinance, subject to the provisions of Sections 3 through 9 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 releases 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 support safety-related (i.e., Priority 1) capital projects which cannot be addressed by proposing a line item in the FY 2014 Capital Budget;

B. the line item styled "Conditional Funding for Capital Needs Related to Reliability of Service (#13-01-2-02) ($250,000)" to support reliability-related (i.e., Priority 2) capital projects which cannot be addressed by proposing a line item in the FY 2014 Capital Budget; and

C. the line item styled "Conditional Funding for Cost-Justified Load Growth (#13-01-2-03) ($250,000)" to support load growth-related (i.e., Priority 4) capital projects which are justified by appropriate documentation and which cannot be addressed by proposing a line item in the FY 2014 Capital Budget.

SECTION 4. Constraints And Conditions - General Limitation.
The approved FY 2013 Capital Budget shall be subject to the limitation that the permission to spend granted by an approved spending authorization shall end when any of the following occurs:

A. a line item lapses;

B. the lifespan of a line item expires;

C. line item transfers have depleted a spending authorization;

D. the spending limit in an authorization has been depleted;

E. the capital work, whose nature and scope justified a line item approval, is completed;

F. when the same authorization or equivalent authorization for the same purpose is subsequently approved for the Operating Budget.

SECTION 5. Constraints And Conditions - Line Item Lapse.
Line items shall automatically lapse on August 31, 2013 if no work order has been opened for any such line item by the close of business that day.

SECTION 6. 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, 2013:

(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)”; and

(iii). the line item styled "Conditional Funding for Cost-Justified Load Growth (#13-01-2-03) ($250,000)”.

B. All other line items will expire and any associated spending authority shall end by the close of business on August 31, 2014.

SECTION 7. Constraints And Conditions - Line Item Transfers.
A. PGW shall have discretion to implement intradepartmental transfer transactions in the approved FY 2013 Capital Budget subject to Sections 7.B. and 7.C.

B. PGW discretion to implement intradepartmental transfers pursuant to Section 7.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, 2013.

(ii). Each department included in the approved FY 2013 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.C. only if PGW has filed with the Gas Commission a Transfer Advisory and a Request for Release of Conditional Funding.

1. The Transfer Advisory shall communicate PGW’s intent to exercise transfer discretion if the Gas Commission approves the Request for Release of Conditional Funding.

2. The Request for Release of Conditional Funding shall be premised on and be limited solely to the purpose(s) stated and the transfer transaction(s) described in the Transfer Advisory.

3. The release of conditional funding shall be null and void if PGW abandons or modifies the transactions identified in the Transfer Advisory or attempts to apply the released funding to other purposes.

(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.

(vii). The following line items shall be unavailable as a source of spending authority in transfer transactions:

1. the line item styled "Incremental Replacement of 30 inch Main - Richmond to Passyunk (#52-20-2 -03) ($4,598,000)"; and

2. the line item styled "Incremental Replacement of 12 inch High Pressure Cast Iron Main (#52-20-2 -02) ($3,816,000)"; and

3. the line item styled "Renovate Training Room - 1800 (#72-01-2-18) ($300,000)"; and

4. the line item styled "Replace Parking Lot at 9th & Diamond Street (#72-01-2-12) ($707,000)".

C. The Gas Commission shall have authority to review and approve other transfer transactions in the approved FY 2013 Capital Budget for good cause shown subject to Sections 7.D. and 7.E.

D. 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, 2013.

(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 3, 2013 for line items expiring on November 30, 2013 and by no later than the close of business on November 1, 2013 for line items expiring on August 31, 2014.

(iii). Transfer of spending authority from one capital budget to another capital budget is forbidden.

(iv). 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.

(v). The following line items shall be unavailable as a source of spending authority in transfer transactions:

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1. the line item styled “Incremental Replacement of 30 inch Main - Richmond to Passyunk (#52-20-2-03) ($4,598,000)”; and

2. the line item styled “Incremental Replacement of 12 inch High Pressure Cast Iron Main (#52-20-2-02) ($3,816,000)”; and

3. the line item styled “Renovate Training Room - 1800 (#72-01-2-18) ($300,000)”; and

4. the line item styled “Replace Parking Lot at 9th & Diamond Street (#72-01-2-12) ($707,000)”.

E. The Gas Commission is hereby requested to monitor line item transfer activity in the FY 2013 Capital Budget and make appropriate recommendations to City Council with respect to transfers of line item spending authority in the FY 2014 Capital Budget.

SECTION 8 - Constraints And Conditions - Capital Budget Principles

A. During the lifespan of the line items in the approved FY 2013 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.

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 9. 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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