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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2668 Session of  
2020

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INTRODUCED BY ISAACSON, NEILSON, MILLARD, SANCHEZ AND HILL-  
EVANS, JULY 8, 2020

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REFERRED TO COMMITTEE ON STATE GOVERNMENT, JULY 8, 2020

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AN ACT

1 Authorizing the Department of General Services, with the  
2 concurrence of the Department of Environmental Protection, to  
3 lease to L-A Battery, QOZ, LLC land within the bed of the  
4 Delaware River within the City of Philadelphia.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Lease of land within bed of Delaware River within  
8 the City of Philadelphia.

9 (a) Authorization.--The Commonwealth owns lands within the  
10 bed of the Delaware River, a portion of which lands are located  
11 in the 18th Ward of the City of Philadelphia and are commonly  
12 known as part of the former Philadelphia Electric Company (PECO)  
13 Power Station property, 1325 Beach Street, also known as North  
14 Beach Street. The Department of General Services, with the  
15 concurrence of the Department of Environmental Protection,  
16 acting on behalf of the Commonwealth, is hereby authorized to  
17 lease to L-A Battery QOZ, LLC, or its nominee for an initial  
18 term of 99 years, such lands within the bed of the Delaware  
19 River in the City of Philadelphia and to extend the lease term

1 for all or any portion of the leased premises for an additional  
2 term of up to 99 years.

3 (b) Description.--The property to be leased is approximately  
4 10.80126-acres of partially filled lands more particularly  
5 described as follows:

6 ALL THAT CERTAIN lot or piece of ground together with the  
7 improvements thereon erected, situate in the 18th Ward of the  
8 City of Philadelphia, Pennsylvania more particularly described  
9 as follows to wit:

10 BEGINNING at a point on the dividing line between OPA #88-  
11 435-7171, lands now or formerly of Delaware Station LLC and OPA  
12 #88-5670040, lands now or formerly of the City of Philadelphia,  
13 Penn Treaty Park, said point being distant the following two (2)  
14 courses and distances from the intersection of the northeasterly  
15 right-of-way line of Columbia Street Extended (50 foot wide  
16 right-of-way, on City Plan) and the southeasterly right-of-way  
17 line of Beach Street (50 foot wide right-of-way, on City Plan,  
18 legally open);

19 A. Along the southeasterly right-of-way line of Beach  
20 Street, North 59 degrees 19 minutes 33 seconds East, a distance  
21 of 143.948 feet, thence;

22 B. Along the dividing line between OPA #88-4351717 and  
23 OPA #88-5670040, South 28 degrees 11 minutes 54 seconds East, a  
24 distance of 233.380 feet to a point on the bulkhead line  
25 (approved by the Secretary of War January 5, 1894 and September  
26 10, 1940) being the true point and place of BEGINNING and from  
27 said point of BEGINNING running, thence;

28 The following two (2) courses and distances along the  
29 bulkhead line:

30 1. North 58 degrees 21 minutes 15 seconds East, a

1 distance of 404.079 feet to a point, thence;

2 2. North 64 degrees 18 minutes 09 seconds East, a  
3 distance of 534.095 feet to a point, thence;

4 3. Along the dividing line between OPA #88-4351717 and  
5 OPA #88-4076002, lands now or formerly Berks Street Corp., South  
6 28 degrees 28 minutes 57 seconds East, a distance of 494.364  
7 feet to a point on the pierhead line (approved by the Secretary  
8 of War January 5, 1894 and September 10, 1940), thence;

9 The following two (2) courses and distances along the  
10 pierhead line:

11 4. South 64 degrees 16 minutes 52 seconds West, a  
12 distance of 528.614 feet to a point, thence;

13 5. South 54 degrees 04 minutes 10 seconds West, a  
14 distance of 415.040 feet to a point; thence;

15 6. Along the dividing line between OPA #88-4351717 and  
16 OPA #88-5670040, North 28 degrees 11 minutes 54 seconds West, a  
17 distance of 526.300 feet to the point and place of BEGINNING.

18 CONTAINING 470,503 square feet or 10.80126-acres.

19 BEING the same property as shown on a plan entitled  
20 "ALTA/NSPS Land Title Survey, Delaware Station LLC, 1325 N.  
21 Beach Street, Map 16 N 21, OPA #88-4351717 & 88-4351719, City &  
22 County of Philadelphia, 18th Ward, Commonwealth of  
23 Pennsylvania", prepared by Control Point Associates, Inc., dated  
24 05/28/2019, File No. 02-150120-01, Sheet 1 of 1.

25 (c) Lease agreement.--The lease and any other documents  
26 hereby contemplated shall be subject to approval as to form and  
27 legality as prescribed by the act of October 15, 1980 (P.L.950,  
28 No.164), known as the Commonwealth Attorneys Act, and shall be  
29 executed by the Department of General Services, with the  
30 concurrence of the Department of Environmental Protection, which

1 concurrence shall not be unreasonably withheld, in the name of  
2 the Commonwealth. The lease shall grant the lessee, its  
3 successors and assigns, the right to use the leased premises or  
4 to assign the lease or sublease or permit the sublease of the  
5 above described premises for the purposes of development for  
6 residential, office, commercial, condominium, hotel, marina or  
7 other uses all consistent with public and maritime uses and  
8 amenities.

9 (d) Nondisturbance.--The Department of General Services,  
10 with the concurrence of the Department of Environmental  
11 Protection, acting on behalf of the Commonwealth, is also  
12 specifically authorized to enter into one or more nondisturbance  
13 agreements with any sublessee of the leased premises described  
14 in this section pursuant to which the Commonwealth shall agree  
15 that, if the Commonwealth succeeds to the interest of the  
16 sublessor under a sublease, the Commonwealth will not terminate  
17 the sublease unless the sublessee is in default.

18 (e) Land use restriction.--All leases authorized or referred  
19 to under this section shall be made under and subject to the  
20 condition, which shall be contained in the lease documents, that  
21 no portion of the leased premises shall be used as a licensed  
22 facility as defined in 4 Pa.C.S. § 1103 (relating to  
23 definitions) or any other similar type of licensed facility  
24 authorized under the laws of this Commonwealth. This condition  
25 shall be a covenant running with the land and shall be binding  
26 upon the lessee and sublessees and their respective successors  
27 and assigns. Should any portion of any parcel authorized to be  
28 leased under this act be used in violation of this subsection,  
29 the lease shall terminate immediately.

30 (f) Improvements.--

1           (1) The Department of General Services is hereby  
2 authorized to execute, on behalf of the Commonwealth of  
3 Pennsylvania, any declaration or other document necessary to  
4 submit the leased premises or any portion thereof and any  
5 improvements thereon to the provisions of 68 Pa.C.S. Pt. II  
6 Subpt. B (relating to condominiums) as a leasehold  
7 condominium.

8           (2) The lease agreement shall contain the following  
9 terms and conditions:

10           (i) The lessee, all sublessees and their respective  
11 successors and assigns, shall provide and maintain at  
12 least the following free public access to the riverfront,  
13 for fishing and other recreation activities, and public  
14 parking in connection with such access:

15           (A) A minimum of ten public parking spaces  
16 available at all times located proximate to the  
17 public walkway near the water edge and signage  
18 indicating the public parking.

19           (B) Public walkways on the riverfront, including  
20 promenades or trails along the entire water edge of  
21 the leasehold and adjacent to the water edge of the  
22 leasehold providing free public access to the water  
23 and allowing for passive and active recreational  
24 activities year-round and signage indicating the  
25 walkways are open to the general public.

26           (C) A free public park area along the public  
27 walkway near the water.

28           (D) Public access to the Delaware River which is  
29 consistent with the Waterfront Setback requirements  
30 set forth in Section 14-216(6)(g) of the Philadelphia

1 Code (enacted into law by an Ordinance enacting Bill  
2 No. 050465, passed by the City Council on June 16,  
3 2005, and signed by the Mayor on July 8, 2005, as  
4 amended and updated) or in accordance with such other  
5 plan and such other municipal ordinance as may govern  
6 such public access in the future.

7 (ii) These conditions shall be covenants that run  
8 with the land and shall be binding upon the lessee, any  
9 sublessee and their respective successors and assigns.  
10 Should the lessee, any sublessee or any of their  
11 respective successors or assigns permit the parcels  
12 authorized to be leased under this section, or any  
13 portion thereof, to be used in a manner inconsistent with  
14 the conditions contained in this subsection, all rights  
15 and interests in the lease authorized by this act shall  
16 terminate immediately.

17 (iii) Should the lessee or successor or its assigns  
18 wish to modify the public access or parking required by  
19 this section, it must obtain the prior written approval  
20 of the Department of Environmental Protection and the  
21 Department of General Services, which approval shall not  
22 be unreasonably withheld. The public access and parking  
23 shall be completed and open to the public no later than  
24 the date the first tenant or resident occupies the leased  
25 premises.

26 (iv) Nothing herein shall affect or otherwise limit  
27 the requirements of the provisions of the act of November  
28 26, 1978 (P.L.1375, No.325), known as the Dam Safety and  
29 Encroachments Act, which may require further measures to  
30 provide for public access and use of the land and

1 adjacent water.

2 (g) Consideration.--The Department of General Services shall  
3 lease the land within the bed of the Delaware River as described  
4 in subsection (b) upon such terms and conditions and for such  
5 consideration as it shall, with the concurrence of the  
6 Department of Environmental Protection, establish through the  
7 lease agreement. These terms may include a requirement to  
8 commence and construct improvements authorized or required by  
9 this section with certain time periods.

10 (h) Costs and fees.--Costs and fees incidental to the lease  
11 authorized by this section shall be borne by the lessee.

12 (i) Sunset provision.--In the event that the lease  
13 authorized by this section is not fully executed within 36  
14 months following the effective date of this section, the  
15 authority contained in this section shall be void.

16 Section 2. Effective date.

17 This act shall take effect immediately.