
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 75

Session of
2007

INTRODUCED BY STACK, FEBRUARY 12, 2007

REFERRED TO STATE GOVERNMENT, FEBRUARY 12, 2007

AN ACT

1 Authorizing the Department of General Services, with the
2 concurrence of the Department of Environmental Protection, to
3 lease to Philadelphia Waterfront Partners, LLC, land within
4 the bed of the Delaware River within the City of
5 Philadelphia.

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

8 Section 1. Land within the Delaware River bed.

9 (a) Authorization.--The Commonwealth of Pennsylvania owns
10 the lands within the bed of the Delaware River, a portion of
11 which lands are located in the 65th Ward of the City of
12 Philadelphia. The Department of General Services, with the
13 concurrence of the Department of Environmental Protection,
14 acting on behalf of the Commonwealth, is hereby authorized to
15 lease to Philadelphia Waterfront Partners, LLC, for an initial
16 term of up to 99 years, land within the bed of the Delaware
17 River in the City of Philadelphia, and to extend the period for
18 all or any portion of the leased premises for an additional term
19 of up to 99 years.

1 (b) Description of property.--The land to be leased is
2 approximately 7.0 acres of filled land as more particularly
3 described as follows:

4 ALL THAT CERTAIN lot or piece of ground together with the
5 improvements thereon erected, situate in the 65th Ward of the
6 City of Philadelphia and described as follows to wit:

7 BEGINNING AT AN INTERNAL POINT said point being the
8 intersection of the Northeasterly side of Premises A as shown on
9 Independence Pointe, Lot Line Relocation Plan prepared by
10 Pennoni Associates Inc., dated 12/19/05, with the Bulkhead line
11 Delaware River approved by the Secretary of War on September 10,
12 1940, said point being distant South 34 degrees 12 minutes 22
13 seconds East, 3,069.098 feet from a point in the Southeasterly
14 side of State Road (80 feet wide) as shown on said Lot Line
15 Relocation Plan;

16 THENCE from said Point of Beginning extending South 34
17 degrees 12 minutes 22 seconds East, 299.685 feet to the Pierhead
18 line of the Delaware River approved by the Secretary of War on
19 September 10, 1940;

20 THENCE extending along the Pierhead Line of Delaware River
21 the following two (2) courses and distances:

22 (1) South 52 degrees 42 minutes 41 seconds West, 533.414
23 feet to an angle point;

24 (2) South 69 degrees 24 minutes 38 seconds West, 837.490
25 feet to a Point on the Southwesterly line of Premises A;

26 THENCE extending by the Southwesterly line of Premises A,
27 North 32 degrees 39 minutes 35 seconds West, 306.032 feet to a
28 point on the Bulkhead Line of the Delaware River;

29 THENCE extending along the Bulkhead Line of the Delaware
30 River the following two (2) courses and distances;

1 (1) North 69 degrees 24 minutes 38 seconds East, 857.615
2 feet to an angle point;

3 (2) North 52 degrees 42 minutes 41 seconds East, 505.557
4 feet to the first mentioned point and place of beginning
5 Containing 409,100 Square Feet or 9.39164 Acres, more or
6 less, be the contents thereof what they may.

7 (c) Lease agreement.--The lease and any other documents
8 hereby contemplated shall be approved by the Attorney General
9 and shall be executed by the Department of General Services with
10 the concurrence of the Department of Environmental Protection,
11 which approvals shall not be unreasonably withheld, in the name
12 of the Commonwealth. The lease shall grant the lessee and all
13 successors, assigns and sublessees the right to use the above-
14 described premises, or to assign the lease or sublease or permit
15 the sublease of the above-described premises, for the purposes
16 of development, consistent with public and/or maritime uses, for
17 residential, office, commercial, condominium, hotel, marina or
18 other uses.

19 (d) Sublease.--The Department of General Services, with the
20 concurrence of the Department of Environmental Protection,
21 acting on behalf of the Commonwealth of Pennsylvania, is also
22 specifically authorized to enter into one or more nondisturbance
23 agreements with any sublessee of the premises described in this
24 section pursuant to which the Commonwealth will agree that, if
25 the Commonwealth succeeds to the interest of the sublessor under
26 the sublease, it will not terminate the sublease unless the
27 sublessee is in default.

28 (e) Land use restriction.--All leases authorized or referred
29 to under this section shall be made under and subject to the
30 condition, which shall be contained in the lease documents, that

1 no portion of the parcels shall be used as a licensed facility
2 as defined in 4 Pa.C.S. § 1103 (relating to definitions) or any
3 other similar type of facility authorized under the laws of this
4 Commonwealth. This condition shall be a covenant running with
5 the land and shall be binding upon the lessee and sublessees and
6 their respective successors and assigns. Should any portion of
7 any parcel authorized to be leased under this section be used in
8 violation of this subsection, the lease shall terminate
9 immediately.

10 (f) Improvements.--

11 (1) The Department of General Services, with the
12 approval of the Attorney General, is hereby authorized to
13 execute, on behalf of the Commonwealth of Pennsylvania, any
14 declaration or other document necessary to submit these
15 premises or any portion thereof and any improvements thereon
16 to the provisions of 68 Pa.C.S. Pt. II Subpt. B (relating to
17 condominiums) as a leasehold condominium.

18 (2) Development of the parcels authorized to be leased
19 in this section shall be for residential, office, commercial,
20 condominium, hotel, marina or other uses consistent with
21 public and maritime uses.

22 (3) The lessee, all sublessees and their respective
23 successors and assigns, shall provide and maintain at least
24 the following free public access to the riverfront, for
25 fishing and other recreation activities and free public
26 parking in connection with such access:

27 (i) A minimum of ten free public parking spaces
28 available at all times located proximate to the public
29 walkway near the water edge and signage indicating the
30 free public parking.

1 (ii) Public walkways on the riverfront, including
2 water edge promenades along the entire water edge of the
3 leasehold and adjacent to the water and providing free
4 public access to the water and allowing for passive and
5 active recreational activities year-round and signage
6 indicating the walkways are open to the general public.

7 (iii) A free public park area along the public
8 walkway near the water.

9 (iv) Public access to the Delaware River consistent
10 with the Waterfront Setback requirements set forth in
11 Section 14-216(6)(g) of the Philadelphia Code (enacted
12 into law by an Ordinance enacting Bill No. 050465, passed
13 by the City Council on June 16, 2005, and signed by the
14 Mayor on July 8, 2005).

15 (4) Should the lessee, any sublessee or any of their
16 respective successors or assigns wish to modify the public
17 access and parking required by this paragraph, it must obtain
18 the prior written approval of the Department of Environmental
19 Protection and the Department of General Services, which
20 approval shall not be unreasonably withheld. The public
21 access and parking shall be completed and open to the public
22 no later than the date the first tenant or resident occupies
23 the land adjacent to the leasehold.

24 (5) Nothing in this section shall affect or otherwise
25 limit the requirements of the act of November 26, 1978
26 (P.L.1375, No.325), known as the Dam Safety and Encroachments
27 Act, which may require further measures to provide for public
28 access and use of the land and adjacent water.

29 (6) The conditions contained in this subsection shall be
30 covenants that run with the land and shall be binding upon

1 the lessee, any sublessee and their respective successors and
2 assigns. Should the lessee, any sublessee or any of their
3 respective successors or assigns, permit the parcels
4 authorized to be leased under this section, or any portion
5 thereof, to be used in a manner inconsistent with the
6 conditions contained in this subsection, all rights and
7 interests in the lease authorized by this section shall
8 terminate immediately.

9 (g) Consideration.--The Department of General Services shall
10 lease the land within the bed of the Delaware River as described
11 in subsection (b) for ten dollars per year and upon such terms
12 and conditions as it shall, with the concurrence of the
13 Department of Environmental Protection, establish through the
14 lease agreements, such terms may include a requirement to
15 commence and construct such improvements authorized and/or
16 required in this section within certain time periods.

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

19 (i) Sunset provision.--In the event that the lease
20 authorized by this section does not occur within 18 months
21 following the effective date of this section, the authority
22 contained in this section shall be void.

23 Section 2. Effective date.

24 This act shall take effect in 30 days.