

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1235 Session of 2020

INTRODUCED BY STREET, JULY 12, 2020

SENATOR DISANTO, STATE GOVERNMENT, AS AMENDED, JULY 13, 2020

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. Lands within the Delaware Riverbed.

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

1 term of up to 99 years.

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

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

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

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

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

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

29 1. North 58 degrees 21 minutes 15 seconds East, a  
30 distance of 404.079 feet to a point, thence;

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

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

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

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

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

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

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

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

24       (c) Lease agreement.--The lease and any other documents  
25 hereby contemplated shall be subject to approval as to form and  
26 legality as prescribed by the act of October 15, 1980 (P.L.950,  
27 No.164), known as the Commonwealth Attorneys Act, and shall be  
28 executed by the Department of General Services, with the  
29 concurrence of the Department of Environmental Protection, which  
30 concurrence shall not be unreasonably withheld, in the name of

1 the Commonwealth. The lease shall grant the lessee, its  
2 successors and assigns, the right to use the leased premises or  
3 to assign the lease or sublease or permit the sublease of the  
4 above described premises for the purposes of development for  
5 residential, office, commercial, condominium, hotel, marina or  
6 other uses all consistent with public and maritime uses and  
7 amenities.

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

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

29 (f) Improvements.--

30 (1) The Department of General Services is hereby

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

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

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

14 (A) A minimum of 10 public parking spaces  
15 available at all times located proximate to the  
16 public walkway near the water edge and signage  
17 indicating the public parking.

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

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

27 (D) Public access to the Delaware River which is  
28 consistent with the Waterfront Setback requirements  
29 set forth in Section 14-216(6)(g) of the Philadelphia  
30 Code (enacted into law by an Ordinance enacting Bill

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

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

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