

for state canal lands may surrender the same to the state in order to have the land described therein included in a new lease, which shall not be for a greater term than fifteen years, if the application therefor definitely sets forth the reasons why an extension of the lease is desired and if it is found by the Superintendent of Public Works that the extension of the lease is for the purpose of making a valuable improvement thereon which the lessee could not afford to make for the remaining portion of the unexpired lease. As to this, it appears from the facts stated by Mr. Eaton in connection with his application for this lease, as well as from the findings made by you, that the lessee named in this lease has made and is now making valuable building improvements upon this property which he could not afford to make for the unexpired portion of the lease which he now holds on these premises.

Upon examination of this lease, I find that the same has been properly executed by you as Superintendent of Public Works and as Director of said Department and by Hugh M. Eaton, the lessee therein named. I further find, upon examination of the provisions of this lease and of the conditions and restrictions therein contained, that they are in conformity with the provisions of the section of the General Code above referred to and with other statutory enactments relating to leases of this kind. I am, accordingly, approving this lease as to legality and form, as is evidenced by my approval endorsed upon the lease and upon the duplicate and triplicate copies thereof, all of which are herewith returned.

Respectfully,

JOHN W. BRICKER,
Attorney General.

6533.

APPROVAL—CANAL LAND LEASE TO LAND IN CITY OF
MIDDLETOWN, OHIO—AMERICAN ROLLING MILL COM-
PANY OF MIDDLETOWN, OHIO.

COLUMBUS, OHIO, December 17, 1936.

HON. CARL G. WAHL, *Director, Department of Public Works, Columbus,
Ohio.*

DEAR SIR: This is to acknowledge receipt of your communication under date of December 15, 1936, with which you again submit for my examination and approval a canal land lease in triplicate executed by you as Superintendent of Public Works and as Director of said Department to The American Rolling Mill Company of Middletown, Ohio. This

lease, which is one for a term of ninety-nine years renewable forever and which provides for an annual rental of \$30.00 for the first fifteen-year period of the term of the lease with a provision for reappraisal at the end of this and of each succeeding fifteen-year period for the purpose of determining the amount of the subsequent annual rentals to be paid under the lease, effects a lease and demise to the lessee above named of a parcel of abandoned Miami and Erie Canal lands in the city of Middletown, Ohio, for general business purposes. The parcel of land covered by this lease is more particularly described by metes and bounds as follows:

From the southwest corner of Lot No. 7722, as shown on the recorded plat of the city of Middletown, Butler County, Ohio, measure seven hundred thirty-four and sixteen hundredths (734.16') feet along the meandering west line of said lot to the point of beginning for this description; thence by an angle to the right of forty-three (43°) degrees and thirteen (13') minutes from the point of beginning referred to above, run one hundred thirty and seventy-three (130.73') hundredths feet northeastwardly along the said west line to a point; thence by an angle of twenty-two (22°) degrees and fifty-nine (59') minutes to the left, measure one hundred twenty-three and ten hundredths (123.10) feet northeastwardly, along the said west line of said Lot No. 7722, to a point; thence by an angle of six (6°) degrees and thirty-three (33') minutes to the left, measure two hundred twenty-eight and seventeen hundredths (228.17) feet to a point; thence by an angle of ninety-four (94°) degrees and forty (40') minutes to the left, measure ninety-three and eighty-three hundredths (93.83') feet northwestwardly, to a point; thence by an angle to the left of eighty-seven (87°) degrees and thirteen (13') minutes, measure southwestwardly four hundred fifty-seven (457') feet, more or less, to the point of beginning, and containing thirty-three thousand, nine hundred fifty (33,950) square feet, more or less.

This lease is one executed by you in your official capacity as Superintendent of Public Works under the authority conferred upon you by section 14153-8, General Code, as this section is amended in Amended Senate Bill No. 127, 116 O. L., 155, 158, 159. This section, read in connection with other sections of said act and of the original act in which the same was enacted, 112 O. L., 388, 389, provides that all abandoned Miami and Erie Canal lands covered by said act which are not shown on the plat made by the Director of Highways as lands reserved for highway

purposes, may be leased by the Superintendent of Public Works as therein provided. In this connection, it is noted that the plat of abandoned Miami and Erie Canal lands in and through the city of Middletown, Ohio, heretofore made by the Director of Highways under the acts of the General Assembly of this state above referred to, has been corrected so as to show that the above described parcel of land is not required for highway purposes, which fact has likewise been evidenced by a finding made by the Director of Highways in the right of way section of the journal of his office. In addition to this and in apparent recognition of the possibility that the city of Middletown under the acts above referred to or under the more general provisions of the Farnsworth Act, 114 O. L., 518, may have some prior rights with respect to the lease of this parcel of abandoned Miami and Erie Canal land from the state of Ohio, the lessee above named has secured from the city of Middletown a release of any rights the city may have with respect to the lease of this property for park or other municipal purposes.

In this situation, I am inclined to the view that you are authorized to lease the above described parcel of land to the lessee named in this instrument for the term and upon the conditions therein provided for. And inasmuch as I find that this lease has been properly executed by you as Superintendent of Public Works and as Director of said Department, acting for and on behalf of the state of Ohio, and by The American Rolling Mill Company, the lessee therein named, acting by the hands of its Vice President and Secretary pursuant to the authority of a resolution of the Board of Directors of said company, and since it further appears that the provisions of this lease and the conditions and restrictions therein contained are in conformity with the above noted and other statutory provisions relating to leases of this kind, I am approving this lease as is evidenced by my approval endorsed upon the lease instrument and upon the duplicate and triplicate copies thereof, all of which are herewith enclosed.

Respectfully,

JOHN W. BRICKER,
Attorney General.