

5074.

APPROVAL—BONDS OF CITY OF ALLIANCE, STARK COUNTY, OHIO, \$46,800.00.

COLUMBUS, OHIO, January 3, 1936.

*Industrial Commission of Ohio, Columbus, Ohio.*

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5075.

APPROVAL—BONDS OF NEW PHILADELPHIA CITY SCHOOL DISTRICT, TUSCARAWAS COUNTY, OHIO, \$5,500.00.

COLUMBUS, OHIO, January 3, 1936.

*Retirement Board, State Teachers Retirement System, Columbus, Ohio.*

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5076.

APPROVAL, LEASE TO MIAMI AND ERIE CANAL LAND IN MIDDLETOWN, BUTLER COUNTY, OHIO-PENN-MARYLAND CORPORATION.

COLUMBUS, OHIO, January 4, 1936.

*Hon. T. S. Brindle, Director, Department of Public Works, Columbus, Ohio.*

DEAR SIR: This is to acknowledge the receipt of your recent communication with which you enclose for my examination and approval a certain land lease in triplicate executed on behalf of the state of Ohio by you as Superintendent of Public Works and as Director of said department to the Penn-Maryland Corporation, a corporation organized under the laws of the state of Delaware and doing business in this State. By this lease, which is one for a term of ninety-nine years renewable forever and which provides for an annual rental of \$100.00 for the first period of fifteen years of the term of the lease with the provision that said prop-

erty shall be reappraised for rental purposes at the end of each fifteen-year period of the term of the lease, and that the annual rental for each succeeding fifteen-year period shall be six percent of such appraised value of the land, there is leased and demised to the Penn-Maryland Corporation the following described parcel of abandoned Miami and Erie Canal land:

Being an elongated triangular parcel of land, formerly a part of the Miami and Erie Canal property abutting upon the lands of the said Penn-Maryland Corporation, and being at no point more than ten and twenty-three hundredths (10.23') feet in width, where said canal property is approximately one hundred and ten (110') feet wide, situated in Section 1, Town 3, Entire Range 1, Miami Purchase, Hamilton County, Ohio, and more particularly described as follows:

Beginning at a point in the westerly line of the Miami and Erie Canal, said point being at right angles to Station 11002+53.58 in the Beucler Canal Land Survey which equals old station 12353+16, as shown by plans on file in the office of the Department of Highways, Columbus, Ohio; thence south 33°50' west, 201.94 feet along said line to corner of property of Penn-Maryland Corporation; thence south 55°01' east, 2.11 feet to a point within the Miami and Erie Canal property; thence north 36°10' east, 336.48 feet to a point in the westerly line of the Miami and Erie Canal lands; thence along said line south 40°33' west, 135.16 feet, to the place of beginning. The area of this plot is nineteen hundred fifty and ninety-four hundredths (1,950.94) square feet, and is not greater than ten and thirty-three hundredths (10.33') feet in width, at any point.

I infer from the description of this parcel of canal land that the same is a part of that section of Miami and Erie Canal lands located between a point which is five hundred feet north of the state dam near the corporation line of the city of Middletown, Butler County, Ohio, and the terminus of said canal at St. Bernard in the city of Cincinnati, Hamilton County, Ohio, which section of canal lands was abandoned for canal and hydraulic purposes by Amended Senate Bill No. 39, enacted by the 87th General Assembly under date of April 21, 1927, 112 O. L., 388. By the provisions of this act, the control and custody of the canal lands thereby abandoned for canal and hydraulic purposes were vested in the Director of Highways with authority in such Director to lease for limited periods of time such parts of said canal lands as were not needed for highway purposes. The provisions of this act were carried into the General Code of Ohio by designation of the Attorney General in the manner provided by law, as sections 14153-1 to 14153-11, inclusive. By Amended Senate

Bill No. 127, enacted by the 91st General Assembly under date of April 18, 1935, 116 O. L., 155, 158, sections 14153-7 and 14153-8, General Code, were amended so as to confer upon the Superintendent of Public Works the authority to lease such portions of said abandoned Miami and Erie Canal lands as are not reserved by the Director of Highways for highway purposes. And in this connection, it is noted that in this lease it is recited that the parcel of land therein described which heretofore has been under the control of the Director of Highways was formally relinquished by said Director to the Superintendent of Public Works on the 18th of October, 1935, in order that the Superintendent of Public Works might dispose of the same under the provisions of section 14153-8 of the General Code and that said relinquishment is noted on page 55 of Volume 20 of the Right of Way Section of the Journal of the Department of Highways. As above indicated, this lease is executed by you as Superintendent of Public Works and as Director of said Department under the authority conferred upon you by sections 14153-7 and 14153-8, General Code.

Upon examination of this lease, I find that the same has been properly executed on behalf of the state of Ohio by you as Superintendent of Public Works and Director of said Department and by the Penn-Maryland Corporation, acting by the hand of one M. J. MacNamara, Vice-President of said corporation, acting pursuant to the authority conferred upon him for this purpose by a resolution of the Board of Directors of said corporation duly adopted under date of December 6, 1935.

Upon examination of the provisions of this lease and of the conditions and restrictions therein contained, I find the same to be in conformity with the statutory provisions above noted and with other statutory provisions relating to leases of this kind. I am accordingly approving this lease as is evidenced by my approval endorsed upon the lease and upon the duplicate and triplicate copies thereof, all of which are herewith enclosed.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*