

1210.

APPROVAL—CANAL LAND LEASES EXECUTED BY THE STATE OF OHIO TO THE CINCINNATI GAS AND ELECTRIC COMPANY OF CINCINNATI, OHIO.

COLUMBUS, OHIO, September 21, 1937.

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

DEAR SIR: You recently submitted 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 Cincinnati Gas and Electric Company of Cincinnati, Ohio.

By this lease, which is one for a term of ninety-nine years, renewable forever, and which provides for an annual rental of \$600.00 during the first fifteen-year period of the term of the lease, there is leased and demised to said lessee for the term above stated a certain parcel of land contiguous or adjacent to abandoned Miami and Erie Canal lands in the city of Lockland, Ohio, which parcel of land is more particularly and fully described in said lease instrument as follows:

Situated in former Section 2, T. 3 of the First Entire Range, Miami Purchase, Springfield Township, Hamilton County, State of Ohio, and in the city of Lockland, and being part of the same premises conveyed by Thomas Smith, Guardian of the Heirs of Jacob White, deceased, to the State of Ohio, by deed dated September 30th, 1831, and recorded in Deed Book 42, page 365 of the records in the Recorder's Office, Hamilton County, Ohio, and more particularly described as follows:

Beginning at a point in the west boundary line of said property, which point is three hundred fifty-nine and ninety-eight hundredths (359.98') feet south 32° 22' west of the southeast corner of Wyoming and South Cooper Avenues, measured along the east line of South Cooper Avenue; thence south 56° 30' east, one hundred twenty-two and sixty-nine hundredths (122.69') feet to a stone; thence south 33° 30' west, ninety-three and six hundredths (93.06') feet to a point; thence south 56° 30' east, twenty and forty-six hundredths (20.46') feet to a point; thence south 33° 30' west, one hundred three and seventeen hundredths (103.17') feet to a point in the north line of Lock Street, as now located; thence north 50° 54'

west, along the said north line of Lock Street, twenty and seventy-two hundredths (20.72') to a point; thence north $43^{\circ} 57'$ west one hundred twenty-two and thirteen hundredths (122.13') feet to a point, the northeast corner of Lock Street and South Cooper Avenue; thence north $32^{\circ} 22'$ east along the east line of South Cooper Avenue, one hundred sixty-seven and sixty-nine hundredths (167.69') feet to a point, and the place of beginning, and containing twenty-three thousand nine hundred sixty-four and five-tenths (23,964.5) square feet, more or less.

From the description of this property and the recitals in the lease instrument in connection with such description, I assume that the parcel of land above described was originally acquired by the state of Ohio, by purchase or otherwise, pursuant to then existing statutory authority, for the purpose of being thereafter leased by the State through the State Canal Commission or other authority having charge of the public works of the State in connection with the sale or lease of surplus water from the Miami and Erie Canal at this point for hydraulic purposes.

This section of the Miami and Erie Canal land was abandoned for canal and hydraulic purposes by the first DeArmond Act, so-called, 112 O. L., 388. Whatever effect this act might have had with respect to the transfer of the land here in question to the jurisdiction and authority of the Director of Highways, it quite clearly appears from the information at hand that this land under the provisions of Amended Senate Bill No. 127, 116 O. L., 155, 158, is now under your jurisdiction as Superintendent of Public Works and that you are authorized to execute the lease here in question.

As to this, it appears that the Director of Highways has reserved certain abandoned Miami and Erie Canal lands and, perhaps, other state lands contiguous thereto in the city of Lockland for highway purposes and has indicated on the plat prepared by him under the provisions of this act the canal lands and other lands reserved by him for this purpose. Further in this connection, it appears that the Director of Highways has by journal entry in the records of his office relinquished all Miami and Erie Canal lands and state lands contiguous and adjacent thereto not included in the designated part of such lands reserved by him for highway purposes. The particular parcel of land above described, which is covered by this lease, is included within that part of Miami and Erie Canal lands and other state lands not reserved for highway purposes. In this situation, section 14153-8, General Code, as the same is amended in the act of the legislature last above referred to, authorizes you as Superintendent of Public Works to lease this property

for the term above stated for an annual rental equal to six per cent. of the appraised value of the property with the provision that the property shall be appraised at the end of each fifteen-year period of the lease for the purpose of determining the subsequent annual rentals to be paid on the lease. And as to this it is noted that provision is made in the lease for such subsequent reappraisals of the property for rental purposes.

Upon examination of the lease, I find that the same 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 Cincinnati Gas and Electric Company, acting by the hand of its Vice-President and Secretary pursuant to authority conferred upon him for this purpose by resolution of the Board of Directors of said company adopted under date of November 2, 1936. I further find, upon examination of the lease, that the provisions thereof and the conditions and restrictions therein contained are in conformity with 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,

HERBERT S. DUFFY,
Attorney General.

1211

APPROVAL—BONDS OF CITY OF AKRON, SUMMIT COUNTY,
OHIO, \$23,000.00.

COLUMBUS, OHIO, September 21, 1937.

The Industrial Commission of Ohio, Columbus, Ohio.

GENTLEMEN:

Re: Bonds of City of Akron, Summit County, Ohio,
\$23,000.00.

The above purchase of bonds appears to be part of an issue of bonds of the above city dated October 1, 1935. The transcript relative to this issue was approved by this office in an opinion rendered to your com-