

ORIGINAL

[Sections 404, et seq., 486-1, 13965, et seq., 154-3 and 154-40, G. C.]

OHIO CANAL
VALUATION \$1666.67
LEASE "B"

CANAL LAND LEASE

THIS INDENTURE OF LEASE, made and entered into this AUG 25 1930 day of 1930, at the city of Columbus, in Franklin County, Ohio, by and between the State of Ohio, through its Department of Public Works and Superintendent of Public Works, as Director of such department, and duly approved by the Governor and Attorney General, all officers of the State of Ohio, acting for and on behalf of said State, party of the first part, and

The Pennsylvania Railroad Company, Lessee of the Pittsburgh, Fort Wayne and Chicago Railway Company, ~~Ohio~~ party of the second part; witnesseth:
Pittsburgh, Pa.,

WHEREAS, The Department of Public Works by its Superintendent of Public Works as Director of Public Works has found that the land hereinafter described is the property of the State of Ohio; and that same is now occupied and used by the Pennsylvania Railroad as a right-of-way for its railroad tracks and bridge structures over the Ohio Canal; and

WHEREAS, In the opinion of said Superintendent of Public Works as Director of Public Works, the use of said land, if leased for the purposes herein stated, will not materially injure or interfere with the maintenance and navigation of any of the canals of this State; and

WHEREAS, The party of the second part has applied to the party of the first part for a lease of said land for

Necessary Railway Right-of-Way

purposes; and

WHEREAS, The party of the first part, on the 22nd day of January 1930, having considered such application of said second party, duly resolved to lease such land, for the term of 99 years, upon the terms and conditions, and under the restrictions hereinafter set forth; therefore,

The party of the first part hereby leases to the party of the second part its heirs, executors, administrators, successors and assigns, the lands herein described, together with the right and privilege to said second party its heirs, executors, administrators, successors or assigns to occupy and use said lands for

Necessary Railway Right-of-Way

purposes

ninety-nine years, renewable forever,
for the term of 99 years, under the conditions and restrictions herein provided, ~~and~~ subject, however, to a re-appraisement of the property at the end of each fifteen-year period, by the proper State officials, as provided in the Act known as Amended Senate Bill No. 235, as passed by the 88th General Assembly of Ohio.

Permission to enter upon, occupy and use for necessary railway right of way purposes, and for other purposes incidental thereto, so much of the abandoned Ohio Canal property in the City of Massillon, Stark County, Ohio, as is described as follows:

Commencing at a point in the outer margin of the berme embankment of the Ohio Canal in said City of Massillon, that is 16.5 feet south of the stone retaining wall on the south side of the right-of-way, as now occupied by The Pennsylvania Railroad Company, near its crossing over the Ohio Canal, and 132.5 feet, more or less, west of the westerly line of Erie Street in said City, measured on a line parallel to and 16.5 feet south of said retaining wall, measuring at the elevation of the top water line of the canal, and running thence northwardly on a line parallel to Erie Street in said City, 64.5 feet, more or less, to a point in the northerly line of The Pennsylvania Railroad Company's right-of-way that is 35.0 feet north of the center line, between tracks, of said Railroad, measured at right angles to said center line; thence running westwardly, parallel with said center line, 85 feet, more or less, to the west line of the Ohio Canal property, said west line being the agreed easterly line of Canal Street and is 58 feet east of the westerly line of said street; thence southwardly along the east line of said Canal Street 108 feet, more or less, to a point in the easterly line of the canal berme embankment, that is 70.0 feet south of the center line, between tracks, of said Railroad, measured at right angles to the center line thereof; thence eastwardly, parallel to the center line of said Railroad, and 70.0 feet southwardly therefrom, a distance of 85 feet, more or less, to a point on the outer margin of the berme embankment of the Ohio Canal; thence northwardly, parallel to Erie Street, a distance of 43.5 feet, more or less, to the point of commencement, containing an area of 8925 square feet, more or less.

For additional description, reference is hereby made to Plat No. 52 of G.F.Silliman's survey of the Ohio Canal South of Cleveland, Ohio, to which has been added the boundary lines between the State Canal property and the lands of The Pennsylvania Railroad Company, a copy of a portion of which is hereto attached and made a part hereof, the original being on file in the Department of Public Works, at Columbus, Ohio.

THIS LEASE IS GRANTED SUBJECT TO THE FOLLOWING CONDITIONS & RESTRICTIONS:

1. The party of the first part hereto, hereby grants to the party of the second part, its successors and assigns, the right to construct and maintain a railway bridge crossing over the bed and banks of the portion of said abandoned Ohio Canal property herein leased, but said bridge structure shall be built in conformity to plans and specifications to be approved by the Superintendent of Public Works of Ohio, prior to the commencement of work thereon, but said bridge structure shall have a net clearance of at least thirty (30") inches between the top water line of said canal at standard level, and the bottom of the bridge structures, so long as water is permitted to flow in said canal.

2. If, however, at any time in the future the water is cut out of this portion of the abandoned Ohio Canal, either by the State of Ohio or by the City of Massillon, the said party of the second part; its successors or assigns, shall have the right to remove its bridge structures from over the bed and banks of the abandoned canal property herein leased, with the right to substitute an earth fill in lieu thereof, with proper drainage through the same, of sufficient capacity to care for the water flowing in the bed of said canal, but said second party, its successors and assigns, shall be responsible for any and all damages to State or private property caused by failure of the culvert through the fill to carry the water flowing in the canal.

3. This lease is granted with the further understanding that in the event that the State of Ohio or the United States, or both, shall undertake the construction of a ship or barge canal, that will require the use of all or any portion of the canal lands herein leased, the said party of the second part hereto, its successors or assigns, shall have the privilege of either surrendering this lease to the party of the first part, or of procuring at its own expense, another suitable right-of-way of the same dimensions, acceptable to the Superintendent of the Public Works of Ohio.

4. It is hereby mutually understood and agreed between the respective parties hereto, that this lease is a renewal of the lease granted July 12th, 1929, to The Pennsylvania Railroad Company, Lessee of The Pittsburgh, Fort Wayne and Chicago Railway Company, under the terms of Section

(Continued on Page 2-A)

P. 2-B. It is agreed that the party of the first part by its authorized agents, may, at any time, when necessary, enter upon said lands for the purpose of making such changes and improvements as the Superintendent of Public Works as Director of Public Works may deem necessary.

The party of the second part shall keep removed from the adjacent lands of the state not subject to this lease any and all earth, cinders, coal, timbers and other material which may be deposited thereon by reason of the use of lands leased herein by said party of the second part, and the party of the first part may, at any time, remove such material at the expense of said party of the second part.

The party of the second part for **itself**, **its** heirs, executors, administrators, successors or assigns, hereby agrees to keep the premises herein leased, clean and sanitary, and free from weeds, vines and debris of all kinds, and upon **its** failure to do so, the Superintendent of Public Works as Director of Public Works may have the necessary work performed at the expense of said party of the second part.

Said lands shall be so used and maintained at all times as not to interfere with the maintenance and navigation of any part of the adjacent canal system of the state, and party of the first part or its lessees may enter upon and use said lands for any purpose not inconsistent with the provisions of this lease, and for the purpose of making such changes and improvements as the Superintendent of Public Works as Director of Public Works or his authorized agent may deem necessary.

This lease is hereby expressly made subject to all prior leases and grants heretofore made for any portion of the lands, rights or privileges embraced in this lease, and subject to the renewal of such leases and grants during the entire term of this lease.

The party of the second part for **itself**, **its** heirs, executors, administrators, successors and assigns agrees not to plow down the canal embankments herein leased, nor fill up any drains or ditches in the bed of the canal, or in any manner obstruct the flow of water through the same.

The party of the first part hereby reserves all oil, gas, coal or other minerals on or under the lands herein leased, (excepting lands located within the corporate limits of municipalities) with the right of entry in and upon said premises for the purpose of selling or leasing the same, or prosecuting, developing, or operating the same.

9 of the Act known as Amended Senate Bill No. 235, as passed by the 88th General Assembly of the State of Ohio on the 6th day of April, 1929, (O.L. 113, Page 532-541).

5. This lease is also granted with the further understanding that in case the City of Massillon shall take over the abandoned Ohio Canal property within its corporate limits, under the provisions of Section 10 of the act referred to above, this lease may be assigned by the Superintendent of Public Works to the said city of Massillon, and thereafter said city shall be entitled to collect all rentals accruing thereon, and if said city shall decide to cut out the water in the canal and fill in the bed thereof, the said second party hereto, its successors and assigns, may change the grade of its present tracks to such level as may be satisfactory to the proper authorities of said City of Massillon, but until such assignment has been made, plans for making changes in the grade of tracks over the canal, shall first be submitted to and be approved by said Superintendent of Public Works prior to the commencement of work thereon.

(Continued on page 2-B)

MAP OF THE
OHIO CANAL
MASSILLON,

THE M. A. BROWN

used as Lumber Shed 15' x 12'

5' 6" line agreed upon with City

204

2485

X 120

25714934

4854

30

386220

43

42

42

42

42

42

42

42

42

42

42

42

51230 E. 30263

2715

If the party of the second part shall do, or permit to be done, any act or thing herein prohibited, or shall in any respect violate the terms of this agreement, then, and in either case, all the rights and privileges derivable to said second party from this agreement shall, at the option of the party of the first part, cease and determine, and said second party shall be liable for any and all damages consequent upon such violation of this agreement.

The party of the second part shall pay to the party of the first part during the ^{first 15 year period} term of this lease, an annual rental of **One Hundred** (\$ **100.00**) dollars, in semi-annual installments of **Fifty** (\$ **50.00**) dollars each, *in advance* on the first days of May and November in each and every year, the first payment on this lease to be computed from the **1st** day of **May** 19 **30** , to the next semi-annual pay day after the date hereof, to the Treasurer of the State of Ohio at Columbus, Ohio, or such other agent as the State may authorize.

It is distinctly understood and agreed that the party of the second part, **its** heirs, executors, administrators, successors and assigns shall not permit the same to be used for immoral purposes nor allow to be sold on the premises hereby leased, any spirituous or intoxicating drinks under penalty of a forfeiture of this lease. It is further understood and agreed, that if any installment of rent agreed to be paid under this lease shall not be paid at the time the same shall fall due, or within ten (10) days thereafter, whether a demand therefor shall, or shall not be made, then this lease shall, at the option of the party of the first part hereto, become and be null and void as against the State of Ohio, and the lessee so in default, **its** heirs, executors, administrators, successors or assigns, or any party in possession of the premises leased, shall yield possession of the same to the said party of the first part or its authorized agent; and the said party of the first part or its authorized agent, in case of default of the payment of the rent as aforesaid, may at any time, without any demand or notice whatever given the lessee **its** heirs, executors, administrators, successors or assigns, or the party in possession of the premises, enter upon and take possession of the premises herein leased on behalf of the State.

It is also further agreed and understood that if said second party fails to comply with any of the conditions of this lease, as herein set forth, then this lease shall, at the option of the said party of the first part hereto, become null and void, as to the party of the second part, and it is expressly agreed and understood that the receipt of rental after any act of forfeiture hereof by the party of the second part hereto, shall not be held to be a waiver by the party of the first part of its right to declare such forfeiture and cancel this lease, after the rental so taken has been earned under the terms of this lease, and the party of the first part may enter upon and take possession without notice or other legal process.

It is further distinctly understood and agreed that this lease shall not be assigned, transferred or sub-let without the written consent of the party of the first part hereto.

This lease signed in triplicate.

Witnesses as to signatures of the party of the first part:

E. E. Boston

J. E. Daly

STATE OF OHIO
Department of Public Works,

Witnesses as to signatures of the party of the second part:

Wm. Jackson

Grace C. Rutty

By [Signature]
Superintendent of Public Works as
Director of Public Works.

PARTY OF THE FIRST PART.

Approved Aug 25, 1930

[Signature]
Governor.

THE PENNSYLVANIA RAILROAD COMPANY,
By Thomas W. Wilson Lessee,

Attest: [Signature] Vice-President
ASST. Secretary.

Approved July 22, 1930

G. W. B. [Signature]
Attorney General.

PARTY OF THE SECOND PART.

ERIE

ST.

THE M. A. BROWN LUMBER CO.

Planning Mill
25.5'

Old Penna. Co.

Penna. Co. (P.W. & C.R.)

Canal

State of Ohio

Sippo Creek

ST.

CANAL

Berm

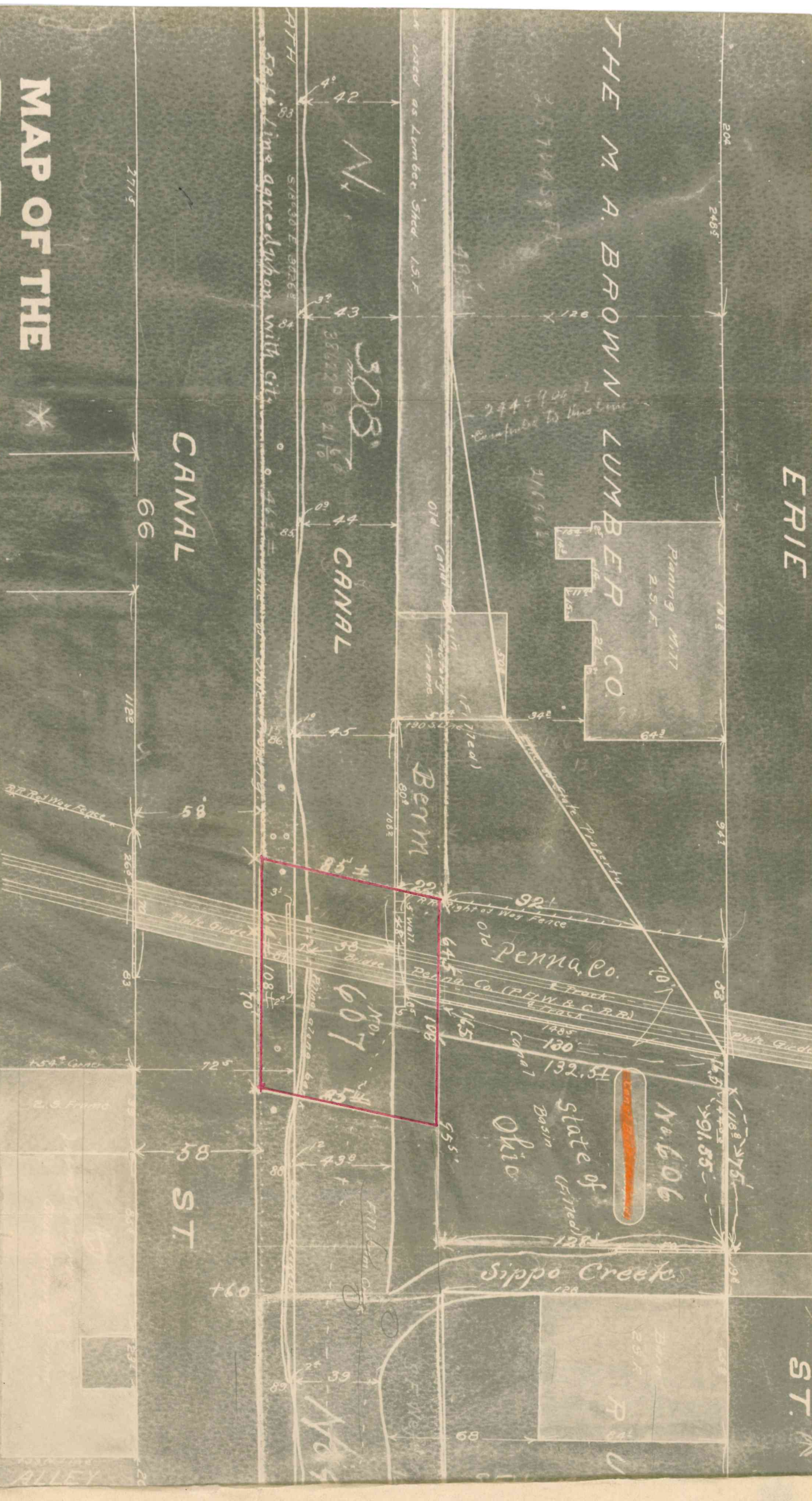
CANAL

ST.

MAP OF THE

IO CANAL,

MASSILLON,



S. D. 6
3M 8x10 1/2d 8 24 1926

THE PENNSYLVANIA RAILROAD COMPANY.

OFFICE OF THE SECRETARY,
GENERAL OFFICE, PHILADELPHIA.

I HEREBY CERTIFY that the following is a true and correct copy, from the minutes, of action taken at a meeting of the Board of Directors of THE PENNSYLVANIA RAILROAD COMPANY, held at the General Office of the Company, in the city of Philadelphia, on 22nd May, 1929.

RESOLVED that the Board approves and authorizes the execution of the lease, this day submitted and considered, dated 22nd May, 1929, from the State of Ohio, of the abandoned Ohio Canal property in the City of Massillon, Stark County, Ohio, containing 8,925 square feet, more or less, for right of way purposes, for fifteen years from the date of approval by the Governor, at a rental of \$100. per annum, with the privilege of surrendering the said lease at any time within one year from 25th July, 1929, and of taking in lieu thereof a lease for 99 years, renewable forever, upon the terms and conditions in the said lease fully set forth.

ATTEST:-

E. H. Brown

Assistant Secretary.

This lease signed in triplicate.

Witnesses as to signatures of the party of the first part:

E. C. Burton

L. E. Daly

Witnesses as to signatures of the party of the second part:

Wm. J. ...

Wm. C. Butler

STATE OF OHIO
Department of Public Works.

By

[Signature]
Superintendent of Public Works or
Director of Public Works.

PARTY OF THE FIRST PART.

P/O 7-15
Ohio & Erie Canal.

L. P. NO. 607

PUBLIC WORKS OF OHIO

Lease of Canal Land

TO

The Pennsylvania Railroad Co.
(Lessee of the Pittsburgh, Fort
Wayne & Chicago Ry. Co., Street

Pittsburgh, Pa.

Date of approval AUG 25 1930

RENTS PAYABLE TO

STATE TREASURER

COLUMBUS, OHIO

Recorded
8/25/1900 to 8/25/1945
to 8/25/1960
to 8/25/1975
to 8/25/1990
to 8/25/2005
to 8/25/2020
to 8/25/2029

LAND LOCATED IN

County

ASSIGNMENTS
and
TRANSFER OF LEASE.

The within lease is hereby assigned and transferred to the City of Massillon, Ohio, in accordance with the provisions of Section 14203-60, of the General Code, and likewise in accordance with the terms of a ninety-nine (99) year lease, renewable forever, granted by the State of Ohio, to said city under date of December 31st, 1931.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of the Public Works of Ohio this 4th day of Feb, 1932.

T.S. BRINDLE

T.S. Brindle

Superintendent, Public Works of Ohio,
as Director thereof.

STATE OF OHIO

Department of Public Works

Superintendent of Public Works
Director of Public Works

PARTY OF THE FIRST PART

THE PENNSYLVANIA RAILROAD COMPANY
Lessee

Vice-President

Attest:

Secretary

PARTY OF THE SECOND PART

Governor

Attest:

Chief Clerk