

# City of Philadelphia



(Bill No. 210079)

## AN ORDINANCE

Authorizing The Philadelphia Municipal Authority, and The Philadelphia Gas Works by Philadelphia Facilities Management Corporation (solely in its capacity as Operator and Manager of the City-owned Philadelphia Gas Works), to enter into certain transactions and contracts regarding the lease and license of portions of the premises located at 5000 Summerdale Avenue and 5501 Whitaker Avenue, Philadelphia, Pennsylvania for the use of The Philadelphia Gas Works, all under certain terms and conditions.

WHEREAS, The Philadelphia Municipal Authority (the "Authority"), incorporated pursuant to the Municipal Authorities Act, 53 Pa. C.S. Ch. 56 (as amended from time to time, the "Act"), is authorized by Ordinance approved April 3, 2014 (Bill No. 140073), to undertake any project (as defined in the Act) that the Authority is specifically authorized to undertake from time to time by ordinance of the Philadelphia City Council ("City Council"); and

WHEREAS, The Philadelphia Gas Works ("PGW") has requested the Authority enter into a sublease agreement ("Sublease Agreement") whereby the Philadelphia Gas Works by Philadelphia Facilities Management Corporation ("PFMC") (solely in its capacity as operator and manager of the City-owned Philadelphia Gas Works, under and pursuant to an agreement with the City of Philadelphia dated December 29, 1972, as amended), will sublease and sublicense from PMA, a portion of certain premises located at 5000 Summerdale Avenue and 5501 Whitaker Avenue, which the Authority will first lease and license from the property owner and/or lessee of the foregoing properties, NP Philadelphia Summerdale Industrial, LLC, pursuant to a lease agreement; and

WHEREAS, Section VIII(3) of the Agreement dated December 29, 1972, as amended, between the City of Philadelphia and Philadelphia Facilities Management Corporation provides in part that leases of real estate by or for the Philadelphia Gas Works by PFMC shall be submitted to the Philadelphia Gas Commission for its approval and shall be submitted to City Council for its approval by ordinance; and

WHEREAS, The Philadelphia Gas Commission at a public meeting duly held on December 8, 2020, approved the proposed sublease and sublicense transactions between the Philadelphia Gas Works by Philadelphia Facilities Management Corporation and The Philadelphia Municipal Authority, under certain terms and conditions and favorably recommended approval of the transaction to City Council; now, therefore

*THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:*

SECTION 1. Pursuant to Section VIII(3) of the Agreement dated December 29, 1972, as

# City of Philadelphia

*BILL NO. 210079 continued*

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amended, between the City of Philadelphia and Philadelphia Facilities Management Corporation, the Philadelphia City Council (“City Council”) does hereby approve the Philadelphia Gas Works (“PGW”), by Philadelphia Facilities Management Corporation (“PFMC”) (solely in its capacity as operator and manager of the City-owned Philadelphia Gas Works, under and pursuant to an agreement with the City of Philadelphia dated December 29, 1972, as amended), to enter into a sublease and sublicense (the “Sublease”), and potential renewals thereof, with The Philadelphia Municipal Authority, for PGW’s use of a portion of the premises and improvements now or hereafter located at 5000 Summerdale Avenue and 5501 Whitaker Avenue, pursuant to terms substantially as set forth in Exhibit “A” attached hereto and made a part hereof.

SECTION 2. City Council hereby authorizes The Philadelphia Municipal Authority to enter into the Sublease with PGW, by PFMC, and to also enter into a lease and license with NP Philadelphia Summerdale Industrial, LLC regarding the subject property described in Section 1, above (the “Lease”), both with potential renewals thereof, pursuant to terms substantially as set forth in Exhibit “A” attached hereto and made a part hereof, and such other documents as are necessary to carry out the purpose of the project that is the subject of this Ordinance.

SECTION 3. The City Solicitor is hereby authorized to review and to approve the Sublease and other documents necessary to effectuate this Ordinance, which Sublease and documents shall contain such terms and conditions as the City Solicitor shall deem necessary and proper to protect the interests of the City of Philadelphia and the PGW and to carry out the purpose of this Ordinance.

SECTION 4. The Exhibit “A” referred to and incorporated in this Ordinance shall be kept on file by the Chief Clerk of City Council and shall be available to the public for inspection, reading or copying at reasonable times.

**EXHIBIT “A”**  
**SUMMARY OF KEY TERMS OF PROPOSED AGREEMENTS**  
**REGARDING THE LEASING AND LICENSING OF PORTIONS OF THE**  
**PREMISES LOCATED AT 5000 SUMMERDALE AVENUE AND 5501**  
**WHITAKER AVENUE, PHILADELPHIA, PENNSYLVANIA FOR THE USE OF**  
**THE PHILADELPHIA GAS WORKS**

1. Prime Landlord: NP Philadelphia Summerdale Industrial, LLC (“Prime Landlord”), as owner of the Summerdale Parcel, and tenant/licensee/easement Grantee of portions of the Whitaker Parcel .
2. Landlord: The Philadelphia Municipal Authority (“Landlord”) (as tenant of Prime Landlord).
3. Tenant: Philadelphia Gas Works (“Tenant”) by Philadelphia Facilities Management Corporation (“PFMC”) as tenant of Landlord.
4. Lease: That certain lease between Prime Landlord and Landlord for the Property (defined below) (the “Lease”)
5. Sublease: That certain sublease between Landlord and Tenant, whereby Landlord shall sublease and sublicense the Property to Tenant substantially upon the same terms and conditions of the Lease, as described below (the “Sublease”), it being understood that the Lease and Sublease are intended to be back-to-back agreements.
6. Summerdale Parcel: Land and improvements with an address of 5000 Summerdale Avenue, Philadelphia, Pennsylvania 19124 (the “Summerdale Parcel”).
7. Whitaker Parcel: Land and improvements with an address of 5501 Whitaker Avenue, Philadelphia, Pennsylvania 19124 (the “Whitaker Parcel”).
8. Property: As generally identified on the “Site Plan” (attached hereto as Attachment “1”):
  - (a) certain leased portions of the Summerdale and Whitaker Parcels, together with the improvements now or hereafter thereon erected, including (i) an approximately 255,000 rentable square foot building to be constructed for office and warehouse space on the Summerdale Parcel (the Building”), and (ii) all parking spaces to be constructed on the Summerdale Parcel, and
  - (b) certain licensed shared common areas on the Summerdale Parcel and the Whitaker Parcels for ingress and egress use on a non-exclusive, licensed basis,

(collectively, the “Property”).

9. Initial Term: Twenty-Five (25) years, commencing upon the date Prime Landlord delivers to Landlord written notice certifying the Landlord’s Improvements (defined below) are substantially complete, which shall occur no later than April 1, 2022, subject to extension and/or penalties for delay.
10. Renewal Terms: Up to three (3) additional ten (10) year terms at Tenant’s election with written notice given not less than twelve (12) months prior to expiration of the then current term.
11. Initial Term Rent: \$193,722.56<sup>1</sup> per month, with escalations of (i) 5% after five (5) years, and (ii) 3.5% after seven (7) years and every two (2) years thereafter (the “Base Rent”).
12. Renewal Term Rent: Fair market value, determined as follows: (i) Prime Landlord and Landlord shall attempt to agree upon fair market value of the Premises; (ii) should Prime Landlord and Landlord be unable to agree on the fair market value of the Premises, each shall obtain separate appraisals; (iii) if after receipt of written appraisals, Prime Landlord and Landlord are unable to agree upon the fair market value, the two (2) appraisers shall appoint a third appraiser whose appraisal shall be deemed the fair market value for the appropriate Renewal Term of the Lease and Sublease.
13. Landlord’s Improvements. Per the Lease, Prime Landlord, at its sole cost and expense, shall design and construct the “Landlord’s Improvements” which shall collectively consist of: the shell and core of the Building (including interior sanitary sewer, 5psig gas service, 3,000A electrical service, 2-in meter water service, R-20/45-mil roof system, insulated pre-cast walls and 7-inch unreinforced slab, 8" fire main stubbed 5' AFF in building, fire pump and exterior fire loop, all of which shall be code compliant), together with all related site paving and striping, hardscape, landscape, irrigation, detention, storm water management system, utilities, site lighting, sidewalks, continuous underslab 15-mil poly vapor barrier with taped seams, and the removal of those certain underground storage vaults identified as Vaults A-D (collectively, the “Base Improvements”), and certain additional improvements and items for the ultimate use of Tenant, as sublessee under the Sublease (collectively, the “Additional Improvements”).
14. Additional Improvements: Per the Lease, Prime Landlord shall construct the Additional Improvements up to Six Million Two Hundred Eighty-Three Thousand Four Hundred Fifty-Five and 00/100 Dollars (\$6,283,455.00) without increasing the Base Rent under the Lease to Landlord; further Prime Landlord will complete the Additional Improvements up to an additional Eighteen Million and 00/100 Dollars (\$18,000,000.00) which cost shall be shall be amortized into

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<sup>1</sup>The base rent is expected to increase based upon the final cost of the Additional Improvements (see item 14).



- the Base Rent of the Lease at an interest rate of 6.75% over the initial term of the Lease; any additional costs for the Additional Improvements (i.e., over Twenty-Four Million Two Hundred Eighty-Three Thousand Four Hundred Fifty-Five and 00/100 Dollars (\$24,283,455.00)) must be paid by Landlord as additional rent upon commencement of the Lease. All such rental amounts shall be passed through as Tenant's payment obligation under the Sublease, upon the same terms and conditions
15. Tenant Improvements. Tenant, at its sole cost and expense, may perform certain tenant improvements to the Property, including a fueling station, storage tanks, telecomm systems, and satellite dishes, antennae, or other communications equipment subject to Landlord's approval, not to be unreasonably withheld, conditioned or delayed.
  16. Additional Rent: Tenant shall pay its proportionate share of shared common area maintenance, operating expenses and taxes.
  17. Permitted Uses: General office use, warehousing, parking, vehicle storage, vehicle maintenance, materials storage, installation and operation of a fueling station, storage of trench spoils, innovation center, and any other lawful purpose subject to Prime Landlord's consent, which consent shall not be unreasonably withheld, conditioned or delayed.
  18. Maintenance: Tenant shall maintain the leasehold portions of the Property at its sole cost, except with respect to certain structural repairs and replacements which Landlord shall cause to be undertaken by the Prime Landlord.
  19. Security Deposit: None.
  20. Right of First Refusal to Purchase the Property; Right of First Offer: If at any time, or from time to time during the Term of the Lease, the Prime Landlord receives an offer to purchase the Property<sup>2</sup>, and the Prime Landlord desires to accept such offer, the Prime Landlord shall offer the Property to Landlord, Tenant, and/or the City of Philadelphia under said offer's terms and conditions. Landlord, Tenant, or the City must exercise its right to purchase within 30 days of the Prime Landlord's offer. Landlord shall assign any such opportunity to Tenant. This provision shall not apply to any sale primarily undertaken as part of the reorganization of membership, partnership or other interest in the Prime Landlord. Additionally, if the Prime Landlord chooses to market the Property, after Landlord's rent payment obligation has commenced, Prime Landlord shall notice Landlord of same, and Landlord (or Tenant or the City) shall be afforded the right to make a first offer on Property, within 30 days of Prime Landlord's notice to Landlord.

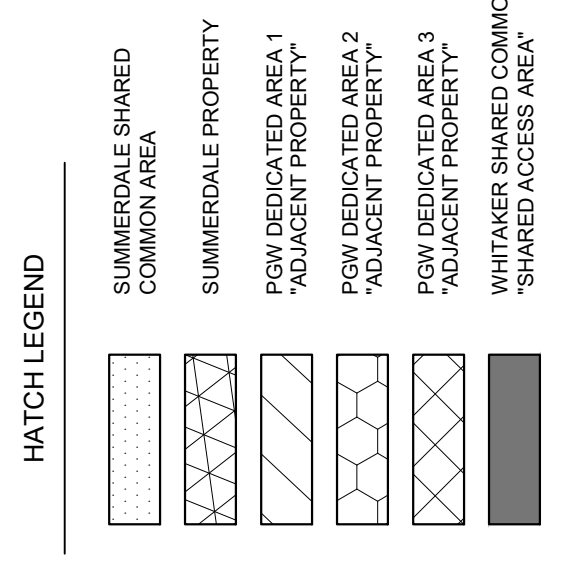
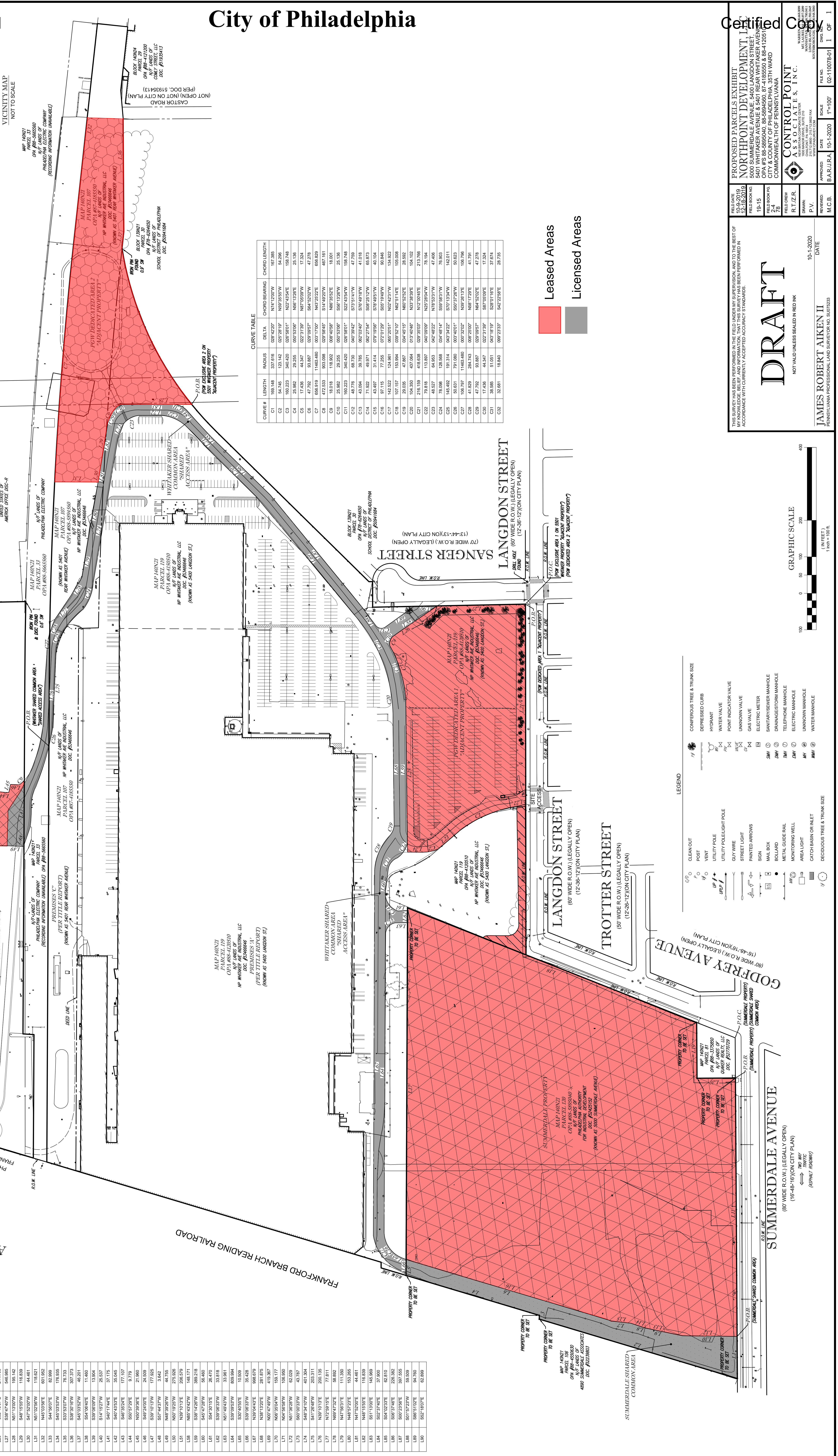
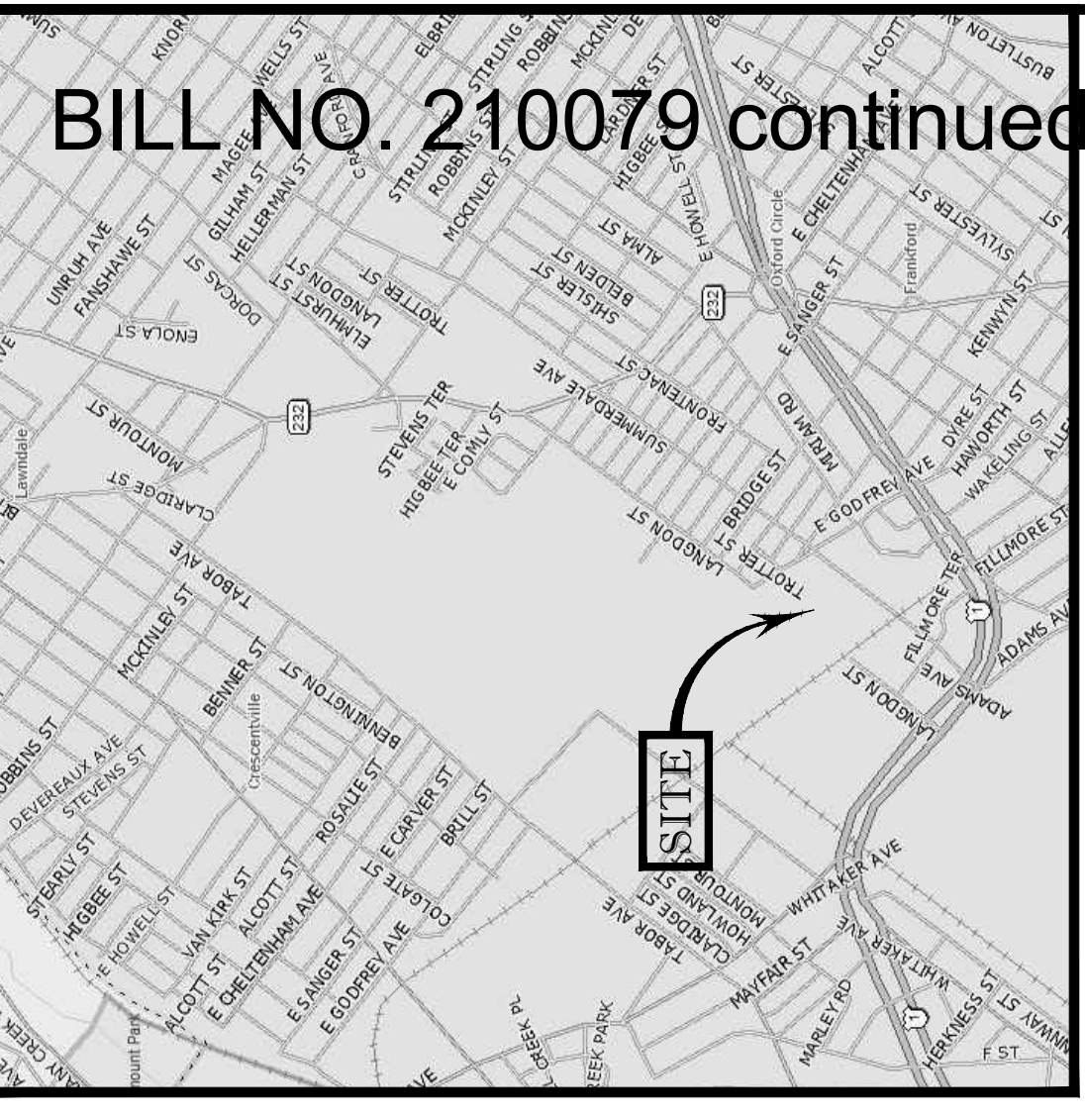
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<sup>2</sup> Or such portion as is owned by Prime Landlord at the time of offer or marketing.

21. Cooperation between Landlord and Tenant. All of Landlord's rights and obligations in its Lease with Prime Landlord shall be enjoyed and be performed by Tenant in accordance with the Sublease. To the extent permitted by applicable law, Tenant shall indemnify, defend and hold harmless Landlord with respect to any and all claims or damages arising out of the Lease with Prime Landlord or the Sublease. Tenant acknowledges that Landlord's obligations shall be contingent on Prime Landlord's performance of its obligations under the Lease with Landlord.
22. Non-Recourse. Any payments required to be made by PGW (PFMC) as a result of or arising out of entering into the Sublease shall be made solely from the revenues of the Philadelphia Gas Works. Any obligation of Tenant (or PFMC) relating to the Sublease shall be without recourse whatsoever to the City of Philadelphia.
23. Economic Opportunity Plan: Per the Lease, Prime Landlord shall enter into an Economic Opportunity Plan ("EOP") approved by the Mayor's Office of Economic Opportunity with respect to development of the leasehold.

ATTACHMENT 1  
SITE PLAN





**WHITTAKER AVENUE**  
(73 WIDE R.O.W.) (LEGALLY OPEN)  
(11-51-117) (ON CITY PLAN)

**ADAMS AVENUE**  
(20'-0" WIDE R.O.W.) (LEGALLY OPEN)  
(20-07-20) (ON CITY PLAN)

**FRANKFORD BRANCH READING RAILROAD**

**LANGDON STREET**  
(60' WIDE R.O.W.) (LEGALLY OPEN)  
(12-35-12) (ON CITY PLAN)

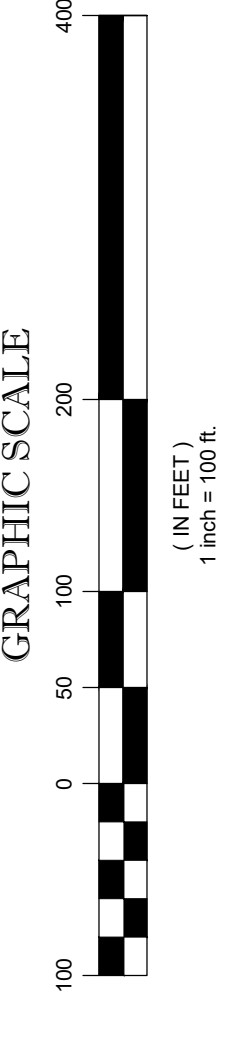
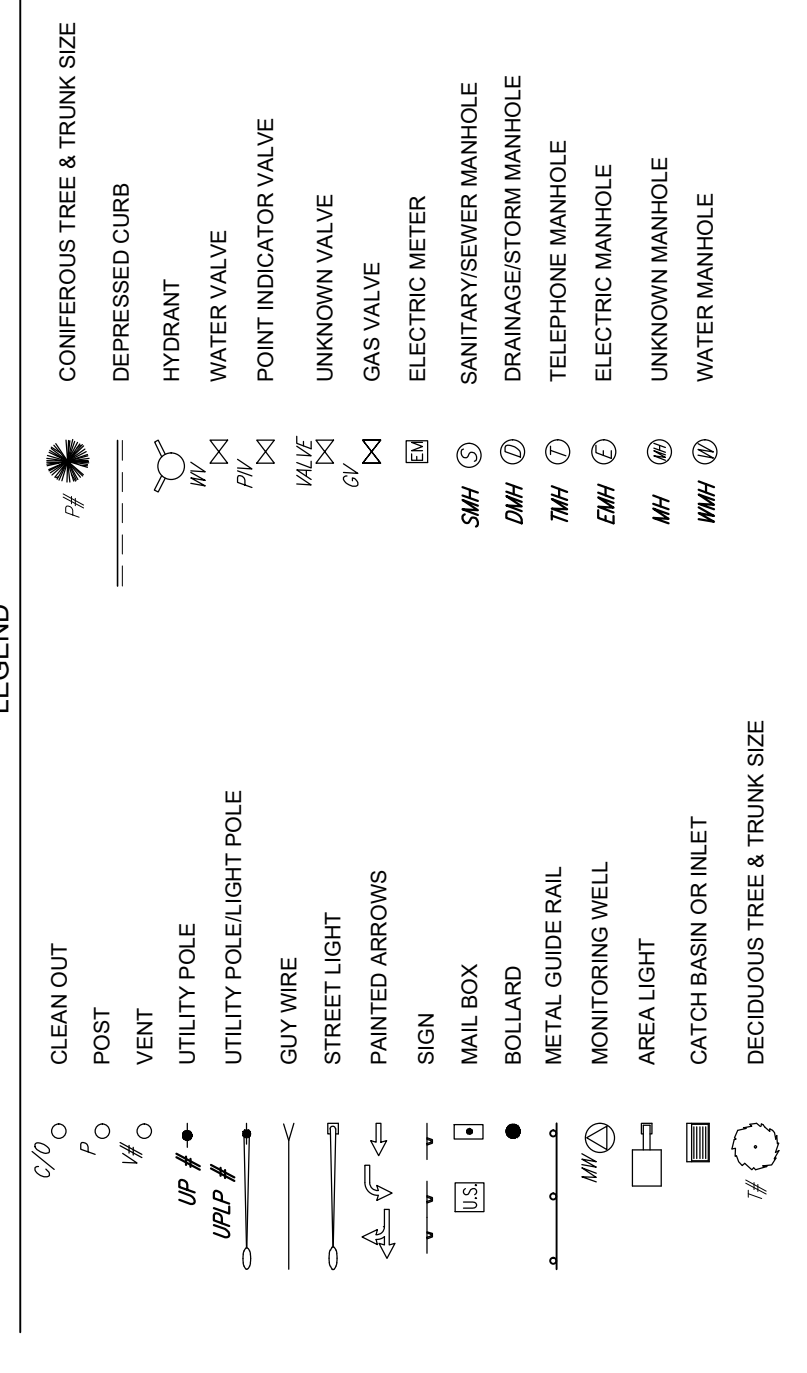
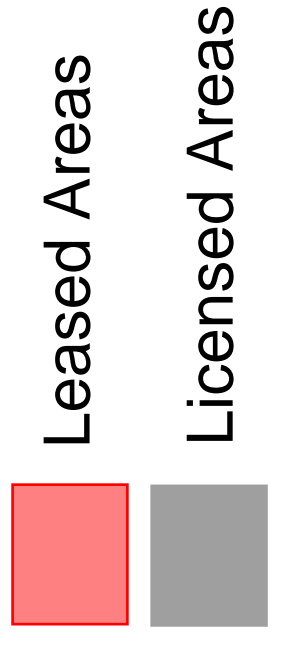
**TROTTER STREET**  
(50' WIDE R.O.W.) (LEGALLY OPEN)  
(12-26-12) (ON CITY PLAN)

**GODFREY AVENUE**  
(80' WIDE R.O.W.) (LEGALLY OPEN)  
(16-48-16) (ON CITY PLAN)

**SUMMERDALE AVENUE**  
(80' WIDE R.O.W.) (LEGALLY OPEN)  
(16-48-16) (ON CITY PLAN)

CURVE TABLE

CURVE #	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD LENGTH
C1	160.148	337.016	029°42'27"	N74°12'00"W	167.385
C2	160.148	337.016	029°42'27"	S74°12'00"W	167.385
C3	160.148	337.016	029°42'27"	N09°10'30"E	167.385
C4	20.983	29.253	029°42'27"	N66°12'00"E	26.336
C5	17.438	44.347	022°31'39"	N87°00'00"W	17.524
C6	47.782	93.867	029°09'57"	S84°52'02"W	47.778
C7	669.819	11463.880	003°17'00"	N43°25'22"E	666.829
C8	472.533	903.098	029°58'45"	S14°49'20"W	467.161
C9	18.018	18.802	029°49'59"	N87°35'22"E	18.001
C10	25.983	29.253	029°42'27"	S87°12'00"W	26.336
C11	160.148	337.016	029°42'27"	N74°12'00"W	167.385
C12	40.774	68.793	040°30'42"	S70°04'14"W	47.769
C13	43.004	39.795	062°03'47"	S70°04'14"W	41.018
C14	71.822	49.971	027°27'54"	S68°20'12"W	65.673
C15	43.497	31.414	079°19'56"	S78°49'51"W	40.104
C16	97.115	77.255	072°01'29"	S85°19'49"W	90.848
C17	142.622	124.981	065°29'51"	N62°43'11"W	134.622
C18	107.157	153.994	029°52'07"	N62°51'14"E	105.038
C19	148.350	457.064	014°34'46"	N83°38'06"E	144.102
C20	216.159	418.838	029°35'33"	N12°04'45"E	213.768
C21	78.818	113.897	040°00'00"	N28°20'34"W	78.194
C22	48.527	64.853	042°48'22"	N78°53'31"W	47.406
C23	78.008	128.068	034°48'14"	S89°58'31"W	76.803
C24	146.492	191.314	041°38'22"	S70°13'34"W	142.011
C25	50.031	791.080	023°40'37"	S89°37'20"W	50.023
C26	41.029	149.086	029°35'33"	N87°00'00"W	41.029
C27	47.782	93.867	029°09'57"	N84°52'02"E	47.778
C28	17.438	44.347	022°31'39"	S87°00'00"W	17.524
C29	38.858	51.051	043°18'19"	S28°01'16"E	37.674
C30	32.811	18.840	089°23'32"	S42°22'36"E	28.235



PROPOSED PARCELS EXHIBIT  
NORTHPOINT DEVELOPMENT, LLC  
5000 SUMMERDALE AVENUE, LANGDON STREET  
5401 WHITTAKER AVENUE & 5401 REAR WHITTAKER STREET  
CITY & COUNTY OF PHILADELPHIA, 35TH WARD  
COMMUNITY DEVELOPMENT DEPARTMENT

**DRAFT**

NOT VALID UNLESS SEALED IN RED INK

JAMES ROBERT AIKEN II  
PENNSYLVANIA PROFESSIONAL LAND SURVEYOR NO. 1307233

APPROVED: DATE: SCALE: 1"=100'  
REVIEWED: P.V. DATE: 10-1-2020  
DRAWN: RT/JZR  
FIELD BOOKS: 2-4  
FIELD DATE: 10-9-2019



# City of Philadelphia

*BILL NO. 210079 continued*

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# City of Philadelphia

*BILL NO. 210079 continued*

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on April 8, 2021. The Bill was Signed by the Mayor on April 14, 2021.



Michael A. Decker  
Chief Clerk of the City Council