City of Philadelphia

City Council
Chief Clerk's Office
402 City Hall
Philadelphia, PA 19107

BILL NO. 120389

Introduced May 10, 2012

Councilmember Jones

**Referred to the
Committee on Public Property and Public Works**

AN ORDINANCE

Authorizing the Commissioner of Public Property to enter into a long-term lease agreement with the Southeastern Pennsylvania Transportation Authority ("SEPTA"), whereby the City will obtain use of a parking lot located approximately at the intersection of Dupont and High Streets, and of a section of an abandoned SEPTA railroad line from a point contiguous with such parking lot to a point near the intersection of Umbria and Parker Streets, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. The Commissioner of Public Property is hereby authorized to enter into a 30-year Lease Agreement, with options to renew for three further terms of ten years each, with the Southeastern Pennsylvania Transportation Authority ("SEPTA"), substantially as appended hereto as Exhibit A. Pursuant to such Lease Agreement, the City will obtain use of a parking lot located near the intersection of Dupont and High Streets, and of a section of an abandoned SEPTA railroad line, ranging from approximately 10 feet to approximately 30 feet in width along its length, extending from a point contiguous with such parking lot to a point near the intersection of Umbria and Parker Streets, all as shown on the map included as Attachment 1 to Exhibit A.

SECTION 2. The City Solicitor is authorized to impose such terms and conditions on the transaction authorized by this Ordinance, including the agreement appended hereto as Exhibit A, as the City Solicitor deems necessary and proper to protect the interests of the City and to carry out the purposes of this Ordinance.

EXHIBIT A

EXECUTION DOCUMENT

LEASE AGREEMENT BY AND BETWEEN
SOUTHEASTERN PENNSYLVANIA TRANSPORTATION AUTHORITY
AND
THE CITY OF PHILADELPHIA

SEPTA REGISTRY NO. 5051

This Lease Agreement ("Lease Agreement") is made on this _____ day of _____, 2012 ("Commencement Date") by and between Southeastern Pennsylvania Transportation Authority ("SEPTA"), a body corporate and politic which exercises the public powers of the Commonwealth of Pennsylvania as an agency and instrumentality thereof with its principal office located at 1234 Market Street, 10th Floor, Philadelphia, Pennsylvania 19107-3780, and the City of Philadelphia ("City"), a city of the first class, acting through its Department of Public Property, with its principle office located at Municipal Services Building, 1401 John F. Kennedy Boulevard, 10th Floor, Philadelphia, Pennsylvania 19102 (each a "Party", both "Parties").

WITNESSETH THAT:

WHEREAS, SEPTA owns the railroad right-of-way that is known as Cynwyd Branch and also known as Ivy Ridge Branch ("Cynwyd-Ivy Ridge Branch"); and

WHEREAS, at present the part of Cynwyd-Ivy Ridge Branch that is located between Cynwyd Passenger Station and the out-of-service Ivy Ridge Passenger Station is out-of-service for railroad operations (Non-Operating Segment"); and

WHEREAS, SEPTA wishes to preserve the Non-Operating Segment for future railroad and/or public transport use; and

WHEREAS, SEPTA deems that the Non-Operating Segment and its associated right-of-way are not abandoned and SEPTA will retain the Non-Operating Segment as part of the rail transportation system for use on an interim basis for recreational trail purposes as if under the National Trail Systems Act, 16 U.S.C. § 1247(d), and the Rails to Trails Act, Pa.Stat.Ann., tit. 32, § 5611 *et seq.*; and

WHEREAS, City wishes to lease from SEPTA the part of the Non-Operating Segment that is located between Milepost MP 7.79 and Milepost MP 8.36 and develop thereon a trail for recreational purposes such as, but not limited to, bicycling, walking, jogging, rollerblading and cross country skiing for use by the general public; and

WHEREAS, in an agreement dated October 22, 2007 (which was amended on March 28, 2008 and October 13, 2010), SEPTA leases to the Township of Lower Merion ("Township") other parts of the Non-Operating Segment; and

EXECUTION DOCUMENT

WHEREAS, on the parts of the Non-Operating Segment that Township leases, Township is constructing a recreational trail for use by the general public; and

WHEREAS, Township and SEPTA will soon enter into a third amendment to the lease agreement dated October 22, 2007 by which SEPTA will extend that which SEPTA leases to Township to include the surface of Manayunk Bridge and part of the Non-Operating Segment that is located between Manayunk Bridge and Milepost MP 7.79; and

WHEREAS, City intends to connect the part of the Non-Operating Segment that it will lease from SEPTA to the parts of the Non-Operating Segment that SEPTA leases to and will lease to Township so the recreational trail, once constructed, will be continuous between Cynwyd Passenger Station and the out-of-service Ivy Ridge Passenger Station.

NOW, THEREFORE, in consideration of the sum of $1.00 lawful money of the United States that City paid to SEPTA, receipt of which is hereby acknowledged, and other good and valuable consideration, SEPTA and City, intending to be legally bound hereby, agree as follows:

1. The recitals above are hereby incorporated herein as if set forth in full.

2. a. Insofar as SEPTA's title and interest permit, SEPTA hereby leases to City that portion of the surface of the Non-Operating Segment that is shown on Attachments 1 and 1-A, a copy of which is attached hereto, ("Premises") for interim trail use by City, subject to all the terms and conditions that are set forth in the Lease Agreement and all applicable statues and regulations. Attachment 1 is a drawing prepared by SEPTA and dated March 9, 2012. Attachment 1-A is a Valuation map which further depicts the Premises. The Premises shall be the entire SEPTA right-of-way from MP 7.79 to MP 8.29 with an additional ten-foot wide area from MP 8.29 to 8.36, which includes a portion of parking area ("Parking Area") owned by SEPTA. City may utilize the Parking Area for parking for trail purposes only and may additionally connect the Parking Area to the trail as long as the plans and drawings for such connection are approved in advance by SEPTA in SEPTA's sole discretion. The Premises shall also include a .45 acre parking area in the approximate vicinity of MP 7.79, as shown on Attachment 1, and an approximately 100-foot long extension ("Extension") from MP 8.36 to Umbria Street, as shown on Attachment 1. The Extension shall be 10-foot wide at all points until it reaches Umbria Street. The number of vehicles parking at any time in the Parking Area shall not exceed the number permitted by ordinance.

b. The initial term of the Lease Agreement shall be for 30 years beginning on November 1, 2012. City shall have the option to extend the term for three additional terms of ten years each. City may exercise such options by giving to SEPTA written notice thereof at least one year prior to expiration of the initial or then current optional term. Notwithstanding the foregoing, the Lease Agreement shall be subject to termination with or without cause by either Party upon 180 days' written notice.

EXECUTION DOCUMENT

3. SEPTA acknowledges that City intends to use the Premises for an interim trail. City acknowledges that SEPTA has the paramount right to return all or part of the Premises into an operating railroad and/or use the Premises for other public transport use.

4. So long as the Lease Agreement is in effect, neither SEPTA nor its successors or assigns shall erect or maintain any improvements on the Premises that would adversely affect access to or use of the Premises and other rights and privileges granted herein; provided however that SEPTA may use the Premises to gain access to and to maintain, repair and/or renew any of its facilities that are located on, under or over the Premises. SEPTA shall not park or stop its motor vehicles or other equipment in any manner on the Premises so that the motor vehicles or other equipment will impede the use of the Premises unless it is necessary for the construction, maintenance, repair and/or renewal of other facilities on the Premises, except in emergency situations. SEPTA shall have unrestricted and unencumbered access to the Premises at all times for the purpose of inspecting and/or monitoring the construction, renovation, or maintenance of the recreational trail.

5. a. City hereby acknowledges that (i) under the Lease Agreement City leases only the surface and, to the extent needed to construct the recreational trail, the subsurface of the part of the Non-Operating Segment that is the subject of the Lease Agreement; and (ii) the Lease Agreement does not include an interest in or rights to any present or future antennas, electrical or utility wires, pipes, conduits, fiber-optic and other communication lines across or as a longitudinal occupancy on the Non-Operating Segment.

b. SEPTA reserves the perpetual, irrevocable, exclusive right and authority at all times to grant easements, licenses, rights, or privileges in, on, over, under, above, across or through the Premises for any antennas, electrical or utility wires, pipes, conduits, fiber-optic and other communication lines across or as a longitudinal occupancy along the Premises to such persons, corporations, partnerships, and entities as SEPTA may elect so long as such easements, licenses, rights or privileges do not interfere with the safe use of the recreational trail, any improvements made by City on the Premises, and such other rights granted to City herein. SEPTA further reserves the right to receive rentals, fees or other compensation payable on account of such present and future occupancies. SEPTA must give City 30 days' notice before the commencement of work by which a person, corporation, partnership, or entity installs, repairs, or maintains any antenna, electrical or utility wire, pipe, conduit, fiber-optic or other communication line.

c. The term "longitudinal occupancy" means an occupancy in the direction of length, running lengthwise, as distinguished from traverse or across.

d. SEPTA shall at its own expense maintain its facilities and/or property and improvements that are located on or adjacent to the recreational trail in a safe condition considering the expected use of the Premises.

EXECUTION DOCUMENT

6. City shall not bar or impede or impose fees, charges, tolls or costs upon SEPTA or third parties when SEPTA or third-parties enter, work upon or leave the Premises in connection with (i) the construction, inspection, repair, or maintenance of SEPTA's facilities and/or occupations of third parties; and (ii) SEPTA's inspection and monitoring of the construction, renovation and maintenance of the recreational trial.

7. At its sole cost and expense, City shall maintain the Premises and recreational trail in a safe, clean and orderly condition. City shall be responsible for inspecting and maintaining all fencing, landscaping, paving, railings, street furniture, trail lighting that are part of the Premises, as well as, any structures or drainage features added by the City in connection with its use of the Premises. City will install railings on the Fountain Street and Leverington Street bridge in such a manner as to minimize the need for major structural repairs. Due to the presence of energized overhead wires, bonding and grounding of metal elements must be properly installed and maintained on the Premises by the City. The design for such bonding and grounding of metal elements must be specifically approved in advance in writing by SEPTA. City shall install and maintain all directional and safety signs that relate to the recreational trail. SEPTA shall be responsible for inspecting, repairing and maintaining its facilities located on or about the Premises, including the substructures and superstructures of its bridges.

8. City shall not permit the Premises to be used by motorized recreational vehicles, such as but not limited to, motorcycles, minibikes, all terrain vehicles (ATVs), and snowmobiles. However, nothing herein prohibits disabled people from traveling on the Premises with motorized wheelchairs.

9. a. To the fullest extent permitted by law, City shall and does hereby fully defend, indemnify and hold harmless SEPTA from and against any and all claims, demands, actions, suits, losses, damages, liabilities, consequential damages, reasonable expenses (including, but not limited to, the fees and costs of attorneys and other professionals), judgments, penalties, settlement payments, and/or fines by reason of or in connection with any of the following that may occur during the term of the Lease Agreement or after termination of the Lease Agreement:

i. any occupancy or use by City of the Premises or the performance or the breach of the Lease Agreement, occasioned wholly or in part by any act or omission of City; or

ii. any work or act done in, on or about the Premises at the direction of or caused by City; or

iii. any negligence or other wrongful act or omission on the part of City; or

iv. any accident, injury or damage to any person or property

occurring in, on or about the Premises unless caused in whole or in part by the intentional act or negligence of SEPTA; or

v. any failure on the part of City to perform or comply with any of the covenants, agreements, terms, provisions, conditions or limitations contained in the Lease Agreement.

b. City's obligations under the Lease Agreement are limited to the recovery permitted against City under the Political Subdivision Tort Claims Act, 42 Pa.C.S. § 8541 *et seq.*, including any defenses, limitations and waivers available to City under said act.

c. Notwithstanding any other provision of the Lease Agreement, SEPTA's obligations under the Lease Agreement shall not exceed or be contrary to the immunities, limitations on damages and defenses available to SEPTA under the Sovereign Immunity Act of 1980 (42 Pa.C.S. § 8501 *et seq.)* and other law.

d. The City shall have no obligation to indemnify SEPTA for any claims, losses, damages, liabilities, etc. which may arise as a result of any actions of third parties unrelated to the use of the trail or the Lease.

10. SEPTA shall be responsible for the defense of the title to the Non-Operating Segment, including the Premises. City recognizes SEPTA's title and ownership of the Non-Operating Segment, including the Premises, and City will not challenge SEPTA's title thereto or support others in a challenge thereto.

11. a. City may self-insure or shall provide and maintain insurance at its own cost and expense that covers the maximum liability to which City is exposed under the Political Subdivision Tort Claims Act, 42 Pa.C.S. § 8541 *et seq.*, and Pennsylvania's Workers' Compensation Law.

b. City must require each contractor who performs work on the Premises on behalf of City to provide and maintain, at no cost to SEPTA, the following kinds and amounts of insurance, with minimum limits of liability.

i. Workers' compensation insurance: As required by the applicable laws of the Commonwealth of Pennsylvania.

ii. Comprehensive general liability insurance: $2,000,000 combined single limit (bodily injury and property damage) per occurrence with $6,000,000 annual aggregate.

iii. Automobile liability insurance: $2,000,000 combined single limit (bodily injury and property damage) per occurrence.

EXECUTION DOCUMENT

iv. Railroad protective liability insurance: $2,000,000 combined single limit (bodily injury and property damage) per occurrence and $6,000,000 annual aggregate. However, in lieu of providing railroad protective liability insurance, SEPTA will accept an acknowledgment by the insurance carrier that the insurance carrier has removed from the comprehensive general liability insurance policy the standard exclusion relating to railroad property.

c. SEPTA shall be an additional insured on all required insurance (except workers' compensation insurance) and the named insured on railroad protective liability insurance. All policies shall provide for a minimum of 30 days' prior written notice to SEPTA before cancellation by the insurance company. If such notice is not provided for within the basic terms of the policy, the notice shall be provided by endorsement or notation on the certificate. An insurance company that issues insurance required under the Agreement must have a financial rating not less than B+ as rated in the most recent edition of *Best Insurance Reports* and be in business for at least the past five years.

d. SEPTA retains the right, upon at least 180 days' advance written notice to City, to change the insurance coverage and limits of the insurance that contractors must possess while performing work on the Premises.

12. SEPTA at its sole cost and expense shall be responsible for the removal of all rails, ties and all other appurtenances and personal property (collectively "Rail Material") now in place on and within the Premises that interfere with the use of the Premises as a recreational trail. Any value realized on the disposition of the Rail Material shall be for the benefit of SEPTA.

13. City shall be responsible for the payment of all taxes and assessments imposed by any jurisdiction upon the Premises or City's use of the Premises. If any taxes or assessments are imposed upon any parcel within or outside the Premises that affects the Premises itself, City shall be responsible for a proportionate share of such taxes or assessments, based upon the proportion of the area of the Premises to the area of the entire parcel.

14. Prior to any construction of or modification to the recreational trail (such as, but not limited to the construction of the paved trail, parking lots, access points, road crossings, signs or similar facilities, or for any changes in the grade of the Premises), City shall comply with the following conditions:

a. Before City commences any construction on the Premises, City will submit to SEPTA's Chief Engineer all engineering plans, drawings and specifications for the construction. Each submittal must include the location, design, materials to be used, plans and specifications, intended utilization and other pertinent aspects of the proposed construction.

EXECUTION DOCUMENT

City shall begin construction only after SEPTA approves the submittal associated with the proposed construction, which approval SEPTA shall not unreasonably withhold. SEPTA's review of a submittal will be limited to whether the proposed construction will adversely affect (i) the potential for restoration of part or all of the recreational trail to railroad or public transport use; (ii) safety; and (iii) the need of access by SEPTA and holders of easements, licenses, rights, and privileges that SEPTA granted. SEPTA must decide on whether to grant the request within 90 days of SEPTA's receipt of the request.

b. Prior to beginning construction, City shall obtain all federal, state and local authorizations, including building, environmental and health permits, as necessary, and shall ensure compliance with local zoning ordinances and building codes.

c. City shall pay all the costs of the construction and permits.

d. Should City's installation, construction, use and/or operations on the Premises require any permit ("Permit") from any local, state or federal entity, City shall file such application and will request SEPTA to support such Permit so long as SEPTA incurs no cost or expense in doing so.

By supporting such a Permit, SEPTA will request that the Permit conform to the terms of the Lease Agreement and all applicable laws, statutes, rules and regulations. City shall make such alterations and changes in the application for Permit that SEPTA requests. In connection with any Permit, City further agrees to be responsible for and bear the reasonable cost of application for and participation in the proceedings necessary to obtain the Permit. City further agrees to indemnify, protect and save harmless SEPTA from and against any and all actions, penalties, liabilities, claims, demands, damages or losses resulting from any civil or criminal court actions, arising directly or indirectly out of acts of omissions of City with regard to the terms and conditions imposed by any such Permit.

e. Following approval by SEPTA of any proposed construction, City shall notify SEPTA at least 30 days prior to beginning construction, unless this time period is reduced by mutual agreement of the Parties.

f. City will notify SEPTA upon completion of the construction in order that SEPTA may make an inspection. After SEPTA's inspection, City must forward to SEPTA "as built" plans of the construction.

g. All work will be done at the sole cost and expense of City.

EXECUTION DOCUMENT

15. a. City has the right to conduct any study, assessment and/or tests upon the Premises before City begins its use authorized under the Agreement. If City conducts any test prior to City's initial use of the Premises and as a result of such study, assessment and/or test decides to terminate the Agreement, City by notice to SEPTA may do so without further obligation, provided that City exercises the right to terminate the Agreement under this section before taking any other material action in order to begin its initial use of the Premises.

b. The term "Hazardous Substance" ("Hazardous Substances" in the plural) means (i) any substance defined as a hazardous substance under the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. § 9601 *et seq.*, as amended ("CERCLA"), (ii) petroleum, petroleum products, natural gas, natural gas liquids, liquefied natural gas, and synthetic gas, and (iii) any other substance or material deemed to be hazardous, dangerous, toxic, or a pollutant under any federal, state or local law, code, or regulation. The term "release" shall have the same meaning as is ascribed to it in CERCLA. City agrees that it shall not handle Hazardous Materials or permit the handling of Hazardous Materials in a manner that violates Environmental Laws in, at or on the Premises.

c. City shall:

i. provide to SEPTA written request for permission and await receipt from SEPTA of express written permission for any activity or operation to be conducted by City at or from the Premises that involves the generation, release, storage, use, treatment, cleanup, removal, transportation and disposal or other handling of any Hazardous Substance ("City's Hazardous Substance Activity");

ii. comply, at its own expense, with all federal, state and local laws, codes, ordinances, regulations, permits and licensing conditions that govern the generation, release, storage, use, treatment, cleanup, removal, transportation and disposal of any Hazardous Substance, including also any requirements and restriction regarding record keeping, testing, transporting and otherwise managing Hazardous Substances;

iii. at its own expense, promptly contain and remediate any release of Hazardous Substances arising from or related to City's use of the Premises or any Hazardous Substance Activity in the Premises or the environment and remediate and pay for any resultant damage to property, person, and/or the environment;

iv. give prompt notice to SEPTA and to all appropriate regulatory authorities, of any release of any Hazardous Substance in or near the Premises or the environment arising from or related to City's Hazardous Substance Activity, which release is not made pursuant to and in conformance

with the terms of any permit or license duly issued by appropriate governmental authorities (and any such notice necessarily including a description of measures taken or proposed to be taken by City, in order to contain and remediate the release and any resultant damage to property, persons, or the environment); and

v. reimburse to SEPTA upon demand the reasonable cost of any testing for the purpose of ascertaining if there has been any release of Hazardous Substances in or upon the Premises, if such testing is required by any governmental agency.

d. City's responsibilities for any Hazardous Substances that as a result of City's Hazardous Substance Activity contaminate the Premises or contaminate other properties or contaminate the environment during the term of the Agreement shall survive the expiration or termination of the Agreement for any reason. Such responsibilities include, without limitation, all record keeping obligations, and any responsibilities for the proper cleanup, removal, transportation and disposal of Hazardous Substances, and resulting in any way from the disposal of Hazardous Substances. This provision shall not apply, however, if City exercises its right, set forth in § 15.a, before beginning its use of the Premises or if § 15.e applies.

e. Notwithstanding any other provisions written in this Lease Agreement, SEPTA shall and does hereby fully defend, indemnify and hold harmless City from and against any and all claims, demands, actions, suits, losses, damages, liabilities, consequential damages, expenses (including, but not limited to, the fees and costs of attorneys and other professionals), judgments, penalties, settlement payments, and/or fines by reason of or in connection with the presence of Hazardous Substances existing at the Premises as of the Commencement Date. The terms of this subsection shall survive the expiration or termination of the Lease Agreement.

16. No waiver by either Party of any breach or default on the part of the other of any of the terms, covenants, or conditions of the Lease Agreement shall be deemed or construed to constitute a waiver of any subsequent similar breach or default.

17. Every notice, approval, consent, or other communication desired or required under the Lease Agreement shall be effective only if the same shall be in writing and sent postage prepaid by overnight mail, United States Postal Service registered or certified mail (or a similar mail service), directed to the other Party at its address as follows (or such other address as either Party may designate by notice given from time to time).

EXECUTION DOCUMENT

If to SEPTA: Director of Real Estate
Southeastern Pennsylvania
Transportation Authority
1234 Market Street, 10th Floor
Philadelphia, PA 19107-3780

with a copy to: General Counsel
Southeastern Pennsylvania
Transportation Authority
1234 Market Street, 5th Floor
Philadelphia, PA 19107-3780

If to City: Department of Public Property
City Hall, Room 790
Philadelphia, PA 19102
Attention: Commissioner of Public Property

with a copy to: Philadelphia Parks & Recreation
One Parkway, 10th Floor
1515 Arch Street
Philadelphia, PA 19102
Attention: First Deputy Commissioner,
Parks and Facilities

with a copy to: City of Philadelphia Law Department
1515 Arch Street, 16th Floor
Philadelphia, PA 19102
Attention: Divisional Deputy City Solicitor,
Transportation Division

18. The words "SEPTA" and "City" as used herein shall be construed to include at all times and in all cases their legal representatives, successors, or assigns.

19. a. No portion of the Lease Agreement or the Premises will be assigned by City without the prior written approval of SEPTA.

b. No portion of the Lease Agreement or the Premises will be sublet by City without the prior written approval of SEPTA. City shall remain fully liable and responsible for the subtenant's complying fully with all the terms and conditions of the Lease Agreement.

20. City acknowledges that the Premises is subject to a future restoration of rail service or other public transport use. Nothing in the Lease Agreement shall be construed

as creating, granting or in any way transferring to City any right of possession, estate, title, ownership or other interest in or to the Premises. In the event the Premises is to be restored for railroad or other public transport use, SEPTA has the right to terminate the Lease Agreement and the lease it creates without incurring any cost to City or its subtenants or assignees. In order to terminate the Lease Agreement so as to recapture it for railroad or other public transport purpose, SEPTA must give City one year's written notice.

21. All approvals and consents required under the Lease Agreement shall be in writing, signed by a representative of each Party who is designated for such purpose.

22. If any provisions of the Lease Agreement are held invalid, the remainder of the Lease Agreement shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of applicable law.

23. The Lease Agreement shall be governed by the substantive and procedural laws of the Commonwealth of Pennsylvania and any disputes that arise thereunder must be heard in the courts situated in the Commonwealth of Pennsylvania whether federal or state.

24. The Lease Agreement is not intended to, and does not confer any third party beneficiary rights or action in any party other than SEPTA and City.

25. a. City, for itself, its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event the facilities are constructed, maintained or otherwise operated in or on the Premises for a purpose for which a United States Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, City shall maintain and operate the facilities and services in compliance with all other requirements imposed pursuant to Title 49 of the Code of Federal Regulations, Transportation, Subtitle A, Office of the Secretary of Transportation, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended.

b. City for itself, its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land (1) that no person on the grounds of race, color or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the facilities, (2) that in the construction of any improvements on, over, or under the Premises and the furnishing of services thereon, no person on the grounds of race, color or national origin shall be excluded from participation in, denied the benefits of or otherwise be subjected to discrimination, and (3) that City shall use the facilities in compliance with all other requirements imposed by or pursuant to Title 49, of the Code of

Federal Regulations, Transportation, Subtitle A, Office of the Secretary of Transportation, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended.

26. City acknowledges that SEPTA has not abandoned the Non-Operating Segment or the Premises and that SEPTA retains the Non-Operating Segment and the Premises as part of the rail transportation system for use on an interim basis for recreational trail purposes as if under the National Trail Systems Act, 16 U.S.C. § 1247(d) and the Rails to Trails Act, Pa.Stat.Ann., tit. 32, § 5611 *et seq.* By leasing the Premises to City, SEPTA is merely discontinuing use of the right-of-way for movement of railroad trains for an interim period. By permitting the construction of a recreational trail in place of railroad tracks and ties, SEPTA will preserve the right-of-way for future railroad and/or public transport purposes. Thus, the Lease Agreement will provide for joint utilization of this railroad right-of-way where SEPTA's use would continue to be for future railroad purposes and where City's use of the railroad right-of-way would be for recreational trail purposes.

27. Neither the Lease Agreement nor a short form or memorandum thereof shall be recorded in the public records.

[Except for the page number, the remainder of the page is intentionally blank.]

EXECUTION DOCUMENT

IN WITNESS WHEREOF, the Parties intending to be legally bound hereby have caused the Lease Agreement to be duly executed and delivered as of the date first above written.

Southeastern Pennsylvania
Transportation Authority, Lessor

By: _____
Joseph M. Casey
General Manager

Attest:

By: _____(Seal)
Secretary

City of Philadelphia, Lessee

By: _____
Joan Schlotterbeck
Commissioner of Public Property

Approved as to form

By: _____
Office of the General Counsel
of SEPTA

Approved as to form

By: _____
Office of the Solicitor of the
City of Philadelphia

S/Corp/CorpMatters/CD3192: 20120424 – Lease - SEPTA-&-City-of-Philadelphia - Execution.doc

EXECUTION DOCUMENT

MAP OF THE PREMISES

ATTACHMENT 1

EXECUTION DOCUMENT

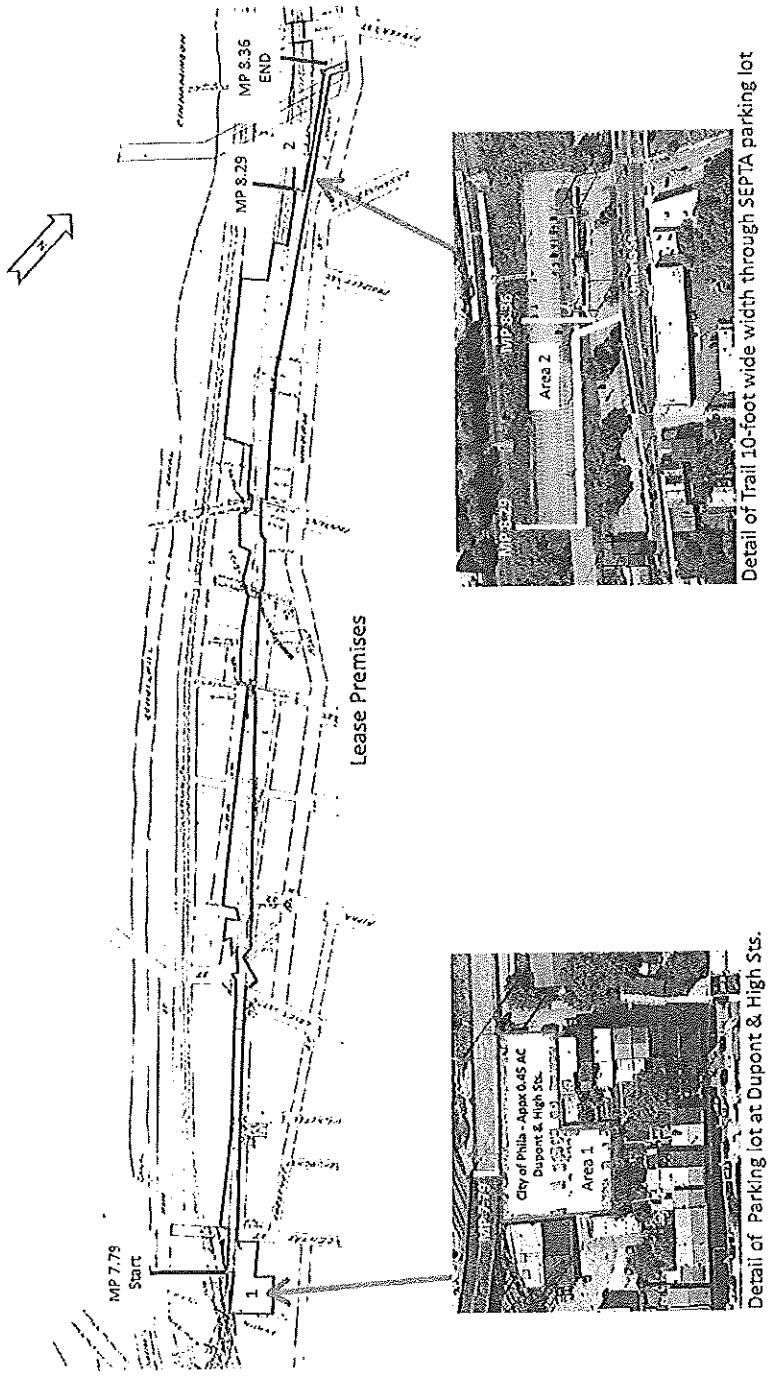


Exhibit 'A' Mar. 9, 2012 - Ivy Ridge Trail Lease Premises

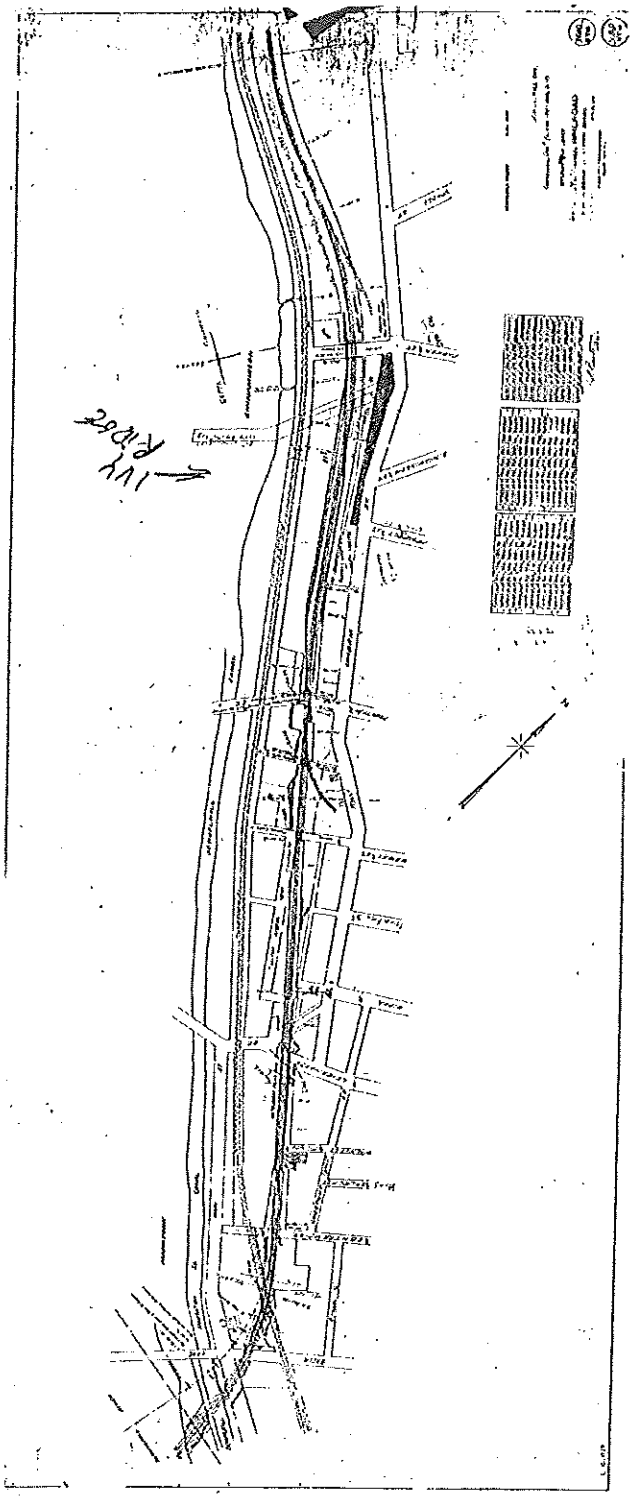
ATTACHMENT 1

EXECUTION DOCUMENT

VALUATION MAP

ATTACHMENT 1-A

EXECUTION DOCUMENT



ATTACHMENT 1-A