

No. 05-17-OR

AN ORDINANCE

An Ordinance delegating to the Commonwealth of Pennsylvania, Secretary of Department of Transportation, the right to acquire in the name of Allegheny County right-of-way necessary to rehabilitate Pine Creek Bridge No. 8, and to take such further action as may be necessary under applicable law, including the Eminent Domain Code.

Whereas, the Congress of the United States has found it to be in the national interest to promote through the states a continuing federal-aid highway program (“Program”) to improve public roads, including bridges on these roads, both on and off federal-aid systems within the states, for the purpose of enhancing the safety and traffic flow on these roads, and has provided funds to be administered in accordance with the provisions of the various federal-aid highway acts, as amended, by the United State Department of Transportation, Federal Highway Administration (“FHWA”); and,

Whereas, the General Assembly of the Commonwealth of Pennsylvania, pursuant to Act 235 of 1982, as amended, has appropriated funds to aid in the removal, rehabilitation or replacement of eligible bridges under the jurisdiction of eligible local governments; and,

Whereas, in addition, the General Assembly of the Commonwealth of Pennsylvania, pursuant to Act 26 of 1991, as amended, has provided for the distribution of tax revenues to eligible municipalities to use in offsetting their share of the costs of removing, rehabilitating or replacing eligible bridges; and,

Whereas, by Executive Action No. 5216-16 approved February 4, 2016, Allegheny County entered into the Standard Bridge Reimbursement Grant Agreement with the Commonwealth of Pennsylvania, acting through the Department of Transportation, effective 7/22/2016, (the “Bridge Reimbursement Agreement”), to receive federal, state funds, or a combination of both, as detailed below, for the rehabilitation of Pine Creek Bridge No. 8 (PI08), carrying Kummer Road over Pine Creek in the Town of McCandless, Reimbursement No. R15110027, MPMS No. 93164, County Project No. PI08-0208 (the “Project”); and,

Whereas, pursuant to Section 2305 of the General Local Government Code, *as amended*, 53 Pa.C.S. §2305, a municipality can delegate any function, power, or responsibility to another governmental unit upon passage of an ordinance by its governing body; and,

Whereas, pursuant to the terms of the Bridge Reimbursement Agreement, the Secretary of the Pennsylvania Department of Transportation (“Secretary”) agreed, on behalf of the County and in the County’s name, to acquire all right-of-way necessary to construct the Project, with eligible

Project costs to be paid 80% by the Federal Highway Administration and 15% by the Commonwealth of Pennsylvania; and,

Whereas, the Secretary wishes to proceed in a prompt manner with the acquisition of all necessary rights-of-way and easements for the Project; and,

Whereas, said Project constitutes a valid public purpose serving the interests of the residents of the County of Allegheny; and,

Whereas, the County Council of Allegheny County deems it advisable for the Commonwealth of Pennsylvania through the Secretary to acquire by condemnation, if required, certain land hereinafter described, as necessary, for the Project; and,

Whereas, Paragraph 23 of the Bridge Reimbursement Agreement requires that that the County adopt an ordinance delegating authority to the Secretary to acquire right-of-way in the name of the County, County Council of Allegheny County does hereby enact this date the following Ordinance:

The Council of the County of Allegheny hereby enacts as follows:

SECTION 1. Incorporation of the Preamble.

The provisions set forth in the preamble to this Ordinance are incorporated by reference in their entirety herein.

SECTION 2. Authorization to Delegate the Secretary of Transportation to Acquire Rights-of-Way and Easements.

That Council deems it advisable and necessary to authorize and delegate the Commonwealth of Pennsylvania, Secretary of the Department of Transportation in conjunction with and subject to approval of the Department of Public Works, to acquire rights-of-way and easements on behalf of the County and in the County's name, to obtain appraisals and title reports, to negotiate and acquire the parcels, to prepare the necessary petitions, resolutions and all other documents, including, but not limited to Declarations of Taking, Petitions to Deposit Estimated Just Compensation into Court and Petitions for Appointment of Viewers, all or some of which may be required for the Project, with the cost of such right-of-way acquisition being eligible Project cost, subject to review and approval of the Allegheny County Manager and the Department of Public Works as to the extent of the rights-of-way and easements necessary for the Project. The Secretary of Transportation shall acquire property pursuant to all applicable policies and procedures as necessary for the bridge project as authorized by Section 2003(e) of the Administrative Code, 71 P.S. §513(e).

SECTION 3. Duration.

That Council delegation shall continue until all Project terms and conditions of the Agreement shall be fully satisfied or, at the election of the parties set forth therein, the same shall be otherwise terminated.

SECTION 3. Authorization to Acquire Property by Condemnation.

That Council deems it advisable and necessary, if the Secretary determines that amicable acquisition of the property necessary for the Project is not feasible, to acquire, in fee, required right-of-way and, in easement, slope easement, channel easement and temporary construction easement and take under the power of eminent domain part of the property, in fee and in easement, as necessary for the Project.

PINE CREEK BRIDGE NO. 8 (PI 08)

Bridge #	Parcel #	Owner Name	Tax Parcel #	Deed Book/Page
PI 08	3	Joan G. Ammer, Trustee	1073-J-301	9181/39
PI 08	4	C.E. - Acquisitions V, LP	1073-J-243 1073-J-249	15061/431
PI 08	1	County of Allegheny (North Park land to be donated for conversion to right-of-way and easement)	946-A-187	2381/1

Said properties and the titles to be acquired are identified on property drawings marked "Exhibit A", attached hereto and made part hereof. Entry upon, appropriation and the taking thereof is hereby authorized and directed, for the purpose of the Project.

SECTION 4. Notice to Interested Parties.

That Council directs the Department of Public Works in conjunction with the Secretary and Law Department to notify interested parties as required by law of the adoption of this Ordinance with respect to property taken under the power of eminent domain.

SECTION 5. Administrative Code.

The Secretary of Transportation shall acquire right-of-way pursuant to all applicable policies and procedures as necessary for the Project as authorized by Section 703.06 and Chapter 1501 of the Allegheny County Administrative Code.

SECTION 6. Severability. If any provision of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Ordinance, which shall be in full force and effect.

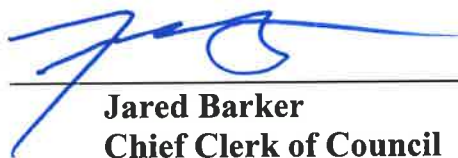
SECTION 7. Repealer. Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Ordinance.

Enacted in Council, this 7th day of March, 2017

Council Agenda No. 10013-17



John DeFazio
President of Council

Attest: 

Jared Barker
Chief Clerk of Council

Chief Executive Office March 8, 2017

Approved: 

Rich Fitzgerald
Chief Executive

Attest: 

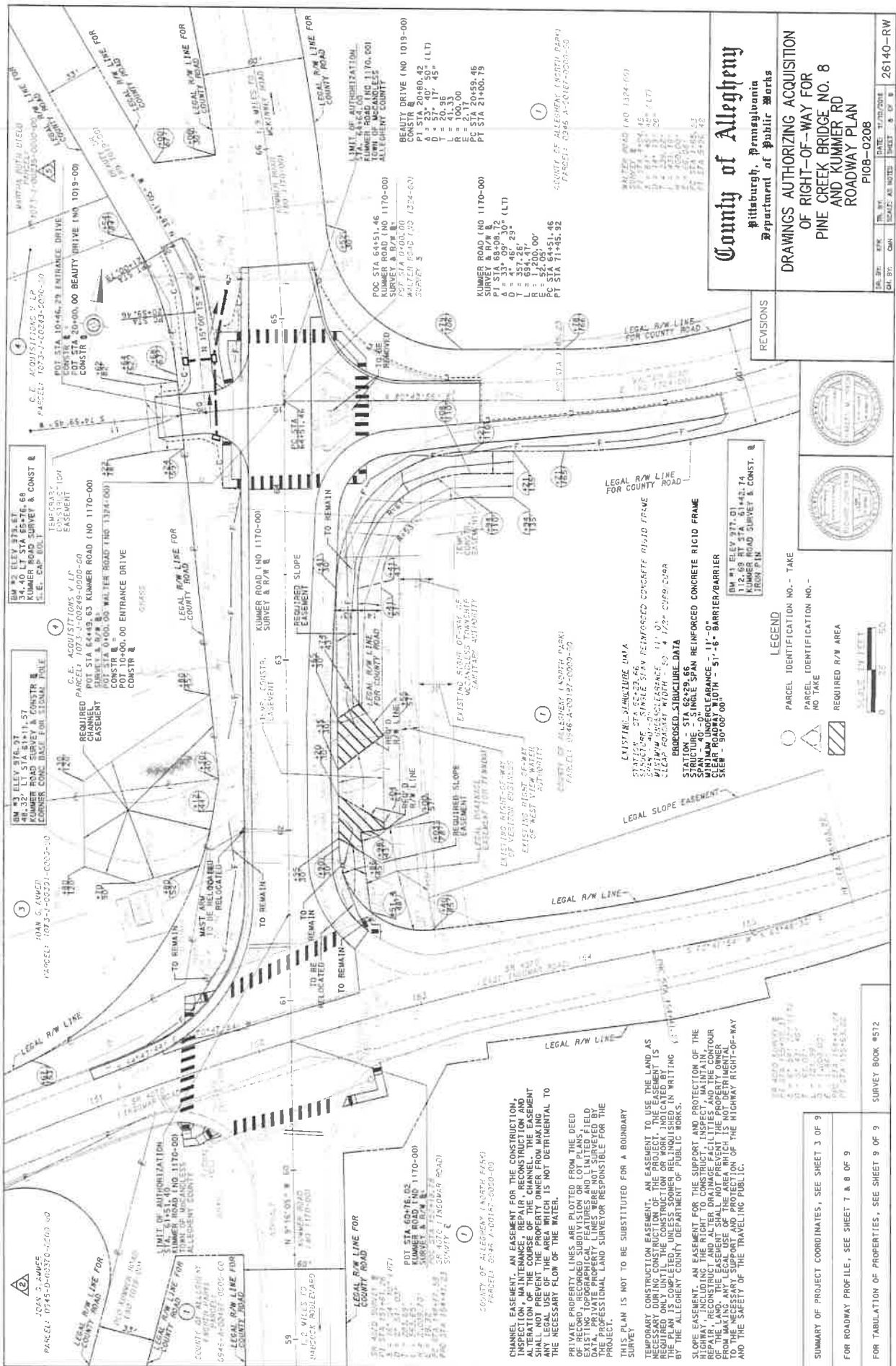
Sonya Dietz
Executive's Secretary

SUMMARY PAGE

ORDINANCE TO AUTHORIZE AND DELEGATE THE PENNSYLVANIA SECRETARY OF TRANSPORTATION TO ACQUIRE RIGHT-OF-WAY ON BEHALF OF THE COUNTY FOR RECONSTRUCTING PINE CREEK BRIDGE NO. 8 PARTIALLY IN NORTH PARK

The Public Works Department seeks Council approval to delegate to the Commonwealth of Pennsylvania, Secretary of the Department of Transportation, authority to acquire in the name of the County right-of-way and easements by condemnation to rehabilitate Pine Creek Bridge No. 8 carrying Kummer Road over Pine Creek in the Town of McCandless. Eligible Project costs shall be paid by the Commonwealth of Pennsylvania, using 80% federal and 15% state funds. The County will reimburse the Commonwealth the balance of funds required.

The County Manager previously approved a reimbursement agreement between the County and the Commonwealth regarding this Project at Executive Action No. 5216-16. Action is necessary as soon as possible to complete the Project.



County of Allegheny
Pittsburgh, Pennsylvania
Department of Public Works

DRAWINGS AUTHORIZING ACQUISITION OF RIGHT-OF-WAY FOR PINE CREEK BRIDGE NO. 8 AND KUMMER RD ROADWAY PLAN
PI08-0208

DATE: 08/11/08
SCALE: AS SHOWN
SHEET 6 OF 8

REVISIONS

NO.	DATE	BY	DESCRIPTION
1			
2			
3			
4			

- LEGEND**
- PARCEL IDENTIFICATION NO. - TAKE
 - PARCEL IDENTIFICATION NO. - NO TAKE
 - REQUIRED R/W AREA



SUMMARY OF PROJECT COORDINATES, SEE SHEET 3 OF 9	SURVEY BOOK #572
FOR ROADWAY PROFILE, SEE SHEET 7 & 8 OF 9	
FOR TABULATION OF PROPERTIES, SEE SHEET 9 OF 9	

EXHIBIT A

THIS PLAN IS NOT TO BE SUBSTITUTED FOR A BOUNDARY SURVEY.

TEMPORARY CONSTRUCTION EASEMENT, AN EASEMENT TO USE THE LAND AS NECESSARY DURING CONSTRUCTION OF THE PROJECT, THE EASEMENT IS LIMITED TO THE PERIOD OF CONSTRUCTION AND SHALL TERMINATE UPON COMPLETION OF THE PROJECT.

THE PLAN IS COMPLETED UNLESS OTHERWISE BELONGING TO THE COUNTY OF ALLEGHENY DEPARTMENT OF PUBLIC WORKS.

SLOPE EASEMENT, AN EASEMENT FOR THE SUPPORT AND PROTECTION OF THE HIGHWAY, INCLUDING THE RIGHT TO CONSTRUCT, INSPECT, MAINTAIN, REPAIR, RECONSTRUCT, RELOCATE, OR REMOVE ANY STRUCTURE OR OBSTRUCTION FROM MAKING ANY LEGAL USE OF THE AREA WHICH IS NOT DETRIMENTAL TO THE NECESSARY SUPPORT AND PROTECTION OF THE HIGHWAY RIGHT-OF-WAY AND THE SAFETY OF THE TRAVELING PUBLIC.

IF ANY PROPERTY LINES OR PLOTS FROM THE DEED BE RECORDED OR DECREASED IN SIZE OR FLOW OR LATER PLANNED FIELD EXISTING TOPOGRAPHICAL FEATURES AND LIMITED FIELD SURVEY DATA ARE FOUND TO BE INCONGRUOUS WITH THE PROFESSIONAL LAND SURVEYOR RESPONSIBLE FOR THE PROJECT.

THE NECESSARY FLOW OF THE WATER.

THE NECESSARY FLOW OF THE WATER SHALL NOT PREVENT THE PROPERTY OWNER FROM MAKING ANY OTHER USE OF THE PROPERTY WHICH IS NOT DETRIMENTAL TO THE NECESSARY FLOW OF THE WATER.

CHANNEL EASEMENT, AN EASEMENT FOR THE CONSTRUCTION, INSPECTION, MAINTENANCE, REPAIR, RECONSTRUCTION AND ALTERATION OF THE COURSE OF THE CHANNEL, THE EASEMENT SHALL NOT PREVENT THE PROPERTY OWNER FROM MAKING ANY OTHER USE OF THE PROPERTY WHICH IS NOT DETRIMENTAL TO THE NECESSARY FLOW OF THE WATER.

IF ANY PROPERTY LINES OR PLOTS FROM THE DEED BE RECORDED OR DECREASED IN SIZE OR FLOW OR LATER PLANNED FIELD EXISTING TOPOGRAPHICAL FEATURES AND LIMITED FIELD SURVEY DATA ARE FOUND TO BE INCONGRUOUS WITH THE PROFESSIONAL LAND SURVEYOR RESPONSIBLE FOR THE PROJECT.

LEGAL R/W LINE FOR COUNTY ROAD

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LEGAL R/W LINE FOR COUNTY ROAD

• KUMMER ROAD

RIGHT-OF-WAY CLAIM INFORMATION
 COMMONWEALTH OF PENNSYLVANIA - DEPARTMENT OF TRANSPORTATION
 ALLEGHENY COUNTY

STATE RTE. 3 SEC. NO. 3 TOWN OF MCANNESS ALLEGHENY COUNTY
 PARCEL NO. 3 SHEET NO. 3 CLAIM NO.
 PROPERTY OWNER(S) JUAN G. AMMER, TRUSTEE
 GRANTOR(S) JUAN G. AMMER

DEED BOOK	1811	ACRE/ASR	1.636	REQUIRED AREA	ACRE	SF
PAGE OF DEED	38	CALCULATED		CHANNEL EASEMENT	0.086	3,172
DATE OF DEED	03-22-14	ADVERSES		TEMP CONSTR		
DATE OF RECORD	12-22-14	LEGAL R/W	0.035	SLOPE EASEMENT	0.013	3,179
CONSOLIDATION	41,000	EFFECTIVE	0.024			
TAX STAMPS	41,024	TOTAL RESIDUE	1.601	VERIFICATION DATE	11-9-16	
		RESIDUE LT		DRAWN BY	DK	
		RESIDUE RT		SCALE	0	50 FEET

PRIVATE PROPERTY LINES ARE PLOTTED FROM THE DEED OF RECORD, RECORDED SUBDIVISION OR LOT PLANS, EXISTING TOPOGRAPHICAL FEATURES AND LIMITED FIELD DATA. PRIVATE PROPERTY LINES WERE NOT SURVEYED BY THE PROFESSIONAL LAND SURVEYOR RESPONSIBLE FOR THE PROJECT.
 THIS PLAN IS NOT TO BE SUBSTITUTED FOR BOUNDARY SURVEY.

• KUMMER ROAD

RIGHT-OF-WAY CLAIM INFORMATION
 COMMONWEALTH OF PENNSYLVANIA - DEPARTMENT OF TRANSPORTATION
 ALLEGHENY COUNTY

STATE RTE. 3 SEC. NO. 3 TOWN OF MCANNESS ALLEGHENY COUNTY
 PARCEL NO. 3 SHEET NO. 3 CLAIM NO.
 PROPERTY OWNER(S) JUAN G. AMMER, TRUSTEE
 GRANTOR(S) JUAN G. AMMER

DEED BOOK	1811	ACRE/ASR	1.636	REQUIRED AREA	ACRE	SF
PAGE OF DEED	38	CALCULATED		CHANNEL EASEMENT	0.086	3,172
DATE OF DEED	03-22-14	ADVERSES		TEMP CONSTR		
DATE OF RECORD	12-22-14	LEGAL R/W	0.035	SLOPE EASEMENT	0.013	3,179
CONSOLIDATION	41,000	EFFECTIVE	0.024			
TAX STAMPS	41,024	TOTAL RESIDUE	1.601	VERIFICATION DATE	11-9-16	
		RESIDUE LT		DRAWN BY	DK	
		RESIDUE RT		SCALE	0	50 FEET

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• KUMMER ROAD

RIGHT-OF-WAY CLAIM INFORMATION
 COMMONWEALTH OF PENNSYLVANIA - DEPARTMENT OF TRANSPORTATION
 ALLEGHENY COUNTY

STATE RTE. 3 SEC. NO. 3 TOWN OF MCANNESS ALLEGHENY COUNTY
 PARCEL NO. 3 SHEET NO. 3 CLAIM NO.
 PROPERTY OWNER(S) JUAN G. AMMER, TRUSTEE
 GRANTOR(S) JUAN G. AMMER

DEED BOOK	1811	ACRE/ASR	1.636	REQUIRED AREA	ACRE	SF
PAGE OF DEED	38	CALCULATED		CHANNEL EASEMENT	0.053	2,317
DATE OF DEED	03-22-14	ADVERSES		TEMP CONSTR	0.018	474
DATE OF RECORD	12-22-14	LEGAL R/W	0.003			
DATE OF RECORD	11-08-12	EFFECTIVE	3.513	VERIFICATION DATE	11-9-16	
CONSOLIDATION	40,000.00	TOTAL RESIDUE	3.513	DRAWN BY	DK	
TAX STAMPS	40,000.00	RESIDUE LT		SCALE	0	50 FEET
		RESIDUE RT				

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• KUMMER ROAD

RIGHT-OF-WAY CLAIM INFORMATION
 COMMONWEALTH OF PENNSYLVANIA - DEPARTMENT OF TRANSPORTATION
 ALLEGHENY COUNTY

STATE RTE. 3 SEC. NO. 3 TOWN OF MCANNESS ALLEGHENY COUNTY
 PARCEL NO. 3 SHEET NO. 3 CLAIM NO.
 PROPERTY OWNER(S) JUAN G. AMMER, TRUSTEE
 GRANTOR(S) JUAN G. AMMER

DEED BOOK	1811	ACRE/ASR	1.636	REQUIRED AREA	ACRE	SF
PAGE OF DEED	38	CALCULATED		CHANNEL EASEMENT	0.086	3,172
DATE OF DEED	03-22-14	ADVERSES		TEMP CONSTR		
DATE OF RECORD	12-22-14	LEGAL R/W	0.035	SLOPE EASEMENT	0.013	3,179
CONSOLIDATION	41,000	EFFECTIVE	0.024			
TAX STAMPS	41,024	TOTAL RESIDUE	1.601	VERIFICATION DATE	11-9-16	
		RESIDUE LT		DRAWN BY	DK	
		RESIDUE RT		SCALE	0	50 FEET

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County of Allegheny

Pittsburgh, Pennsylvania
Department of Public Works

DRAWINGS AUTHORIZING ACQUISITION
OF RIGHT-OF-WAY FOR
PINE CREEK BRIDGE NO. 8
AND KUMMER RD
TABULATION OF PROPERTIES
P108-0208

REVISIONS



DATE: 11/09/2016 SHEET: 3 OF 8
SCALE: AS NOTED

MEMORANDUM

OFFICE OF THE COUNTY MANAGER

TO: Jared E. Barker
Allegheny County Council

FROM: William D. McKain CPA
County Manager

DATE: February 2, 2017

RE: Proposed Ordinance

Attached is an Ordinance delegating to the Commonwealth of Pennsylvania, Secretary of Department of Transportation, the right to acquire in the name of Allegheny County right-of-way necessary to rehabilitate Pine Creek Bridge No. 8, and to take such further action as may be necessary under applicable law, including the Eminent Domain Code

The Allegheny County Law Department has reviewed this legislation prior to submitting it to Council.

I am requesting that this item be placed on the agenda at the next Regular Meeting of Council.

RECEIVED
ALLEGHENY COUNTY COUNCIL
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