

No. 06-18-OR

AN ORDINANCE

An Ordinance authorizing the County of Allegheny to acquire by condemnation certain right-of-way and temporary construction easement areas from five parcels required to reconstruct Kenmawr Bridge carrying Kenmawr Ave/South Braddock Ave over Norfolk Southern Railway in the Boroughs of Rankin and Swissvale, and to take such further action as may be necessary under applicable law, including the Eminent Domain Code.

Whereas, Kenmawr Bridge, which carries Kenmawr Avenue in Rankin Borough and South Braddock Avenue in Swissvale Borough over the Norfolk Southern Railway, has come into a state of disrepair, is now structurally deficient with a posted weight limit of 6 tons and sound engineering practice dictates that replacement of the bridge is required to insure continued public use and safety; and

Whereas, because the deteriorated and unsafe sidewalk has been removed, pedestrians must now walk on a former motor vehicle lane behind a temporary barrier, which has reduced the 12' vehicle lanes to 9 ½ feet wide; and

Whereas, the Department of Public Works has attempted to amicably acquire the property of the parties hereinafter identified for reconstruction of the bridge and said parties have either failed to respond to the County's offers or made counter-offers that are not supported by accepted appraisal practices; and

Whereas, the County Council of Allegheny County deems it advisable to acquire certain right-of-way and easement areas, within Rankin Borough and Swissvale Borough, County of Allegheny and Commonwealth of Pennsylvania for the purpose of reconstructing the Kenmawr Bridge, Project No. NS01-0301, (the "Project"); and being:

Parcel 10: 4,647 square feet of right-of-way required from a parcel of land of Donald Dais and Alice Paylor Dais, husband and wife, within Rankin Borough;

Parcel 16: 2,156 square feet of right-of-way from a parcel of land of Edie J. Mainiero, unmarried, within Swissvale Borough;

Parcel 17: 2,342 square feet of right-of-way from a parcel of land of Robert Dillard, unmarried, within Swissvale Borough;

Parcel 43: 1,696 square feet of temporary construction easement from a parcel of land of Charles M. King and Estelle V. King, husband and wife, within the Borough of Rankin;

Parcel 44: 1,517 square feet of temporary construction easement required from a parcel of land of John Bushak, Sr. and Anna Bushak, husband and wife, within the Borough of Rankin.

Whereas, the Right-of-Way Drawings for said Project were recorded November 22, 2017 in the Allegheny County Department of Real Estate in Plans-Miscellaneous Book 173, Page 56; and

Whereas, the County Executive authorized the Law Department to clear the right of way for said Project by his Executive Action approved September 12, 2017, No. 6559-17; 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 to acquire by condemnation, certain land hereinafter described, as necessary, for the Project.

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 Acquire Parcels.

That Council deems it advisable and necessary to authorize the Law Department, in conjunction with the Department of Public Works, 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.

SECTION 3. Authorization to Acquire Property by Condemnation.

That Council deems it advisable and necessary to acquire required right-of-way and temporary construction easements and take under the power of eminent domain part of the property of the following persons or corporations and to acquire title thereto in fee simple for right-of-way and an easement for the temporary construction easements, as necessary for the Project:

RECORD OWNERS	TAX PARCEL BLOCK & LOT NO.
PARCEL NO.	TAX PARCEL BLOCK & LOT NO.

10	Donald Dais and Alice Paylor Dais, husband and wife,	236-B-194 & 236-B-198
15	Robert Dillard, unmarried	235-P-212
16	Edie J. Mainiero, unmarried	235-P-210
17	Robert Dillard, unmarried	235-P-208
43	Charles M. King and Estelle V. King, husband and wife	236-B-287
44	John Bushak Sr. and Anna Bushak, husband and wife	236-B-288

Said properties are identified on a property drawing 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 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. Application to Court.

That Council directs the Law Department to make immediate application to the Court of Common Pleas of Allegheny County for the purpose of having the value of said property legally ascertained.

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 20th day of July, 2018

Council Agenda No. 10455-18

John P. DeFazio
John DeFazio
President of Council

Attest: Jared Barker
Jared Barker
Chief Clerk of Council

Chief Executive Office February 22, 2018

Approved: Rich Fitzgerald
Rich Fitzgerald
County Executive

Attest: Sonya Dietz
Sonya Dietz
Executive's Secretary

**SUMMARY HISTORY OF PROPERTY OWNER CONTACTS FOR
ORDINANCE TO ACQUIRE PROPERTY BY CONDEMNATION**

Donald Dais and Alice Paylor Dais, husband and wife, Parcel 10

Edie J. Mainiero, unmarried, Parcel 16

Robert Dillard, unmarried, Parcels 15 & 17

Charles M. King and Estelle V. King, husband and wife, Parcel 43

John Bushak Sr. and Anna Bushak, husband and wife, Parcel 44

TO RECONSTRUCT KENMAWR BRIDGE

KENMAWR AVE/SOUTH BRADDOCK AVE OVER NORFOLK SOUTHERN RAILWAY

The Public Works Department seeks authorization to acquire property by condemnation required to reconstruct Kenmawr Bridge. Right-of-way and temporary easements are required to construct the project.

Donald Dais and Alice Paylor Dais, husband and wife, Parcel 10

An offer letter for \$4,200.00 was presented by our consultant, Interstate Acquisition Services, on July 14, 2017. The parcel is encumbered by significant tax liens exceeding \$13,000. Requests have been submitted to the Woodland Hills School District and Rankin Borough to exonerate delinquent tax amounts in order to facilitate an amicable settlement but no response has been received to date. Without the tax exoneration and cooperation from the property owner, the filing of a Declaration of Taking and deposit of Estimated Just Compensation will be necessary to obtain clear title.

Edie J. Mainiero, unmarried, Parcel 16

An offer letter for \$45,000 was presented by our consultant on June 13, 2017. The claimant has submitted a counter demand requesting \$235,000; she refuses to obtain an independent appraisal report and has exhibited irrational behavior during the course of negotiations. Attempts to convince the property owner to obtain an independent appraisal in order to amicably negotiate the claim continue but the difference in opinions of value vary greatly.

Robert Dillard, unmarried, Parcels 15 & 17

An offer letter for \$21,000 was presented to the property owner on June 20, 2017 by the acquisition consultant. The parcel is encumbered with over \$55,000 in liens and judgments including a mortgage foreclosure that was stayed. The filing of a Declaration of Taking and deposit of Estimated Just Compensation appears necessary to obtain clear title to the parcel.

Charles M. King and Estelle V. King, husband and wife, Parcel 43

An offer letter for \$810 was presented to a grandson of the deceased property owners by the acquisition consultant. Correspondence efforts have also occurred with an attorney that indicated an estate may be established for the King's. To date no actions have occurred and response from the family's heirs has been limited. Attempts to accomplish an amicable transaction

will continue but based on the current title issues it appears that the filing of a Declaration of Taking and deposit of Estimated Just Compensation is necessary to clear the parcel for construction.

John Bushak Sr. and Anna Bushak, husband and wife, Parcel 44

An offer in the amount of \$500 was established for the claim based upon an approved valuation obtained through the acquisition consultant for the project; however, the property owners have been unlocatable to date. Significant efforts to locate the property owners and/or their heirs are on-going but it appears the filing of a Declaration of Taking and subsequent deposit of Estimated Just Compensation is necessary to obtain possession.

We seek authorization by County Council, as soon as possible, as required by the County Administrative Code, so we may file Declarations of Taking and either pay the property owners or deposit estimated just compensation with the Department of Court Records.

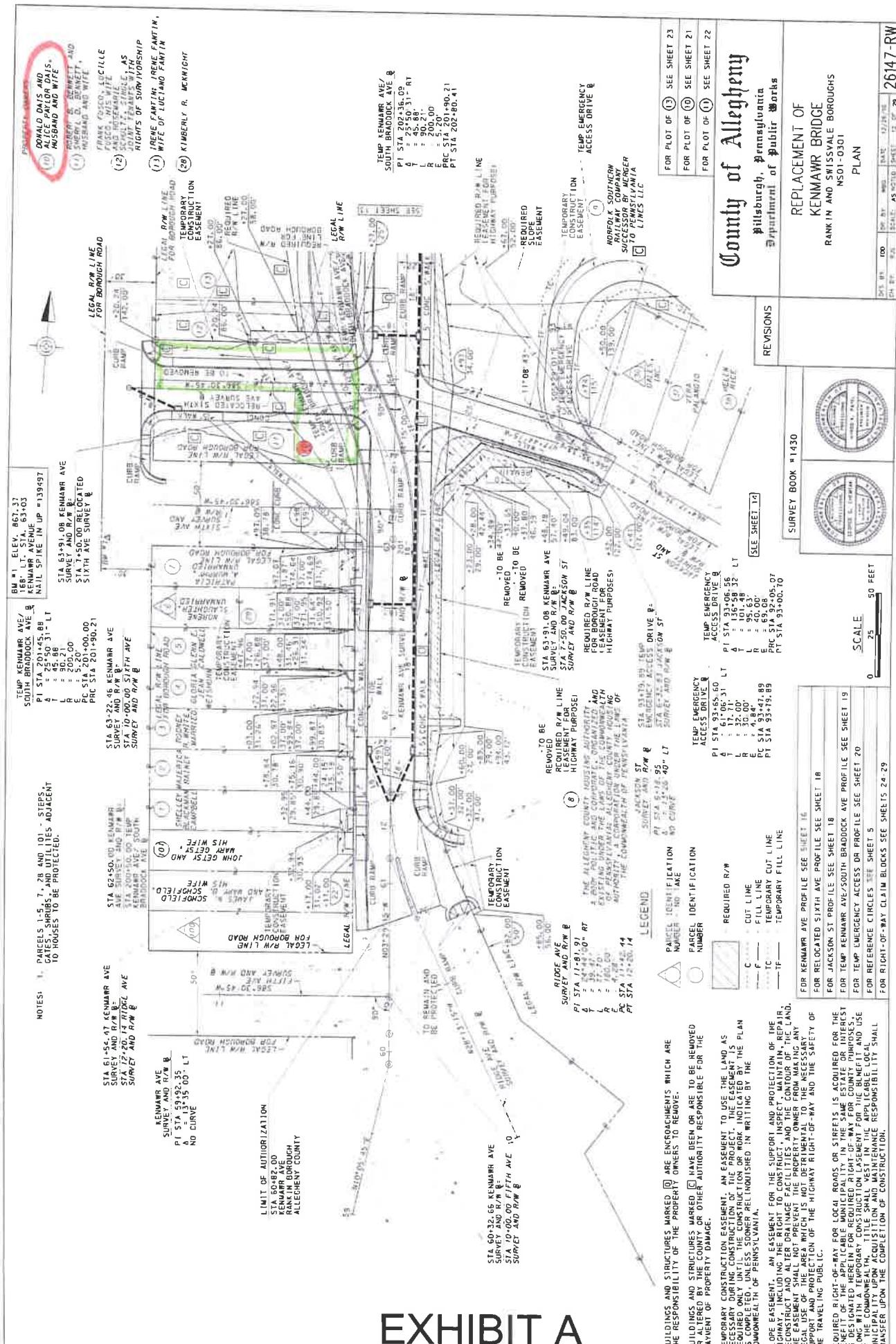
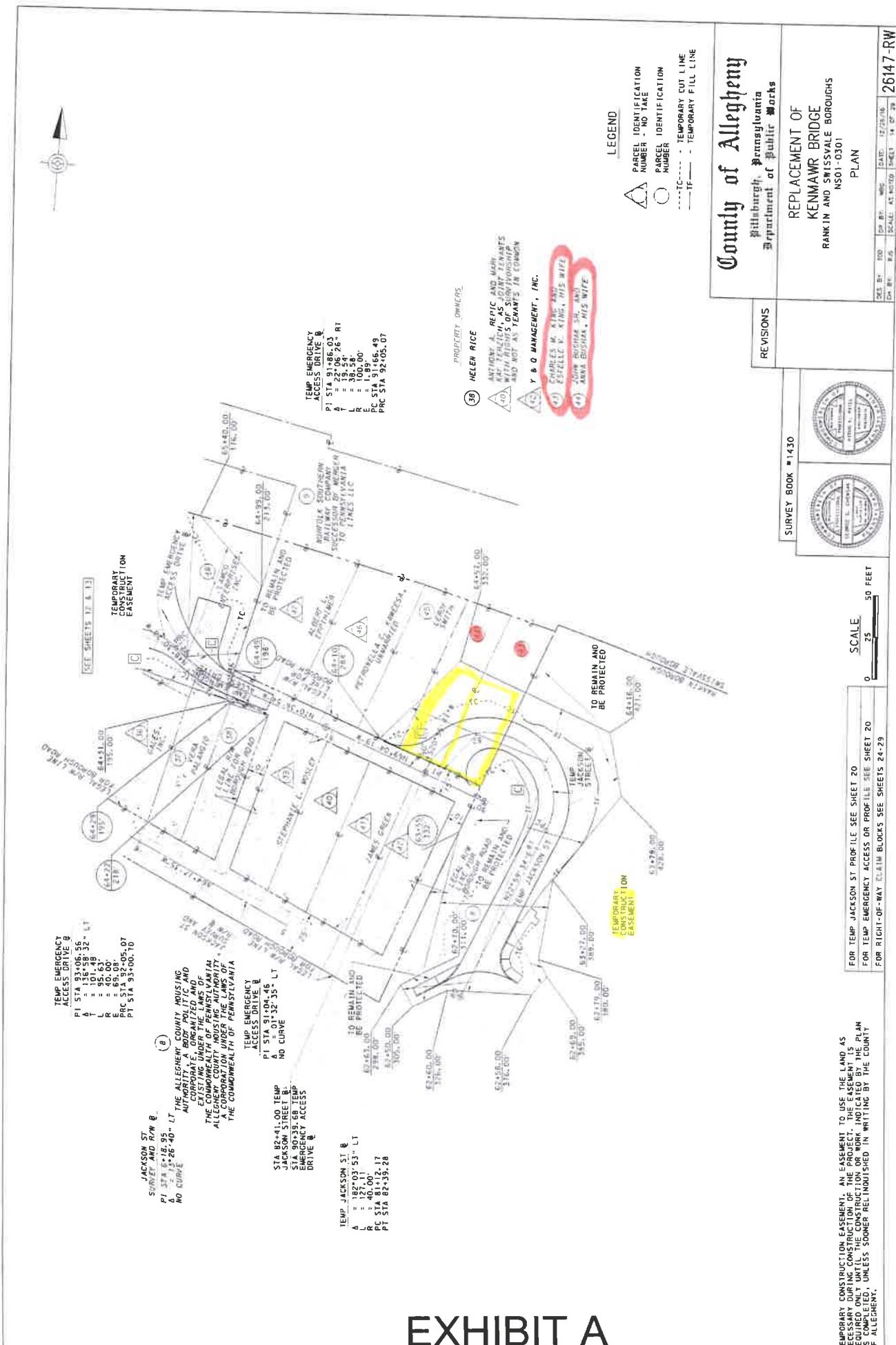
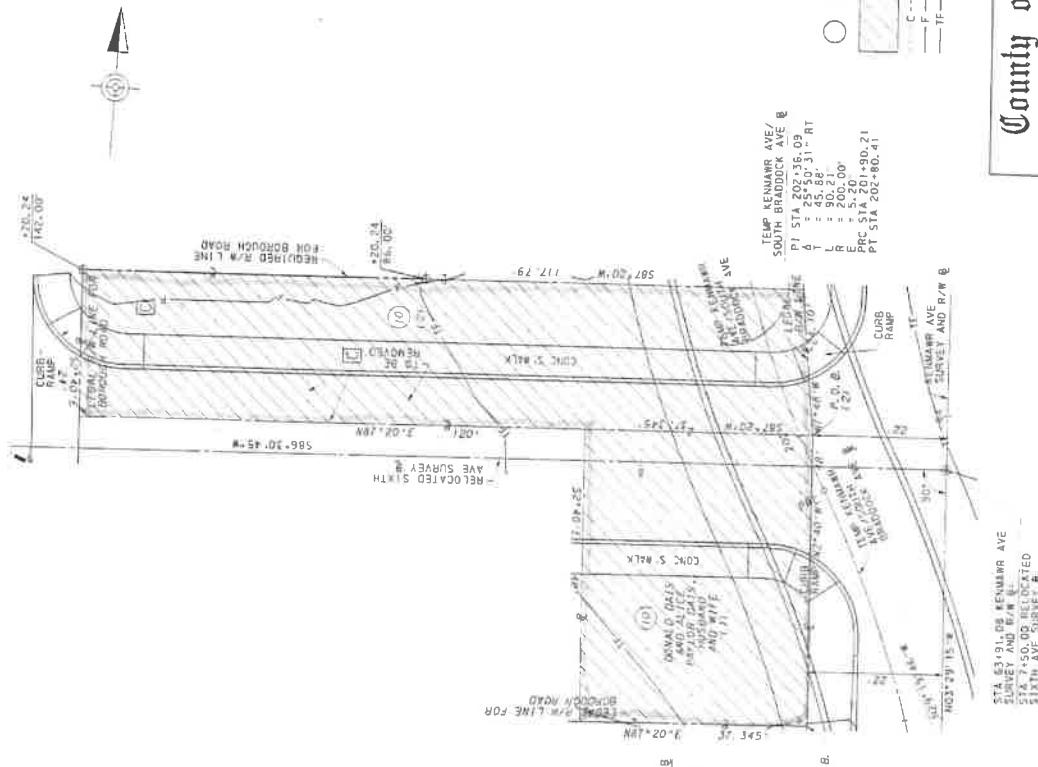


EXHIBIT A

EXHIBIT A





County of Allegheny

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**REPLACEMENT OF
KENMAWR BRIDGE
RANKIN AND SWISSVALE BOROUGH
NS01-0301**

PROPERTY PLOT - PARCEL 10

26147-BW

ALL PROPERTIES ARE PLOTTED FROM THE DEEDS OF RECORD. RECORDED SUBDIVISION OR LOT PLANS, IF ANY, FOR THE PROPERTY IN QUESTION, WILL DETERMINE ONLY WHEN PROPERTY LINES NOT ESTABLISHED ON FIELD SURVEY WILL BE RESPONSIBLE FOR THE PROJECT. PROPERTY LINES NOT ESTABLISHED ON FIELD SURVEY WHILE PLOTTED BASED ON EXISTING TOPOGRAPHICAL FEATURES AND UNITED FIELD.

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

OF BUILDINGS AND STRUCTURES MARKED [E] HAVE BEEN DEMOLISHED BY THE COUNTY OR OTHER AUTHORITY RESPONSIBLE FOR THE PAYMENT OF PROPERTY DAMAGE.

EXHIBIT A

RIGHT-OF-WAY CLAIM INFORMATION	
COUNTY OF ALLEGHENY DEPARTMENT OF PUBLIC WORKS	
SITE NAME	SOUTH BRADDOCK AVENUE
PARCEL NUMBER	100-10000000000000000000000000000000
PROPERTY OWNER(S)	FREDERICK SHEA, JR. ROBERT T. GIBBON LEWIS A. GIBBON JOSEPH LURKIN
GRANTOR(S)	T. GIBBON SHEA, JR.
CLAIM NUMBER	13
CLAIM DATE	10/26/2009
CLAIM STATUS	OPEN
CLERK'S SIGNATURE	[Signature]
CLERK'S TITLE	CLERK OF THE COURT
CLERK'S DATE	10/26/2009
ALL INFORMATION CONTAINED ON THIS FORM IS UNCLASSIFIED	
EXCEPT AS NOTED	

THIS MAP SHOWS THE PROFESSIONAL LAND SURVEYOR'S DETERMINED NECESSARY LINES NOT STABLISHED BY FIELD SURVEY AND LIMITED BY FIELD DATA.

EIGHT - OF - WAY CLAIM INFORMATION

STREET NAME - BRADDOCK AVENUE - COUNTY OF ALLEGHENY - DEPARTMENT OF PUBLIC WORKS - ALLEGHENY COUNTY
 PARCEL NO. - 16 - SHEET NO. - 13 - CLAIM NO. -
 PROPERTY OWNER'S NAME - MAMIE J. EDIE - SWISSVALE BOROUGH

GRANTOR(S) JUDY A. BARTEL FELLA DAVIS MARY DAILEY C. BAEREL HUNSWARD AND WIFE

* PROFESSIONAL FIELD SURVEY, PROPERTY LINES WERE SURVEYED ONLY WHEN DETERMINED NECESSARY.
** FIELD SURVEY WERE PLOTTED ON EXISTING TOPOGRAPHICAL FEATURES.

INTRODUCTION AND LIMITED FIELD DATA.

RIGHT-OF-WAY CLAIM INFORMATION - DEPARTMENT OF PUBLIC WORKS

SUBJECT	NAME	ADDRESS	ALLEGED	COUNTRY
BRADDOCK, AYLMER	111 SHEFFIELD NO. PROPERTY OWNER SINCE	SWISSMAYLE BOROUGH [CLAIM NO.]		

THE JOURNAL OF CLIMATE

ALL PROPERTIES, AS PLOTTED FROM DEEDS OF RECORD, SUBDIVISION OR LOT LINES		AS NOTED
PAGE	1/8	SCALE
DATE REC'D	04/01/70	2442
CONSIDERATION	\$22,000.00	---
TAX STAMPS	3.820	---
BLK. AND LOT	235-2-208	---
RECORD L.	---	17-26-16
REVERSE R.	---	100
DATE REC'D	---	SCALE
TEMP. CHART	---	---
SLOPE ELEMENT	---	---
AERIAL BASELINE	---	---
VERIFICATION DATE	---	---
DRAWN BY	---	---

FOOD FIELD SURVEY, PROPERTY LINES WERE SURVEYED ONLY WHEN DETERMINED NECESSARY BY THE PROFESSIONAL LAND SURVEYOR RESPONSIBLE FOR THE PROJECT. PROPERTY LINES NOT ESTABLISHED BY FIELD SURVEY WERE PLOTTED BASED ON EXISTING TOPOGRAPHICAL FEATURES LISTED IN THE LIMITED FIELD DATA.

SOCIETY FOR THE STUDY OF LITERATURE

DEPARTMENT OF PUBLIC WORKS

RANTORI'S GREEN BOOZE BAR

THE PLATTED PROPERTY LINES WERE SURVEYED ONLY WHEN DETERMINED FROM FIELD SURVEY. PROPERTY LINES ARE RECORDED SUBDIVISION OR

THIS MAP SHOWS THE PROFESSIONAL LAND SURVEYOR'S DETERMINED PROPERTY LINES NOT LIMITED BY FIELD SURVEY AND PLOTTED ON EXISTING TOPOGRAPHICAL FEATURES.

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

* PROFESSIONAL FIELD SURVEY, PROPERTY LINES WERE SURVEYED ONLY WHEN DETERMINED NECESSARY.
** FIELD SURVEY WERE PLOTTED ON EXISTING TOPOGRAPHICAL FEATURES.

AND LIMITED FIELD DATA.

RIGHT-OF-WAY CLAIM INFORMATION									
COUNTY OF ALLEGHENY - DEPARTMENT OF PUBLIC WORKS TAXIANNE BOROUGH									
ALLEGHENY COUNTY									
STREET NAME:		WILKINSON		SHEET NO. 13		CLIMB AND DRAPE		AVERAGE ELEVATION	
BLOCK NUMBER:		11		MAP AND SECTION		EASTING		NORTHING	
SUBDIVISION:		GRANTMAN'S		SECTION		S. 100-100		S. 100-100	
DEED BOOK:		6203		AHL #		SO. #1		RECEIVED AREA	
PAGE OF DEED:		127/127/127		UP/DOWN		1000		RIGHT-OF-WAY	
OF RECORD:		12/12/12/12/12		ADJUSTED		***		TEAR, CROWN, ETC.	
TAX MAP & TAPS:		813-100-000		EFFECTIVE		2000.8		SLOPE, ETC.	
BLOCK AND LOT:		235-P-200		TOTAL ACRES		0.000		HEIHT, ETC.	
				RESUME L1		-200.5		SURVEY ID#	
				HOLDING A1		-108.5		DATE SURVEYED	
								12/12/12	
SCALE									

FOOD FIELD SURVEY, PROPERTY LINES WERE SURVEYED ONLY WHEN DETERMINED NECESSARY BY THE PROFESSIONAL LAND SURVEYOR RESPONSIBLE FOR THE PROJECT. PROPERTY LINES NOT ESTABLISHED BY FIELD SURVEY WERE PLOTTED BASED ON EXISTING TOPOGRAPHICAL FEATURES LISTED IN THE LIMITED FIELD DATA.

IS THERE A SIGNIFICANT DIFFERENCE IN THE PREVALENCE OF HYPERTENSION AMONG WOMEN WITH AND WITHOUT POLYCYSTIC OVARY SYNDROME?

REVISIONS	 	
Pittsburgh, Pennsylvania Department of Public Works		
REPLACEMENT OF KENNAWAW BRIDGE RANKIN AND SWISSVALE BOROUGHS NSI-0-301		
RIGHT-OF-WAY CLAIM BLOCKS		
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EXHIBIT A



County of Allegheny

**REPLACEMENT OF
KENMAWR BRIDGE
RANKIN AND SWISSVALE BOROUGH
NSD-1-0301**

RIGHT-OF-WAY CLAIM BLOCKS

REVIEWS



RIGHT-OF-WAY CLAIM INFORMATION

COUNTY OF ALLEGHENY - DEPARTMENT OF PUBLIC WORKS
STREET NAME: KENNENAW AVENUE
BLOCK NO.: 14
PROPERTY OWNER: JOHN M. AND ANNA BURKHA
WITNESS: JOHN M. AND ANNA BURKHA
CHAMBERSBURG, PA
DATE: 05/22/1994
TAX STAMPS: 81-4000.00
BLOCK AND LOT: 236-B-28B

DEED BOOK: 2817
PAGE OF DEED: 071
DATE OF RECORD: 05/22/1994
EFFECTIVE DATE: 05/22/1994
TAX STAMPS: 81-4000.00
BLOCK AND LOT: 236-B-28B

AREAS: 50. FT.
DECALATED AREA: 50. FT.
TEMP. CONST. ESM: 1517
SLOPE EASEMENT: -----
AERIAL EASEMENT: -----
NOTICE DATE: 12/26/16
DRAWN BY: 2664
NOTICE DLT: 2664
SCALE: AS NOTED.

ALL PROPERTIES ARE PLOTTED FROM DEEDS OR RECORDS OF RECORD SURVEY, PROPERTY LINES WERE SURVEYED ONLY WHEN DETERMINED NECESSARY BY THE PROFESSIONAL LAND SURVEYOR RESPONSIBLE FOR THE PROJECT. PROPERTY LINES NOT ESTABLISHED BY FIELD SURVEY WERE PLOTTED BASED ON EXISTING TOPOGRAPHICAL FEATURES AND LIMITED FIELD DATA.

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

RIGHT-OF-WAY CLAIM INFORMATION

COUNTY OF ALLEGHENY - DEPARTMENT OF PUBLIC WORKS
STREET NAME: KENNENAW AVENUE
BLOCK NO.: 14
PROPERTY OWNER: JOHN M. AND ANNA BURKHA
WITNESS: JOHN M. AND ANNA BURKHA
CHAMBERSBURG, PA
DATE: 05/22/1994
TAX STAMPS: 81-4000.00
BLOCK AND LOT: 236-B-28B

DEED BOOK: B03
PAGE OF DEED: 81
DATE OF RECORD: 05/22/1994
EFFECTIVE DATE: 05/22/1994
TAX STAMPS: 81-4000.00
BLOCK AND LOT: 236-B-28B

AREAS: 50. FT.
DECALATED AREA: 50. FT.
TEMP. CONST. ESM: 2408
SLOPE EASEMENT: -----
AERIAL EASEMENT: -----
NOTICE DATE: 12/26/16
DRAWN BY: 2664
NOTICE DLT: 2664
SCALE: 15' WHITE

ALL PROPERTIES ARE PLOTTED FROM DEEDS OR RECORDS OF RECORD SURVEY, PROPERTY LINES WERE SURVEYED ONLY WHEN DETERMINED NECESSARY BY THE PROFESSIONAL LAND SURVEYOR RESPONSIBLE FOR THE PROJECT. PROPERTY LINES NOT ESTABLISHED BY FIELD SURVEY WERE PLOTTED BASED ON EXISTING TOPOGRAPHICAL FEATURES AND LIMITED FIELD DATA.

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RIGHT-OF-WAY CLAIM INFORMATION

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BLOCK NO.: 14
PROPERTY OWNER: JOHN M. AND ANNA BURKHA
WITNESS: JOHN M. AND ANNA BURKHA
CHAMBERSBURG, PA
DATE: 05/22/1994
TAX STAMPS: 81-4000.00
BLOCK AND LOT: 236-B-28B

DEED BOOK: 2817
PAGE OF DEED: 071
DATE OF RECORD: 05/22/1994
EFFECTIVE DATE: 05/22/1994
TAX STAMPS: 81-4000.00
BLOCK AND LOT: 236-B-28B

AREAS: 50. FT.
DECALATED AREA: 50. FT.
TEMP. CONST. ESM: 1517
SLOPE EASEMENT: -----
AERIAL EASEMENT: -----
NOTICE DATE: 12/26/16
DRAWN BY: 2664
NOTICE DLT: 2664
SCALE: AS NOTED.

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EXHIBIT A

County of Allegheny
Pittsburgh, Pennsylvania
Department of Public Works

REPLACEMENT OF
KENNAW BRIDGE
RANKIN AND SMYTHE BOROUGHS
NSOI-0301
RIGHT-OF-WAY CLAIM BLOCKS

FILE NO.	700	LINE NO.	137	SECTION	137	DATE	12/26/16
CH BY	RJS	SCALE:	AS NOTED	SHEET	20 OF 20		26147-RW

MEMORANDUM
OFFICE OF THE COUNTY MANAGER

TO: Jared E. Barker
Allegheny County Council

FROM: William D. McKain CPA
County Manager

DATE: February 1, 2018

RE: Proposed Ordinance

Attached is an Ordinance authorizing the County of Allegheny to acquire by condemnation certain right-of-way and temporary construction easement areas from five parcels required to reconstruct Kenmawr Bridge carrying Kenmawr Ave/South Braddock Ave over Norfolk Southern Railway in the Boroughs of Rankin and Swissvale, 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.

2018 FEB - 1 AM 9:45

RECEIVED
ALLEGHENY COUNTY COUNCIL