

APPROVED

First Reading: 05/23/12

Passed 7-1: 06/13/12

**COUNTY OF LEHIGH, PENNSYLVANIA
COMMISSIONERS BILL 2012-18
SPONSORED BY COMMISSIONER MAZZIOTTI
REQUESTED DATE: MAY 16, 2012
ORDINANCE NO. 2012-117**

**AUTHORIZING THE ACQUISITION OF RIGHT-OF-WAY AND EASEMENTS
BY EMINENT DOMAIN FOR THE PENNSYLVANIA DEPARTMENT OF
TRANSPORTATION FOR THE MAINTENANCE, REPAIR AND
REPLACEMENT OF THE THREE BRIDGE PROJECT**

WHEREAS, the County of Lehigh has undertaken a program of maintenance, repair and replacement for many of the County's bridges; and

WHEREAS, the County and the Pennsylvania Department of Transportation (PennDOT), entered into an agreement dated February 7, 2008 wherein they agreed to participate in a Federal-Aid Bridge Project for the replacement of (3) bridges; and

WHEREAS, this bridge project consists of the removal of three bridges and their replacement with one bridge and one culvert/tunnel. The bridges are situated in Whitehall Township, Lehigh County, PA and North Catasauqua Borough, Northampton County, PA, and carry State Route 1014 (Lehigh Street) over the Ironton Rail-Trail, a vacant Norfolk Southern Property; Water Street; the Lehigh River; the Lehigh Canal and an active Norfolk Southern track (all of the above hereinafter referred to as the "Project"); and

WHEREAS, the County must acquire right-of-way, temporary construction easements, drainage easements, and slope easements for completion of the Project; and

WHEREAS, the County is authorized, through Section 2603 of the County Code,

16 P.S. §2603, to purchase, take by gift or acquire by the power of eminent domain, real property of all kinds consistent with County's authority to provide and maintain bridges; and

WHEREAS, pursuant to Resolution 2011-18, the County Executive, or his designee, was authorized to acquire by agreement or eminent domain if necessary, such Right-of-Way and easements that are necessary for the Project; and

WHEREAS, agreements in lieu of condemnation have been acquired for most of the parcels involved, and it has become necessary to proceed with condemnation for the following the properties listed on Exhibit "A", attached hereto; and

WHEREAS, Ordinance approval is required for the exercise of eminent domain pursuant to Section 310 (a)(9) of the Home Rule Charter.

**NOW, THEREFORE, IT IS HEREBY ENACTED AND ORDAINED BY
THE BOARD OF COMMISSIONERS OF THE COUNTY OF LEHIGH,
PENNSYLVANIA, THAT:**

1. The foregoing Whereas clauses are incorporated herein as if set forth in their entirety.
2. The County Executive, or his designee, is hereby authorized to acquire by eminent domain the interests in the properties listed on Exhibit A, attached hereto, and to initiate same by the filing of Declarations of Takings at case numbers 2012-C-1963, 2012-C-1964 and 2012-C-1965.
3. The proper officers and other personnel of Lehigh County are hereby authorized and empowered to take all such further action, including any necessary

transfers of funds, and execute additional documents as they may deem appropriate to carry out the purpose of this Ordinance.

4. The County Executive shall distribute copies of this Ordinance to the proper offices and other personnel of Lehigh County whose further action is required to achieve the purpose of this Ordinance.

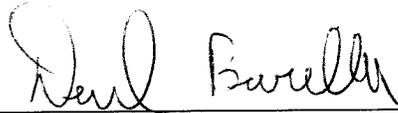
5. Any Ordinance or part of Ordinance conflicting with the provisions of this Ordinance is hereby repealed insofar as the same affects this Ordinance.

6. This Ordinance shall become effective in ten (10) days after enactment.

ADOPTED this 13th day of June, 2012, by the following vote:

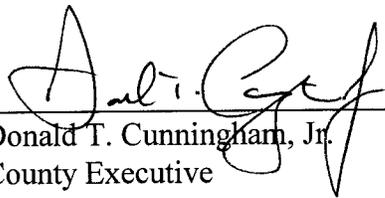
<u>Commissioners</u>	<u>AYE</u>	<u>NAY</u>
Thomas C. Creighton, III	X	
Percy H. Dougherty		X
David S. Jones, Sr.	X	
Daniel K. McCarthy	X	
Vic Mazziotti	X	
Brad Osborne	X	
Scott Ott	X	
Lisa Scheller (absent)		
Michael P. Schware	X	

ATTEST:



Clerk to the Board of Commissioners

APPROVED this 20th day of June, 2012.



Donald T. Cunningham, Jr.
County Executive

ENACTED this 20th day of June, 2012.

Exhibit A



SB 1914
 F.I. STA. 153+12.39
 Δ = 203.9007
 D = 146.607
 L = 80.000
 R = 323.927

- LEGEND**
- REQUIRED RIGHT-OF-WAY FOR TOWNSHIP ROAD (EASEMENT FOR HIGHWAY PURPOSES)
 - INDICATES A SCALED DIMENSION

PLOT PLAN

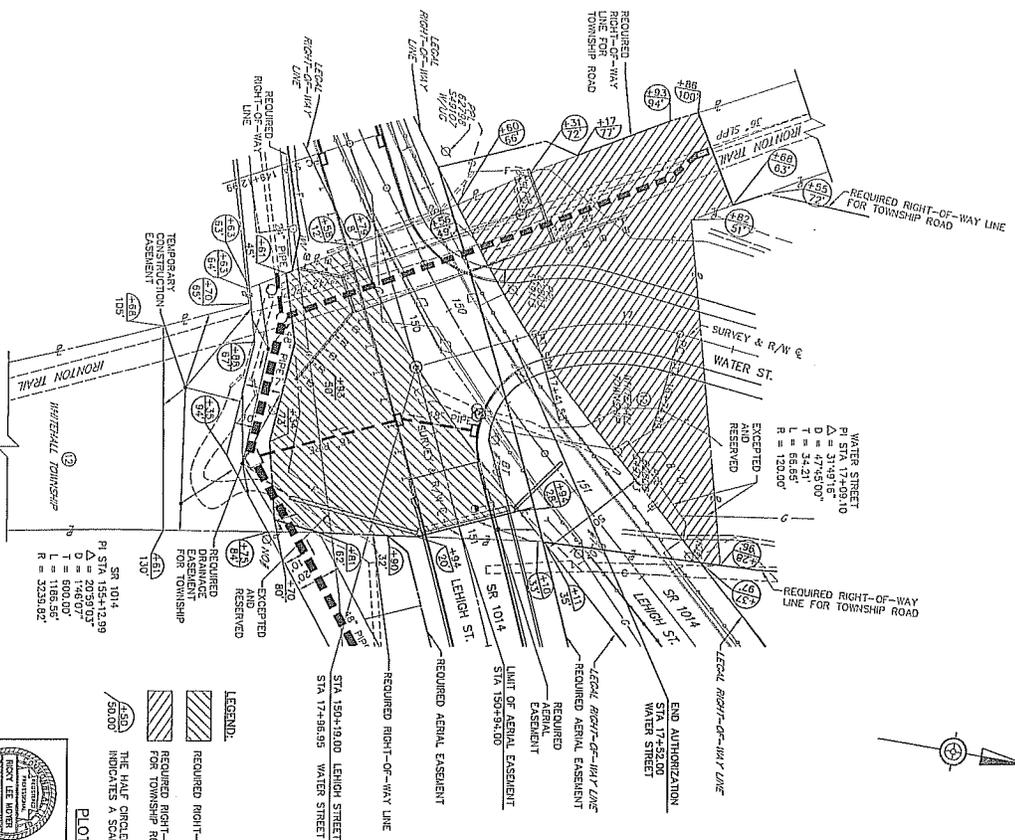


RIGHT-OF-WAY CLAIM INFORMATION

COMMONWEALTH OF PENNSYLVANIA-DEPARTMENT OF TRANSPORTATION
 STATE RITE, 101A, SEC. NO. 158 E/20 W
 WHITFIELD TOWNSHIP, LEHIGH COUNTY
 PROPERTY OWNER(S) NORTH V. SOUTHERN MAINWAY COMPANY
 GRANTEE(S) CONSTRUCTION AND REPAIR OF PENNSYLVANIA HIGHWAYS, LLC
 SUCCESSION THROUGH HERITAGE WITH PENNSYLVANIA HIGHWAYS, LLC
 DEED BOOK 1677
 CALCULATED * 37.519
 DATE OF DEED 6-01-1999
 ADVEESSES
 LEGAL R/W 4.303
 ACTUAL EASEMENT 4.258
 DATE OF RECORD 6-21-1999
 ERECTING
 CONSIDERATION \$64,940.00
 ON STRIPS 6.4303
 TOTAL RESIDE P/W 37.519
 TEMPORARY CONSTRUCTION 5.185
 RESIDE LT 30.702
 RESIDE RT 6.817
 VERIFICATION DATE 6-2-2011
 DRAWN BY 016A, 50 FEET
 SCALE

- NOTES:**
1. PRIVATE PROPERTY LINES ARE PLOTTED FROM THE BEST OF RECORD, RECORDED SUBDIVISION OR LOT PLANS. PRIVATE PROPERTY LINES NOT SHOWN ARE ASSUMED TO BE THE SAME AS SHOWN ON THE RECORD PLANS. THE PROFESSIONAL LAND SURVEYOR IS NOT RESPONSIBLE FOR THE PROJECT.
 2. THIS PROPERTY PLOT PLAN IS NOT TO BE SUBSTITUTED FOR A BOUNDARY SURVEY.
 3. DRAINAGE EASEMENT, AN EASEMENT FOR THE CONSTRUCTION, INSPECTION, MAINTENANCE, REPAIR, REPLACEMENT AND ALTERATION OF ANY TYPE OF DRAINAGE, THE EASEMENT SHALL NOT PREVENT THE NECESSARY FLOW OF WATER, HOWEVER, NO STRUCTURE OF ANY KIND MAY BE ERECTED IN THE AREA, NOR MAY ANY PIPE OR DITCH BE CONNECTED TO THE DEPARTMENT'S PIPE OR DITCH WITHOUT ADVANCED WRITTEN APPROVAL BY THE DEPARTMENT OF TRANSPORTATION AND LEHIGH COUNTY.
 4. TEMPORARY CONSTRUCTION EASEMENT, AN EASEMENT TO USE THE LAND AS NECESSARY FOR THE CONSTRUCTION OF WORK INDICATED ON THE PLAN IS GRANTED IN FULL SOVEREIGNTY, UNQUALIFIED IN WRITING BY THE DEPARTMENT AND LEHIGH COUNTY.
 5. REQUIRED RIGHT-OF-WAY FOR TOWNSHIP ROAD RIGHT-OF-WAY ACQUIRED FOR THE BENEFIT OF THE STATE HIGHWAY PURPOSES, ALONG WITH A TEMPORARY CONSTRUCTION EASEMENT FOR THE BENEFIT AND USE OF THE DEPARTMENT OF TRANSPORTATION AND LEHIGH COUNTY. THE DEPARTMENT SHALL USE THE MAINTENANCE RESPONSIBILITY SHALL TRANSFER UPON THE COMPLETION OF CONSTRUCTION.
 6. WHERE AN ADEQUATE EASEMENT IS ACQUIRED, IT SHALL INCLUDE AN EASEMENT IN THE AIR FOR THE ACCOMMODATION OF TELEVISION ANTENNAS, ANTENNAS FOR THE RECEIPT OF RADIO AND TELEVISION SIGNALS, AND OTHER APPURTENANCES AND A TEMPORARY EASEMENT FOR CONSTRUCTION PURPOSES INCLUDING THE INSTALLATION, MAINTENANCE, REPAIR, REPLACEMENT AND ALTERATION OF ANY TYPE OF DRAINAGE, THE EASEMENT SHALL BE IMPOSED ON THE PROPERTY BENEFIT BY THE ADEQUATE EASEMENT.
 7. NO USE SHALL BE MADE OF THE PROPERTY WHICH SHALL ENDANGER THE STRUCTURE OR THE HEALTH, SAFETY OR WELFARE OF THE TRAVELING PUBLIC.
 8. NO FLAMMABLE, EXPLOSIVE, DANGEROUS OR HAZARDOUS MATERIAL SHALL BE USED, PLACED OR STORED ON THE PROPERTY.
 9. NO BUILDING OR OTHER FACILITY SHALL BE CONSTRUCTED ON THE PROPERTY WITHOUT PRIOR AUTHORITY OF THE DEPARTMENT OF TRANSPORTATION AND LEHIGH COUNTY. THE DEPARTMENT SHALL USE THE APPROVAL OF THE DEPARTMENT OF TRANSPORTATION AND LEHIGH COUNTY.
 10. NO INTERFERENCE SHALL BE MADE WITH THE RIGHT OF THE DEPARTMENT OF TRANSPORTATION TO ENTER UPON THE PROPERTY FOR THE PURPOSES OF INSPECTION, MAINTENANCE, REPAIR, PAINTING, RECONSTRUCTION OR ALTERATION OF THE ROADWAY AND ITS SUPPORTING FACILITIES. THE OWNER DURING SOME OR ALL THE ABOVE OPERATIONS.
 11. ANY SUBSTANTIAL CHANGE IN THE PROPERTY USE TO BE MADE SUBSEQUENT TO THE ACQUISITION OF THE EASEMENT SHALL BE SUBJECT TO THE APPROVAL OF THE DEPARTMENT OF TRANSPORTATION.
 12. THE NOTES ON THESE DRAWINGS SHALL NOT BE CONSIDERED AS LIMITING OR INTERFERING IN ANY WAY WITH THE RIGHT OF THE DEPARTMENT OF TRANSPORTATION AND LEHIGH COUNTY TO CONDUCT ANY WORK NECESSARY FOR BETTERMENT OR ALTERATION OF THE ROADWAY AND ITS SUPPORTING FACILITIES.
 13. VACATIONS AS SHOWN ON THIS PLAN ARE EFFECTIVE ONLY AFTER AN ORDER OF VACATION HAS BEEN EXECUTED BY THE DEPARTMENT AND WHITFIELD TOWNSHIP AND FILED IN THE APPROPRIATE COUNTY COURTHOUSE.
 14. THE PROPERTY LINES SHOWN AND CALCULATED AREA ARE BASED ON THE RIGHT OF WAY AND TRACK CENTERLINE POINTS AND CALCULATED AREA COMPANY, 17722, DATED JUNE 30, 1917.
 15. ** (EASEMENT FOR HIGHWAY PURPOSES)
 16. Δ INCLUDES 94 S.F. TO BE VACATED BY WHITFIELD TOWNSHIP.

Exhibit A



LEGEND:

- [Hatched box] REQUIRED RIGHT-OF-WAY
- [Hatched box] REQUIRED RIGHT-OF-WAY FOR TOWNSHIP ROAD
- [Circle with 'S.D. 50.00'] THE HALF CIRCLED NUMBER INDICATES A SCALED DIMENSION

PLOT PLAN

DEED BOOK 1590

DATE OF DEED 1-28-1998

DATE OF RECORD 2-28-1998

CONSIDERATION \$2,950,000.00

TAX STAMPS \$2,500.00

PROPERTY OWNERS		RIGHT-OF-WAY CLAIM INFORMATION	
THE TOWNSHIP OF WHITEHALL	COMMONWEALTH OF PENNSYLVANIA-DEPARTMENT OF TRANSPORTATION	STATE RITE 12, SEC. NO. 158 R/W 12	WHITEHALL TOWNSHIP LEHIGH COUNTY
REAL COOPERATION	PROPERTY OWNER(S) OF THE TOWNSHIP OF WHITEHALL	CLASH NO.	
ADJACENT PROPERTY OWNER(S) OF THE TOWNSHIP OF WHITEHALL			
DEED BOOK 1590	DEED BOOK 0553	AREAS	REQUIRED AREA - 4686.67
DATE OF DEED 1-28-1998	DATE OF DEED 12-02-1997	ADVERTISERS	RIGHT OF WAY 12.943
DATE OF RECORD 2-28-1998	DATE OF RECORD 12-02-1997	LEGAL 1/4	FOR TOWNSHIP ROAD 393
CONSIDERATION \$2,950,000.00	CONSIDERATION \$1,000	TOTAL DEED R/W 21,658	FOR TOWNSHIP 1,849
TAX STAMPS \$2,500.00	TAX STAMPS	TOTAL RESIDE 13,918	TEMPORARY CONSTRUCTION EASEMENT 3,500
		RESIDE LT 11,919	VERIFICATION DATE 8-8-11
			DRAWN BY 28 WEA 50 FEET

- NOTES:**
- 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 PROPERTY PLOT PLAN IS NOT TO BE SUBSTITUTED FOR A BOUNDARY SURVEY.
 - DRAINAGE EASEMENT, AN EASEMENT FOR THE CONSTRUCTION, INSPECTION, MAINTENANCE, REPAIR, RECONSTRUCTION AND ALTERATION OF HIGHWAY DRAINAGE FACILITIES. THE EASEMENT SHALL NOT BE DETRIMENTAL TO THE INTERESTS OF THE AREA WHICH IS NOT BEING ACQUIRED BY THE DEPARTMENT OF TRANSPORTATION. THE EASEMENT SHALL NOT BE EXERCISED IN THE AREA, NOR MAY ANY PIPE OR DITCH BE CONNECTED TO THE DEPARTMENT'S PIPE OR DITCH WITHOUT ADVANCED WRITTEN APPROVAL BY THE DEPARTMENT OF TRANSPORTATION AND LEHIGH COUNTY.
 - TEMPORARY CONSTRUCTION EASEMENT, AN EASEMENT TO USE THE LAND AS NECESSARY FOR THE CONSTRUCTION OF THE PROJECT. THE EASEMENT IS REQUIRED ONLY UNTIL THE CONSTRUCTION OF THE PROJECT IS COMPLETED UNLESS SOONER REDEMORSED IN WRITING BY THE DEPARTMENT AND LEHIGH COUNTY.
 - REQUIRED RIGHT-OF-WAY FOR TOWNSHIP ROAD RIGHT-OF-WAY ACQUIRED FOR THE BENEFIT OF THE APPLICABLE MAJOR HIGHWAY IN THE SAME INTEREST AS DESIGNATED HEREIN FOR REQUIRED RIGHT-OF-WAY FOR STATE HIGHWAY PURPOSES, ALONG WITH A TEMPORARY CONSTRUCTION EASEMENT FOR THE BENEFIT OF THE APPLICABLE MAJOR HIGHWAY IN THE SAME INTEREST AS DESIGNATED HEREIN UPON ACQUISITION AND MAINTENANCE RESPONSIBILITY SHALL TRANSFER UPON THE COMMENCEMENT OF CONSTRUCTION.
 - WHERE AN AERIAL EASEMENT IS ACQUIRED, IT SHALL INCLUDE AN EASEMENT IN THE AIR FOR THE ACCOMMODATION OF THE ELEVATED HIGHWAY STRUCTURE UNLIMITED IN VERTICAL DIMENSION ABOVE THE PROPERTY AND OTHER EASEMENTS UNLIMITED IN VERTICAL DIMENSION FOR THE ACCOMMODATION OF THE PROJECT AND OTHER EASEMENTS UNLIMITED IN VERTICAL DIMENSION FOR THE BENEFIT OF THE PROJECT INCLUDING THE STORAGE OF MATERIALS DURING CONSTRUCTION FOR THE ENTIRE AREA, THE FOLLOWING LIMITATIONS SHALL BE IMPOSED ON THE PROPERTY BENEATH THE AREA AFFECTED BY THE AERIAL EASEMENT:
 - NO USE SHALL BE MADE OF THE PROPERTY WHICH SHALL ENDANGER THE STRUCTURE OR THE HEALTH, SAFETY OR WELFARE OF THE TRAVELING PUBLIC.
 - NO FLAMMABLE, EXPLOSIVE, DANGEROUS OR HAZARDOUS MATERIAL SHALL BE USED, PLACED OR STORED ON THE PROPERTY.
 - NO BUILDING OR OTHER FACILITY SHALL BE CONSTRUCTED ON THE PROPERTY WITHOUT PRIOR AUTHORITY FROM THE DEPARTMENT OF TRANSPORTATION AND LEHIGH COUNTY. IF AND WHEN SUCH AUTHORITY IS GRANTED, THE DEPARTMENT OF TRANSPORTATION AND LEHIGH COUNTY SHALL BE SUBJECT TO THE APPROVAL OF THE DEPARTMENT OF TRANSPORTATION AND LEHIGH COUNTY.
 - NO INTERFERENCE SHALL BE MADE WITH THE RIGHT OF THE DEPARTMENT OF TRANSPORTATION AND LEHIGH COUNTY TO ENTER UPON THE PROPERTY FOR THE PURPOSES OF INSPECTION, MAINTENANCE, REPAIR, PAINTING, RECONSTRUCTION OR ALTERATION OF THE STRUCTURE OR APPURTENANCES MOVABLE THEREIN MAY HAVE TO BE REMOVED BY THE OWNER DURING SOLE OR ALL THE ABOVE OPERATIONS.
 - ANY SUBSTANTIAL CHANGE IN THE PROPERTY USE TO BE MADE SUBJECT TO THE ACQUISITION OF THE EASEMENT SHALL BE SUBJECT TO THE APPROVAL OF THE DEPARTMENT OF TRANSPORTATION AND LEHIGH COUNTY.
- * THE PROPERTY LINES SHOWN AND CALCULATED AREA ARE BASED ON THE RIGHT OF WAY AND TRACK MAP, ROYALTON BALTIMORE, V.1/9A, DATED APRIL 1925, REVISED SEPTEMBER 26, 1928 AND THE ADJOINING DEEDS.

DISTRICT	COUNTY	ROUTE	SECTION	SHEET
5-0	LEHIGH/NORTHAMPTON	SR 1014	158 R/W	30 OF 38
WHITEHALL TOWNSHIP/BOROUGH OF NORTH CATAWADIA				
REVISION	DATE	REVISION	DATE	

COUNTY OF LEHIGH ORDINANCE 2012 – NO. 117

CERTIFICATION

I, DAVID BARILLA, Clerk to the Board of Commissioners of Lehigh County, do hereby certify that the attached is a true and correct copy of the ordinance adopted at a regular meeting of the Commissioners of Lehigh County held on the **13th** day of **June**, 2012, and approved on the **20th** day of **June**, 2012 by the Lehigh County Executive, and effective on the **30th** day of **June**, 2012.



DAVID BARILLA, Clerk
Board of Commissioners