

CITY OF JEANNETTE

WESTMORELAND COUNTY, PENNSYLVANIA

BILL NO. 04-10

ORDINANCE NO. 04-11

**AN ORDINANCE OF THE CITY OF JEANNETTE
AUTHORIZING THE ACQUISITION OF PROPERTIES AND THE
FILING OF CONDEMNATION PROCEEDINGS IN FURTHERANCE OF
PHASE II OF THE EMERGENCY STREAM BANK PROTECTION PROJECT**

WHEREAS, the Commonwealth of Pennsylvania, Department of Environmental Protection (hereafter referred to as "The Commonwealth") has entered into agreements, dated May 18, 1988 and December 16, 1996 (hereafter referred to as "Agreements") with the City of Jeannette, County of Westmoreland and Commonwealth of Pennsylvania, (hereafter referred to as "The City"), whereby the Commonwealth has agreed to install certain flood control improvements along the channel of Brush Creek and three (3) of its tributaries, (hereinafter referred to as "The Project"), also known as "Project No. DGS 182-7", to alleviate, in part, flood damage and to prevent, as much as feasible, the recurrence of flood damage; and

WHEREAS, in accordance with the aforesaid Agreements, the City is required to provide all lands, easements, rights-of-way, rights of entry, and permits from adjoining land owners, utilities and political subdivisions necessary for the successful construction and future maintenance of the Project; and

WHEREAS, the City is empowered, under the Eminent Domain Code of Pennsylvania, 26 P.S. §1-101 et seq. and the Third Class City Code, 53 P.S. §37801, to exercise the power of eminent domain and enter upon, appropriate, take, use and occupy property in furtherance of the aforesaid project.

NOW, THEREFORE, WITH THE FOREGOING RECITALS BEING INCORPORATED HERE, IT IS HEREBY ORDAINED AND ENACTED AS FOLLOWS:

1. **PROPERTIES TO BE ACQUIRED.** The properties itemized in Exhibit “A” attached hereto and more particularly identified in the attached surveys shall be acquired by the City for the purposes of the Project.

2. **CONDEMNATION/FILING DECLARATION(S) OF TAKING.** The Declaration of Taking containing those Offers of Just Compensation for the real property interests referenced therein, as same is attached hereto as Exhibit “B”, is hereby approved by the Council of the City of Jeannette. Such Declaration shall be filed upon final passage of this Ordinance by the Solicitor of the City of Jeannette.

3. **ACQUISITIONS IN LIEU OF FORMAL CONDEMNATION PROCEEDINGS.** Nothing in this Ordinance shall be deemed to require the City to attempt alternate means of acquisition prior to the formal filing of a Declaration of Taking, however, amicable property acquisitions are hereby authorized in furtherance of this Project, in accordance with the terms and conditions of the Agreements with the Commonwealth.

4. **FUTURE ORDINANCES FOR PROPERTY ACQUISITION.** Nothing in this Ordinance shall preclude the passage of a supplemental Ordinance or Ordinances authorizing the acquisition of additional properties required in furtherance of the Project.

5. **RECORDING.** A copy of this Ordinance shall be recorded within thirty (30) days after its enactment in the Office of the Recorder of Deeds in and for Westmoreland

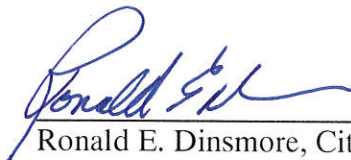
County, Pennsylvania and shall be indexed in the name of the property owners affected hereby; and a copy of this Ordinance, without all Exhibits, but containing sufficient notice and information to advise such property owner of the nature and extent of the taking and the Just Compensation for the interest in property to be acquired, shall be sent by registered mail to each owner of property referenced in Exhibit "A" attached hereto, at his or her last known address.

6. **EFFECTIVE DATE.** This Ordinance shall become effective immediately.

THIS ORDINANCE IS DULY ORDAINED AND ENACTED BY THE
COUNCIL OF THE CITY OF JEANNETTE AT A PUBLIC MEETING HELD THE
13th DAY OF September, 2004.

ATTEST:

THE CITY OF JEANNETTE:



Ronald E. Dinsmore, City Clerk



~~John B. Kistic, Mayor and President of Council~~

Michael Cafasso, Vice President of Council

EXHIBIT "A"

EXHIBIT A
PROPERTY INTERESTS BEING CONDEMNED

LEGEND:

AC = Property Acquisition
 PE = Permanent Easement
 TE = Temporary Construction Easement
 OE = Occasional Flowage Easement

<u>SITE #</u>	<u>PROPERTY OWNER</u>	<u>INTEREST</u>	<u>TAX MAP PARCEL NO.</u>
1.	Redevelopment Authority of Westmoreland County 601 Courthouse Square Greensburg, PA 15601	PE	14-01-16-0-008
2.	Mark Alan Orange, Trustee 220 ½ 11th Street Jeannette, PA 15644	1 - PE 1 - TE	14-01-15-0-037
3.	<i>City of Jeannette 110 South Second Street Jeannette, PA 15644</i>	<i>PE</i>	<i>14-01-15-0-024 14-01-15-0-025</i>
4.	<i>John Orange, Sr. & Sherry Orange, h/w 5 Orange Ave Jeannette, PA 15644</i>	<i>2 – PE's</i>	<i>14-01-15-0-039</i>
5.	<i>City of Jeannette 110 South Second Street Jeannette, PA 15644</i>	<i>PE</i>	<i>14-01-15-0-025</i>
6.	<i>Gerald F. Rizzardi 1056 Dearborn Cr. Greensburg, PA 15601</i>	<i>2 – PE's</i>	<i>14-01-11-0-199</i>
7.	Ukranian Citizen's Club 125 South 14th Street Jeannette, PA 15644	PE	14-01-11-0-287

8.	Robert Filkosky 122 16th Street Jeannette, PA 15644	PE	14-01-11-0-235
9.	Daniel Kelly and Lillian Kelly 123 16th Street Jeannette, PA 15644	PE	14-01-11-0-174
10.	Lillian Kelley and Iolanda Friendly 127 16th Street Jeannette, PA 15644 (c/o John Scales, Esq.)	AC	14-01-11-0-175
11.	<i>City of Jeannette 110 South Second Street Jeannette, PA 15644</i>	<i>AC</i>	<i>14-01-11-0-176</i>
12.	<i>City of Jeannette 110 South Second Street Jeannette, PA 15644</i>	<i>PE</i>	<i>No Tax Map No. See Quiet Title Action at 7682 of 2000</i>
13.	Lula Jones c/o Mamie Gantt 1833 Penn Ave Jeannette, PA 15644	AC	14-01-11-0-164
14.	Rose Gantt 1720 Penn Ave Jeannette, PA 15644	AC	14-01-11-0-166
15.	<i>City of Jeannette 110 South Second Street Jeannette, PA 15644</i>	<i>AC</i>	<i>14-01-11-0-163</i>
16.	Charles Martin & Lula Martin 1833 Penn Avenue Jeannette, PA 15644	AC	14-01-11-0-162
17.	Monte Wright 419 Division Street	AC	14-01-11-0-165

Jeannette, PA 15644

18.	Lulu Jones Martin 1833 Penn Ave Jeannette, PA 15644	AC	14-01-11-0-161
19.	<i>City of Jeannette 110 South Second Street Jeannette, PA 15644</i>	<i>AC</i>	<i>14-01-11-0-148</i>
20.	Lucky Garland & Sherry L. Garland 320 Lucks Drive Bolivar, PA 15923	AC	14-01-11-0-147
21.	Roy A. Hall & Patricia A. Hall 1615 Penn Ave Jeannette, PA 15644	PE	14-01-11-0-146
22.	<i>City of Jeannette 110 South Second Street Jeannette, PA 15644</i>	<i>PE</i>	<i>No Tax Map No. See Quiet Title Action at No. 7682 of 2000</i>
23.	Leodis Hamilton & Ludell Hamilton Huey L. Guest & Lucille Guest 260 South 8th Street Jeannette, PA 15644	PE	14-01-11-0-141
24.	Rose Gantt 1720 Penn Avenue Jeannette, PA 15644	PE	14-01-11-0-137
25.	Clyde C. Jones & Esther Jones 1833 Pen Avenue Jeannette, PA 15644	PE	14-01-11-0-136
26.	Della Berry 1728 Penn Avenue Jeannette, PA 15644	PE	14-01-11-0-135
27.	Charles J. Cook & Carlene Y. Cook 1721 Penn Avenue	PE	14-01-11-0-033

Jeannette, PA 15644

28.	Harry B. Meadows & Levinia Meadows 1732 Penn Ave Jeannette, PA 15644	1 – PE 1 – TE	14-01-11-0-134
29.	Howard Gas & Oil Company P.O. Box 494 Harrison City, PA 15636	2 – PE's 2 – TE's	14-01-11-0-131 14-01-11-0-132
30.	BGR Enterprises, Inc. 2000 Penn Ave Jeannette, PA 15644	1 – PE 1 – TE	14-01-11-0-130
31.	Traval Contractor's Supply, Inc. 2150 Penn Avenue Jeannette, PA 15644	1 – PE	14-01-11-0-129
32.	Unidentified Owner*	2 – PE's	No Tax Map No. City of Jeannette
33.	Unidentified Owner*	PE	No Tax Map No. Partially in Penn Borough And Partially in the City of Jeannette
34.	Albert E. Stein & Cheryl Stein P.O. Box 241 Canal Street Penn, PA 15675	PE	29-01-10-0-242
35.	Unidentified Owner*	PE	No Tax Map No.
36.	Frank E. Herholz & Pearl Herholz P.O. Box 128 Penn, PA 15675	1 – PE 1 - TE	29-01-10-0-239
37.	Shirley Surrec	1 – PE	29-01-10-0-237

	525 N. 8th Street Jeannette, PA 15644	1 - TE	
38.	James R. Minerva & Elizabeth S. Minerva 348 Mt. Manor Rd. Manor, PA 15665	1 - PE 1 - TE	29-01-10-0-236
39.	Robert J. Arendas & Kathleen Mary Arendas c/o Style-Rite P.O. Box 336 Penn, PA 15675	1 - PE 1 - TE	29-01-10-0-235
40.	Paul J. Berginc & Sharon E. Berginc Penn Adamsburg Rd Penn, PA 15675	OE	50-07-14-0-063
41.	John Henry Reidmiller & Ruth Reidmiller Box 119 Penn, PA 15675	1 - PE 1 - TE	29-01-14-0-019
42.	Robert Arendas & Kathleen Arendas P.O. Box 336 Penn, PA 15675	1 - TE	29-01-14-0-018
43.	Robert Arendas & Kathleen Arendas 2 Barnhart Rd. Greensburg, PA 15601	1 - PE 1 - TE	29-01-14-0-016
44.	Rebecca Rodock P.O. Box 111 Penn, PA 15675	1 - PE 1 - TE	29-01-14-0-015
45.	Frank Amelio North Railroad Street	1 - PE 1 - TE	29-01-14-0-014

	Penn, PA 15675		
46.	Frank Amelio P.O. Box 42 Penn, PA 15675	1 -- PE 1 - TE	29-01-14-0-022
47.	Frank Amelio P.O. Box 42 Penn, PA 15675	PE	29-01-14-0-021
48.	Stephanie Baker 9 Gratz Street Irwin, PA 15642	OE	50-07-14-0-060
49.	Eric J. Lutz & Beth A. Lutz 6 Gratz Street Penn, PA 15675	OE	50-07-14-0-061
50.	Donald C. Nelson & Tammy Lee Nelson P.O. Box 146 Penn-Adamsburg Road Penn, PA 15675	OE	50-07-14-0-062
51.	David A. Parson 1853 Harrison Ave Jeannette, PA 15644	OE	50-07-14-0-059
52.	Borough of Penn Carbon Street Penn, PA 15675	PE	29-01-14-0-010
53.	Unidentified Owner*	PE	No Tax Map No. Penn Borough
54.	Gaynell J. Larew RD #2, Box 276 Jeannette, PA 15644	1 -- PE 1 -- TE	29-01-14-0-009

55.	Frank Mangery P.O. Box 52 Penn, PA 15675	3 – PE’s	29-01-13-0-002
56.	City of Jeannette Municipal Authority	2 – PE’s 3 – TE’s	29-01-13-0-001** (Check No.)
57.	David A. Parson 1853 Harrison Avenue Jeannette, PA 15644	OE	50-07-14-0-049
58.	David A. Parson 1853 Harrison Avenue Jeannette, PA 15644	OE	50-07-14-0-059
59.	Unidentified Owner*	PE	No Tax Map No. Penn Borough
60.	David A. Parson 1853 Harrison Avenue Jeannette, PA 15644	PE	50-07-14-0-049
61.	David A. Parson 1853 Harrison Avenue Jeannette, PA 15644	PE	50-07-14-0-059
62.	Unidentified Owner*	PE	No Tax Map No. Penn Borough
63.	Unidentified Owner*	TE	No Tax Map No. Penn Borough
64.	Unidentified Owner*	TE	No Tax Map No. Penn Borough

***These properties fall within the line established for Brush Creek and are believed to have been acquired by the City of Jeannette as part of its original Brush Creek Project in 1957.**

All interests in property highlighted in “Bold Italics” have been acquired by the City of Jeannette at the time this Declaration of Taking is approved and are listed for reference only.

IN THE COURT OF COMMON PLEAS OF
WESTMORELAND COUNTY, PENNSYLVANIA
CIVIL ACTION –LAW

IN THE MATTER OF CONDEMNATION)
OF EASEMENTS AND RIGHTS-OF-WAY)
SITUATE IN)
)
THE CITY OF JEANNETTE,)
WESTMORELAND COUNTY,)
PENNSYLVANIA, BY THE CITY OF)
JEANNETTE, IN FURTHERANCE OF)
THE CITY OF JEANNETTE/PENN)
BOROUGH FLOOD CONTROL)
PROJECT)
)
Name of Owners of Condemned Property:)
)
)

No. of 2004

NOTICE TO DEFEND

TO THE ABOVE DEFENDANT(S):

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Declaration and Notice are served by entering a written appearance personally or by an attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

IF YOU CAN NOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ON AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Lawyer Referral Service
Westmoreland County Bar Association
P.O. Box 565
Greensburg, Pennsylvania 15601
724-834-8490

By: _____
Gary A. Falatovich, Solicitor
City of Jeannette
35 W. Pittsburgh Street
Greensburg, PA 15601

IN THE COURT OF COMMON PLEAS OF
WESTMORELAND COUNTY, PENNSYLVANIA
CIVIL ACTION –LAW

IN THE MATTER OF CONDEMNATION)
 OF EASEMENTS AND RIGHTS-OF-WAY)
 SITUATE IN)
)
 THE CITY OF JEANNETTE,)
 WESTMORELAND COUNTY,)
 PENNSYLVANIA, BY THE CITY OF)
 JEANNETTE, IN FURTHERANCE OF)
 THE CITY OF JEANNETTE/PENN)
 BOROUGH FLOOD CONTROL)
 PROJECT)
)
 Name of Owners of Condemned Property:)
)
)

No. _____ of 2004

DECLARATION OF TAKING

The City of Jeannette, Westmoreland County, Pennsylvania, does hereby respectfully declare that:

1. The Condemnor is the City of Jeannette, a City of the Third Class, duly incorporated under the laws of the Commonwealth of Pennsylvania, whose principal address is 110 South Second Street, Jeannette, Pennsylvania 15644.
2. Condemnation of the interest in and to the above referenced properties is authorized by the authority contained in 53 Pa. C.S.A. §37801 and the Pennsylvania Eminent Domain Code.
3. This Declaration of Taking was authorized by way of Ordinance No. 04-_____, enacted at a regular meeting of the Council of the City of Jeannette on _____, 2004, which Ordinance is recorded in the Office of Recorder of Deeds of Westmoreland County, Pennsylvania as Instrument No. _____. Said Ordinance may also be examined at the

Office of the City Clerk of the City of Jeannette, 110 South Second Street, Jeannette, Pennsylvania 15644.

4. The purpose of the condemnation is to implement the Emergency Streambank Protection Project (“Flood Control Project”), in conjunction with the Borough of Penn, and the Commonwealth of Pennsylvania, Department of Environmental Protection, to alleviate, in part, flood damage to, and to prevent, as much as feasible, the recurrence of flood damage, within the City of Jeannette. The Flood Control Project will involve the construction of a series of storm water drains and culverts under and over, *inter alia*, those properties referenced herein, the full listing of which, together with their identifying Westmoreland County Tax Map Parcel numbers is set forth on Exhibit “A” attached hereto.

5. The rights-of-way and easements condemned, together with a declaration and offer of just compensation for same, are set forth in the property descriptions and surveys attached hereto as Exhibit “B”.

6. The nature of the title acquired varies from property to property, but are generally in the way of property acquisitions, permanent easements, temporary construction easements, and occasional flowage easements as more particularly described for each property in Exhibit “B” attached hereto.

7. Construction drawings and plans for the City of Jeannette/Penn Borough Emergency Stream Bank Protection Project may be examined at the Office of the Clerk of the City of Jeannette, Jeannette City Hall, 110 South Second Street, Jeannette, Pennsylvania 15644.

8. Notice of filing this Declaration of Taking, which includes the plans of the properties condemned, are on this same day being filed of record in the Office of Recorder of Deeds of Westmoreland County, Pennsylvania, in accordance with 26 P.S. §1-404.

9. Just compensation is secured by way of the City of Jeannette General Obligation Bonds Refunding Series of 1998, having a present balance of and monies escrowed as part of a hazard mitigation grant totaling \$_____ dollars. Just compensation is further secured by the funds raised, or lawfully to be raised, by the power of taxation of the City of Jeannette, which funds are deemed pledged and hereby made security for the payment of damages as shall be determined by law; accordingly the City of Jeannette is not required to file a bond with this Declaration of Taking, pursuant to 26 P.S. §1-403 (b).

Respectfully submitted

By: _____
Gary A. Falatovich, Esquire
Solicitor for the City of Jeannette,
Condemnor
Pa. I.D. 36898