



Benjamin C. Dunlap Jr.  
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April 5, 2024

**VIA ELECTRONIC FILING**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**Re: Priority 1 bridge repairs in response to a recent bridge inspection at the public crossing (DOT 510 521 Y), where Washington Street crosses, above grade, the tracks of Norfolk Southern Railway Company, Port Authority of Allegheny County East Busway and Waverly Avenue located in the Borough of Swissvale, Allegheny County and exemptions from the minimum side clearances required by 52 Pa. Code, Section 33.122  
Docket No. A-2022-3033069**

Dear Secretary Chiavetta:

Enclosed for filing in the above-captioned matter, please find the Settlement Term Sheet. Copies have been served upon all interested parties as indicated on the Certificate of Service.

Thank you.

Sincerely yours,



Benjamin C. Dunlap, Jr.

BCDjr:klg  
Enclosure  
cc: All parties of record



WHEREAS, PennDOT performed an analysis of the bridge bent between the Port Authority Busway and Waverly Avenue under the bridge, showing that strengthening of the existing bent would be required to reopen the bridge for vehicular traffic; and

WHEREAS, Norfolk Southern estimated that strengthening the bridge bent would cost approximately \$300,000 in addition to the \$400,000 cost of the Priority 1 repairs; and

WHEREAS, Norfolk Southern further found that the bridge would likely require floor beam and deck replacement as well as additional girder repairs at an additional cost of \$1.1 million within the next several years; and

WHEREAS, Norfolk Southern determined that the total repair costs of \$1.8 million would not be an effective use of money when the entire bridge could be replaced at a cost of approximately \$3.3 million; and

WHEREAS, Norfolk Southern offered to replace the bridge at its sole cost and expense if the Borough would accept future maintenance of the bridge; and

WHEREAS, Norfolk Southern filed a Petition for Rescission of the Secretarial Letter issued July 6, 2022 (“Petition”), based upon its offer to replace the bridge at its sole cost and expense; and

WHEREAS, the Borough filed an Answer to the Petition on August 31, 2022, in which it acknowledged Norfolk Southern’s offer to reconstruct the bridge, but declined to accept the condition of future maintenance responsibility for the bridge; and

WHEREAS, the PUC by its Order of October 27, 2022, granted Norfolk Southern’s Petition, noting “that the appropriate modification of our previous decision warranted at this time is to hold in abeyance the *July 2022 Secretarial Letter* and its directives so that the Parties and

the Commission can pursue and achieve final resolution of this matter after considering the new information and considerations identified by Norfolk Southern in its Petition;” and

WHEREAS, the Commission referred the matter to the Commission’s Bureau of Technical Utility Services, Rail Safety Section (“Rail Safety”) to schedule and conduct an onsite or virtual field meeting with the Parties to discuss the process to bring the future disposition of the bridge to a resolution; and

WHEREAS, Rail Safety held a virtual field meeting on November 17, 2022, in which Norfolk Southern, the Borough, PennDOT and the Port Authority of Allegheny County (“Port Authority”) and the Commission’s Bureau of Investigation and Enforcement participated (collectively “the Parties”); and

WHEREAS, while no resolution was reached at the virtual field meeting, Norfolk Southern and the Borough continued settlement discussions on their own and have reached agreement on terms to reconstruct the bridge, in which the other Parties concur.

NOW, THEREFORE, intending to be legally bound, the undersigned Parties agree upon the following terms in settlement of the above-referenced matter, as follows:

1. The Parties agree that based upon the present poor condition of the Washington Street bridge and the estimated costs of making repairs, the best long-term resolution is to reconstruct the bridge.
2. Norfolk Southern agrees to design and construct a new bridge spanning Norfolk Southern’s tracks, the Port Authority Busway and Waverly Avenue, at its sole cost and expense. The bridge shall be built to the current PennDOT and AASHTO bridge standards.
3. The design of the bridge, including approaches, grade changes and property acquisitions, shall be submitted to the Borough for review and comment at least twenty (20) days

prior to submission to the PUC for review and approval. Any unresolved issues among the Parties shall be submitted to the PUC for resolution.

4. The costs of bridge design and construction to be borne by Norfolk Southern include all engineering, right-of-way acquisition and flagging.

5. Lighting on the bridge shall be provided which matches the decorative street lighting on Washington Street.

6. Sidewalks shall be constructed on both sides of the bridge with appropriate fencing.

7. Norfolk Southern will purchase and install road closure and detour signs for the Borough to replace those currently rented by the Borough. The Borough will maintain the signage until such time as the bridge is reconstructed.

8. As part of the project, Norfolk Southern will, at its sole cost and expense, make the adjustments to Palmer Street to the immediate west of the bridge as shown on the plan sheets attached hereto as Exhibit "A". This includes closing Palmer Street on the north side of Washington Street and converting it to a sidewalk with green space between Washington Street and Ferguson Way. It also includes shifting the intersection of Palmer Street on the south side of Washington Street to the west to protect the bridge truss from potential vehicular impacts and to provide a truck apron for turns onto Palmer Street.

9. The shifting of Palmer Street to the west in the area south of its intersection with Washington Street will require the acquisition of a small parcel of private property. The Borough will attempt to negotiate an amicable acquisition of the property, with reimbursement of the acquisition amount up to fair market value by Norfolk Southern. If a condemnation action

through the PUC is necessary to obtain the property, Norfolk Southern will litigate this matter through the PUC and county court. Norfolk Southern will prepare the deed in either event.

10. The Borough will close Palmer Street on the north side of Washington Street between Washington Street and Ferguson Way to all traffic, including all vehicles, except for pedestrian and bicycle traffic. That portion of Palmer Street closed to vehicular traffic shall be converted to green space. In the event the Borough vacates any portion of Palmer Street in the future, Norfolk Southern agrees to donate any portion of property that reverts to the railroad to Swissvale Borough if requested to do so by the Borough.

11. Norfolk Southern shall make a one-time payment of \$200,000 to be placed in escrow for road closure/detour sign maintenance and future bridge maintenance by the Borough, with \$50,000 paid upon Commission approval of the project and this Settlement Term Sheet in a Secretarial Letter or Order and \$150,000 paid upon completion of the project. The Borough agrees not to request any further funding from Norfolk Southern for bridge maintenance once the original funds are depleted.

12. Following the bridge reconstruction, the Borough's maintenance responsibilities shall include the entire bridge superstructure, the roadway on the bridge and its approaches, sidewalks and curbs on the bridge and its approaches, fencing, lighting and signage on the bridge and its approaches, and snow and ice removal. The Borough also shall be responsible for NBIS inspections.

13. Following the bridge reconstruction, Norfolk Southern shall be responsible for maintenance of the bridge substructure and retaining wall into which it is incorporated as well as its track and other railroad facilities located under the bridge.

14. Norfolk Southern agrees to submit final construction plans for review and comment by the parties and approval by the Commission by March 30, 2024.

15. Norfolk Southern agrees to reconstruct the Washington Street bridge within 20 months of Commission approval of its final plans.

16. The Parties request that Rail Safety issue an amended or new Secretarial Letter incorporating the terms of this Settlement Term Sheet.

Date: 4/2/24




Benjamin C. Dunlap, Jr., Esquire  
*Counsel for Norfolk Southern  
Railway Company*

Date: 3-27-24



Robert L. McTiernan, Esquire  
*Counsel for the Borough of Swissvale*

Date: 4.3.2024



Karen L. Cummings, Esquire  
*Counsel for the Pennsylvania Department of  
Transportation*

Date: 4/5/2024



Lauren M. Burge, Esquire  
*Counsel for the Port Authority of Allegheny  
County*

Date: 4/5/2024



Michael L. Swindler, Esquire  
*Counsel for the Pennsylvania Public Utility  
Commission, Bureau of Investigation and  
Enforcement*

# EXHIBIT A

EXISTING STRUCTURE DATA	
STATION	7+63.605
TYPE	STEEL THROUGH GIRDER
SPAN LENGTH	2 SPANS 19'-7", 5"
UNDERCLEARANCE	19'-7" OVER RR
CLEAR ROADWAY WIDTH	30'-0"
STRUCTURE NO.	70-13-00
STRUCTURE NO.	1907
BUILT DATE	

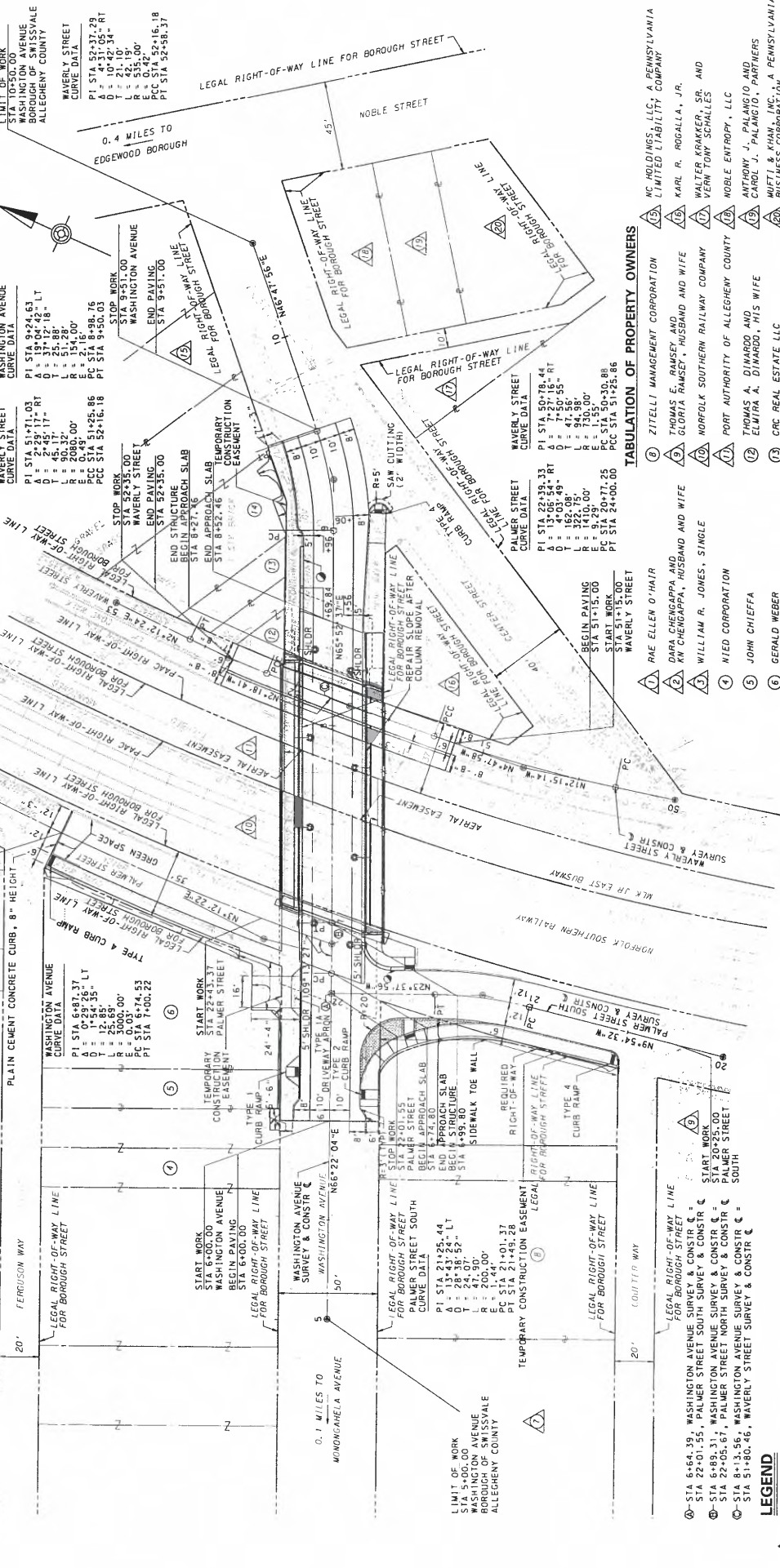
PROPOSED STRUCTURE DATA	
STATION	7+63.605
TYPE	STEEL PONY TRUSS
SPAN LENGTH	1 SPAN 121'-3"
UNDERCLEARANCE	21'-6" OVER RR
CLEAR ROADWAY WIDTH	30'-0"
STRUCTURE NO.	NZ 00 00'
STRUCTURE NO.	NZ 00 00'
RECOMMENDED DATE	TBD

WASHINGTON AVENUE OVER NORFOLK SOUTHERN RAILWAY	
STATION	7+63.605
TYPE	STEEL PONY TRUSS
SPAN LENGTH	1 SPAN 121'-3"
UNDERCLEARANCE	21'-6" OVER RR
CLEAR ROADWAY WIDTH	30'-0"
STRUCTURE NO.	NZ 00 00'
STRUCTURE NO.	NZ 00 00'
RECOMMENDED DATE	TBD

WASHINGTON AVENUE	
PI STA	5237.28
A	10'-02'-34"
D	47'-31'-05"
L	42'-19'
R	535'-00"
E	535'-00"
PC STA	5242+16.18
PT STA	5258+37

WASHINGTON AVENUE	
PI STA	5235.00
A	19'-04'-42"
D	37'-12'-18"
L	51'-28"
R	154'-00"
E	154'-00"
PC STA	5241+98.76
PT STA	5250+03

WASHINGTON AVENUE	
PI STA	5141.03
A	2'-29'-11"
D	1'-45'-11"
L	1'-45'-11"
R	2080'-00"
E	2080'-00"
PC STA	5141+25.86
PT STA	5216+18



TABULATION OF PROPERTY OWNERS	
1	NC HOLDINGS, LLC, A PENNSYLVANIA LIMITED LIABILITY COMPANY
2	KARL R. ROGALLA, JR.
3	WALTER KRACKER, SR. AND VERN TONY SCHALLS
4	NORFOLK SOUTHERN RAILWAY COMPANY
5	PORT AUTHORITY OF ALLEGHENY COUNTY
6	ANTHONY J. PALANGIO AND CAROL J. PALANGIO, PARTNERS
7	MUETL & KHAN, INC., A PENNSYLVANIA BUSINESS CORPORATION
8	ZITELLI MANAGEMENT CORPORATION
9	THOMAS E. RAMSEY AND WIFE
10	NORFOLK SOUTHERN RAILWAY COMPANY
11	PORT AUTHORITY OF ALLEGHENY COUNTY
12	ANTHONY J. PALANGIO AND CAROL J. PALANGIO, PARTNERS
13	MUETL & KHAN, INC., A PENNSYLVANIA BUSINESS CORPORATION
14	CRC REAL ESTATE LLC
15	JOSEPH A. MUTO, SINGLE

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**90% SUBMISSION**

FOR STATION AND OFFSETS, SEE SHEETS 10A.11  
 FOR SIDEWALK DETAIL PLANS, SEE SHEETS 10A.11  
 FOR PROFILES, SEE SHEETS 19, 21 & 22

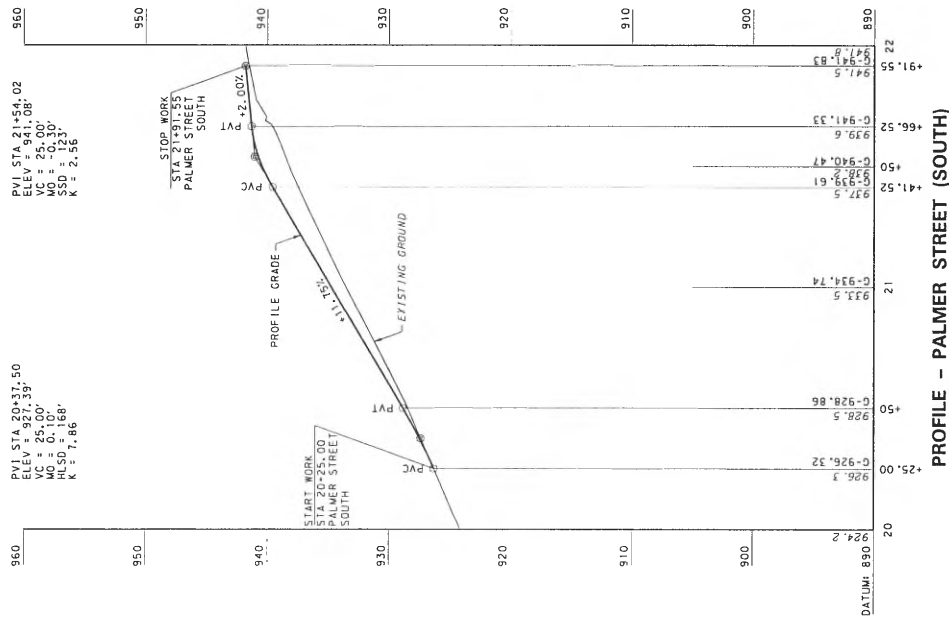
**Michael Baker INTERNATIONAL**  
 1500 BROADWAY, SUITE 1500  
 PITTSBURGH, PA 15108  
 PHONE: (412) 281-8000

**NORFOLK SOUTHERN RAILWAY COMPANY**  
 1000 BROADWAY, SUITE 1000  
 PITTSBURGH, PA 15108  
 PHONE: (412) 281-8000

**SWISSVALE PENNSYLVANIA BRIDGE P1346.91 WASHINGTON AVENUE**

DATE: 02/22/2022  
 DRAWN BY: BROADBENT  
 CHECKED BY: BROADBENT  
 PROJECT NO.: P1-346.91  
 SHEET NO.: 18 OF 22





PROFILE - PALMER STREET (SOUTH)

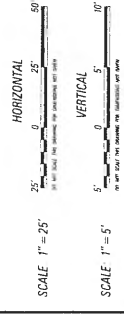
FOR PLAN, SEE SHEET 18

**NORFOLK SOUTHERN RAILWAY COMPANY**

UNLESS OTHERWISE MARKED  
 ALL DIMENSIONS ARE IN FEET AND INCHES  
 MOON TOWNSHIP PA 15108  
 PROJECT # 171100000

**Michael Baker INTERNATIONAL**

90% SUBMISSION



SWISSVALE, PENNSYLVANIA  
 BR002888 BRIDGE #1344 31 WASHINGTON AVENUE  
 PROFILE - PALMER STREET

DATE: 07/22  
 DRAWN BY: BR002888  
 CHECKED BY: BR002888  
 PROJECT NO.: 171100000  
 SHEET NO.: 2 OF 22





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Duquesne Light Co.  
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Mark Chappell, PA  
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PennDOT Bureau of Design  
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Pittsburgh, PA 15219

Vanessa Davis  
Wilkesburg-Penn Joint Water Authority  
2200 Robinson Blvd.  
Wilkesburg, PA 15221

*/s/ Karen L. Gagne*  
\_\_\_\_\_  
Karen L. Gagne, Secretary to  
Benjamin C. Dunlap, Jr., Esquire

Date: April 5, 2024