



City of Ketchum

November 4, 2019

Mayor Bradshaw and City Councilors
City of Ketchum
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

Recommendation to Approve Encroachment Agreement 20292 with Sandra Swan for 401 Northwood Way

Recommendation and Summary

Staff is recommending the council approve the attached Encroachment Agreement and adopt the following motion:

I move to authorize the Mayor to approve the Encroachment Agreement 20292 for 401 Northwood Way.

The reasons for the recommendation are as follows:

- The work proposed within City property is necessary to prevent stream bank erosion at the property located at 401 Northwood Way.
- The work has been reviewed by the City's independent hydraulic engineer, Trout Unlimited and Wood River Land Trust.
- The City retains the right to reclaim or request modifications of the city property in the event the area is needed for other purposes or there are problems with the improvements.

Introduction and History

During the 2017 flooding, the stream bank adjacent to 401 Northwood Way experienced erosion. Emergency stream bank stabilization was installed to limit the damage. The property owner is now requesting permits and approval for permanent stabilization improvements. Some of the permanent improvements are proposed to be constructed on city owned land within the river. The City Council must approve the work on city property and authorize the encroachment agreement.

Analysis

The proposed work on city property is best illustrated in Exhibit A. The work consists of:

- Excavate gravel and establish elevations and side slopes in accordance with the plans and specifications in Exhibit A.
- Install a temporary water bypass consisting of gravel bags as identified in Exhibit A during the period of construction.
- If necessary, install a temporary shallow by-pass channel across the gravel bar on city property.

The proposed work will cause temporary disruption during the construction period. The improvements have been designed to minimize long-term impacts on the Big Wood River. With projects of this scale and scope, the City is now engaging an independent engineer to conduct a peer review and requesting Trout Unlimited and Wood River Land Trust to review and comment on proposed plans (Attachment B). The comments and

recommendations resulting from these reviews are incorporated into the proposed agreement. This approach is now the standard practice for the City on stream bank alteration permits.

Financial Impact

There is no financial impact as a result of this encroachment.

Attachments:

Encroachment Agreement 20292

WRLT Letter

Trout Unlimited Letter

WHEN RECORDED, PLEASE RETURN TO:

**OFFICE OF THE CITY ATTORNEY
CITY OF KETCHUM
POST OFFICE BOX 2315
KETCHUM, IDAHO 83340**

ENCROACHMENT AGREEMENT NO 20292

THIS AGREEMENT, made and entered into this ___ day of _____ 2019, by and between the CITY OF KETCHUM, IDAHO, a municipal corporation ("Ketchum"), whose address is Post Office Box 2315, Ketchum, Idaho and SANDRA SWAN, (collectively referred to as "Owner"), whose address is 8 Brittany Meadows, Atherton CA, 94027.

RECITALS

WHEREAS, Owner is the owner of real property described as 401 Northwood Way located within the City of Ketchum, State of Idaho; and

WHEREAS, Owner wishes to: construct stream bank protection measures on City property as described in this agreement and identified in Exhibit A attached hereto and incorporated herein (collectively referred to as the "Improvements"); and

WHEREAS, Ketchum finds that said Improvements subject to the conditions identified in this Agreement will not impede the use of the public property at this time;

NOW, THEREFORE, in contemplation of the above stated facts and objectives, it is hereby agreed as follows:

TERMS AND CONDITIONS

1. Ketchum shall permit Owner to construct and maintain the improvements on City property described below until notified by Ketchum to remove all or a portion of the improvements. Permitted improvements consist of:
 - a. Excavate gravel and establish elevations and side slopes in accordance with the plans and specifications in Exhibit A.
 - b. Install a temporary water bypass consisting of gravel bags as identified in Exhibit A during the period of construction.
 - c. If necessary, install a temporary shallow by-pass channel across the gravel bar on city property.
2. If a temporary shallow by-pass channel is determined to be necessary, prior to installation of such channel or removal of debris for the channel, the project contractor shall meet with City representatives to obtain approval of the work to be performed.
3. No logs or woody debris may be removed from City property downstream, upstream or adjacent to 401 Northwood Way.

4. No removal of any trees located on City property may occur unless prior approval has been granted by the City Arborist.
5. Prior to any work commencing, a survey shall be conducted and the boundaries of the City property shall be delineated with survey stakes.
6. Owner shall be responsible for the maintenance of said Improvements. Repairs on City property shall be reviewed and approved by Ketchum prior to work commencing.
7. In consideration of Ketchum allowing Owner to construct and maintain the Improvements on City property, Owner agrees to indemnify and hold harmless Ketchum from and against any and all claims of liability for any injury or damage to any person or property arising from the Improvements constructed, installed and maintained on City property. Owner shall further indemnify and hold Ketchum harmless from and against any and all claims arising from any breach or default in the performance of any obligation on Owner's part to be performed under this Agreement, or arising from any negligence of Owner or Owner's agents, contractors or employees and from and against all costs, attorney's fees, expenses and liabilities incurred in the defense of any such action or proceeding brought thereon. In the event any action or proceeding is brought against Ketchum by reason of such claim, Owner, upon notice from Ketchum, shall defend Ketchum at Owner's expense by counsel satisfactory to Ketchum. Owner, as a material part of the consideration to Ketchum, hereby assumes all risk of damages to property or injury to persons in, upon or about the Improvements constructed, installed and maintained on City property arising from the construction, installation and maintenance of said Improvements and Owner hereby waives all claims in respect thereof against Ketchum.
8. Ketchum shall not be liable for injury to Owner's business or loss of income therefrom or for damage which may be sustained by the person, goods, wares, merchandise or property of Owner, its tenants, employees, invitees, customers, agents or contractors or any other person in or about the Subject Property caused by or resulting from the Improvements constructed, installed, removed or maintained on City property.
9. Owner understands and agrees that by maintaining the Improvements on City property pursuant to this Agreement, Owner obtains no claim or interest in said City property which is adverse to that of Ketchum and that Owner obtains no exclusive right to said City property nor any other right to use the City property not specifically described herein.
10. This Agreement shall be a covenant running with the Subject Property and the terms and provisions hereof shall inure to the benefit of and be binding upon the parties and the respective heirs, personal representatives, successors and assigns of the parties hereof.
11. In the event either party hereto retains an attorney to enforce any of the rights, duties and obligations arising out of this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party reasonable attorney's fees at the trial and appellate levels and, whether or not litigation is actually instituted.

12. This Agreement shall be governed by, construed, and enforced in accordance with the laws and decisions of the State of Idaho. Venue shall be in the District Court of the fifth Judicial District of the State of Idaho.
13. This Agreement sets forth the entire understanding of the parties hereto, and shall not be changed or terminated orally. It is understood and agreed by the parties hereto that there are no verbal promises or implied promises, agreements, stipulations or other representations of any kind or character pertaining to the Improvements maintained in the public right-of-way other than as set forth in this Agreement.
14. No presumption shall exist in favor of or against any party to this Agreement as the result of the drafting and preparation of this document.
15. This Agreement shall be recorded with the Blaine County Recorder by Ketchum.
16. The parties fully understand all of the provisions of this Agreement, and believe them to be fair, just, adequate and reasonable, and accordingly accept the provisions of this Agreement freely and voluntarily.

OWNER:

CITY OF KETCHUM:

By: _____

By: _____

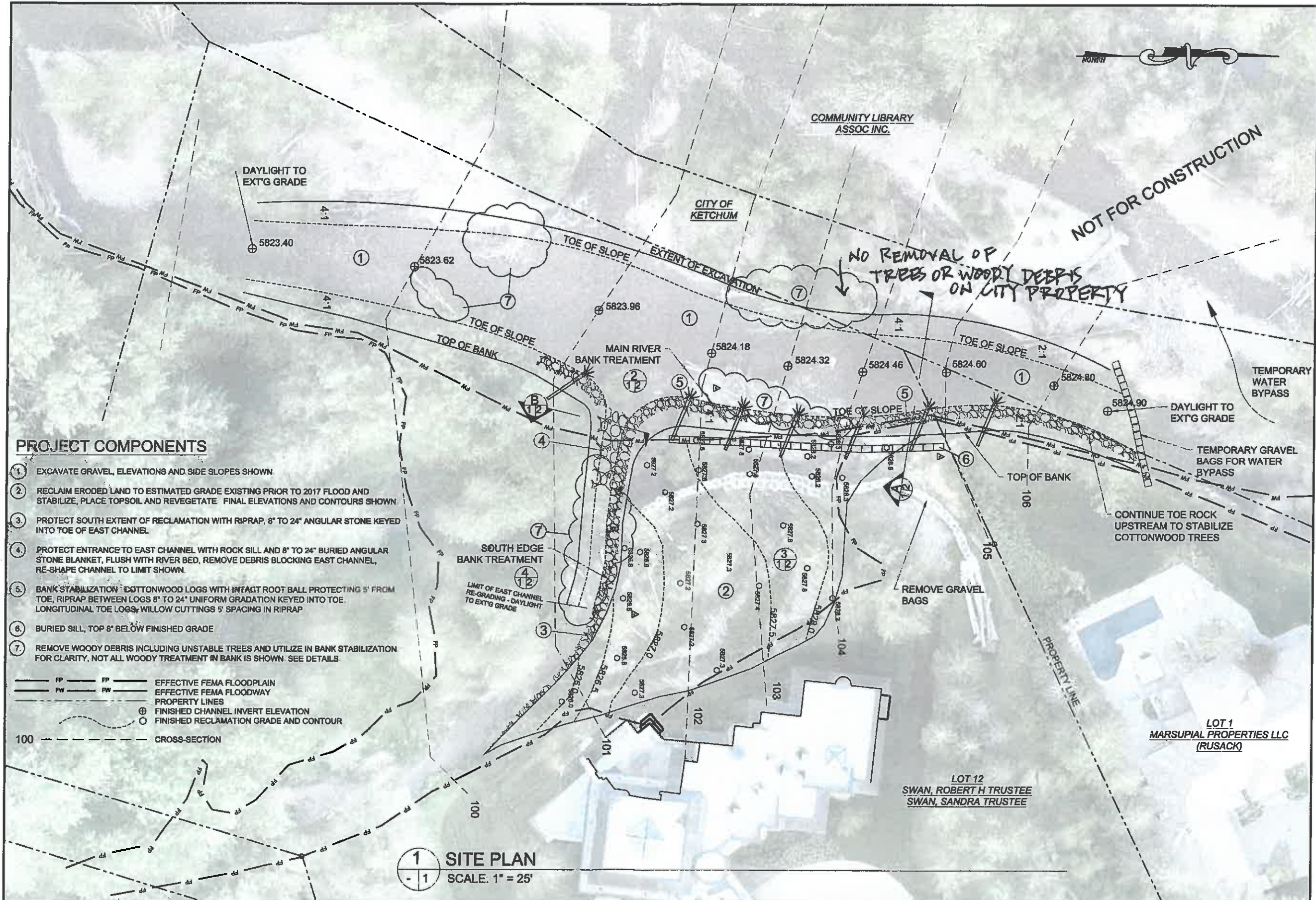
Sandra Swan

Neil Bradshaw, Mayor

ATTEST:

Robin Crotty
City Clerk

EXHIBIT "A"



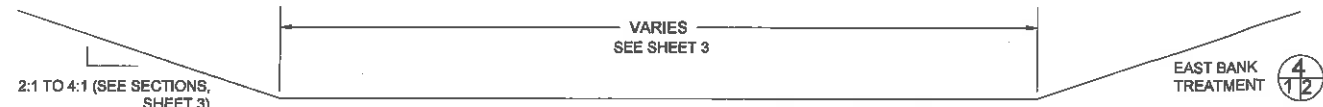
PROJECT COMPONENTS

- ① EXCAVATE GRAVEL, ELEVATIONS AND SIDE SLOPES SHOWN
- ② RECLAIM ERODED LAND TO ESTIMATED GRADE EXISTING PRIOR TO 2017 FLOOD AND STABILIZE, PLACE TOPSOIL AND REVEGETATE. FINAL ELEVATIONS AND CONTOURS SHOWN
- ③ PROTECT SOUTH EXTENT OF RECLAMATION WITH RIPRAP, 8" TO 24" ANGULAR STONE KEYED INTO TOE OF EAST CHANNEL
- ④ PROTECT ENTRANCE TO EAST CHANNEL WITH ROCK SILL AND 8" TO 24" BURIED ANGULAR STONE BLANKET, FLUSH WITH RIVER BED, REMOVE DEBRIS BLOCKING EAST CHANNEL, RE-SHAPE CHANNEL TO LIMIT SHOWN
- ⑤ BANK STABILIZATION WITH COTTONWOOD LOGS WITH INTACT ROOT BALL PROTECTING 5' FROM TOE, RIPRAP BETWEEN LOGS 8" TO 24" UNIFORM GRADATION KEYED INTO TOE LONGITUDINAL TOE LOGS; WILLOW CUTTINGS 5' SPACING IN RIPRAP
- ⑥ BURIED SILL, TOP 8" BELOW FINISHED GRADE
- ⑦ REMOVE WOODY DEBRIS INCLUDING UNSTABLE TREES AND UTILIZE IN BANK STABILIZATION FOR CLARITY, NOT ALL WOODY TREATMENT IN BANK IS SHOWN. SEE DETAILS

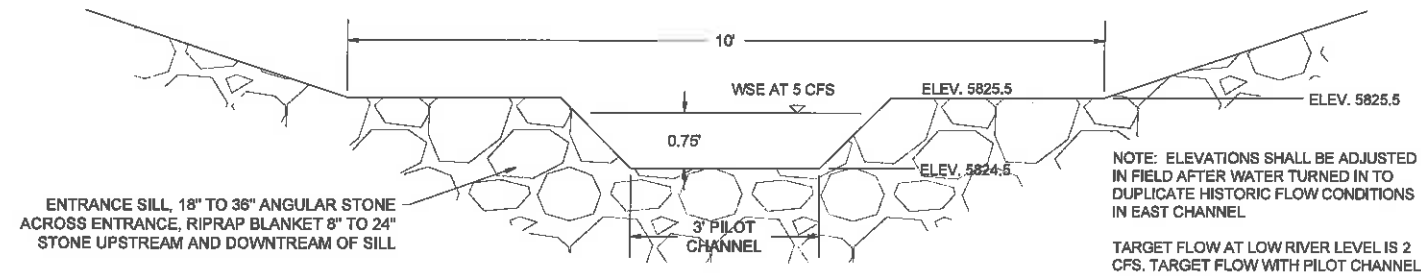
- FP — FP — EFFECTIVE FEMA FLOODPLAIN
- FW — FW — EFFECTIVE FEMA FLOODWAY
- — — PROPERTY LINES
- ⊕ FINISHED CHANNEL INVERT ELEVATION
- FINISHED RECLAMATION GRADE AND CONTOUR
- 100 — — — CROSS-SECTION

1 SITE PLAN
SCALE: 1" = 25'

<p>THIS DRAWING HAS BEEN PREPARED BY BROCKWAY ENGINEERING, PLLC FOR A SPECIFIC PROJECT TAKING INTO ACCOUNT THE SPECIFIC AND UNIQUE REQUIREMENTS OF THE PROJECT. REUSE OF THIS DRAWING FOR ANY PURPOSE IS PROHIBITED UNLESS WRITTEN PERMISSION FROM BOTH BROCKWAY ENGINEERING & THE CLIENT IS GRANTED.</p>	F	GEGRID REMOVAL FOR CITY	9/16/19			DESIGNED BY CDB	DRAFTED BY ICB	<p>BROCKWAY ENGINEERING, PLLC HYDRAULICS - HYDROLOGY - WATER RESOURCES 2016 NORTH WASHINGTON, SUITE 4 TWIN FALLS ID, 83301 (208) 736-8543</p>	<p>SWAN, SANDRA RIVER RESTORATION PROJECT</p>	<p>PROJECT # 1436-02-2018</p>
	E	FOR FINAL PERMIT	7/19/19							
	D	MODIFICATIONS TO CHANNEL	1/4/19							
	C	ISSUE FOR BIDDING	10/18/18							
	B	ADDED PROPERTY NAMES	9/28/18							
	A	ISSUE FOR PERMITTING	8/27/18							
	REV	DESCRIPTION	DATE	APPD.	REFERENCE DRAWINGS					

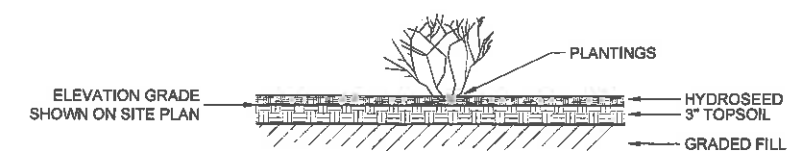


A MAIN RIVER CHANNEL TYP. SECTION
SCALE: N.T.S.

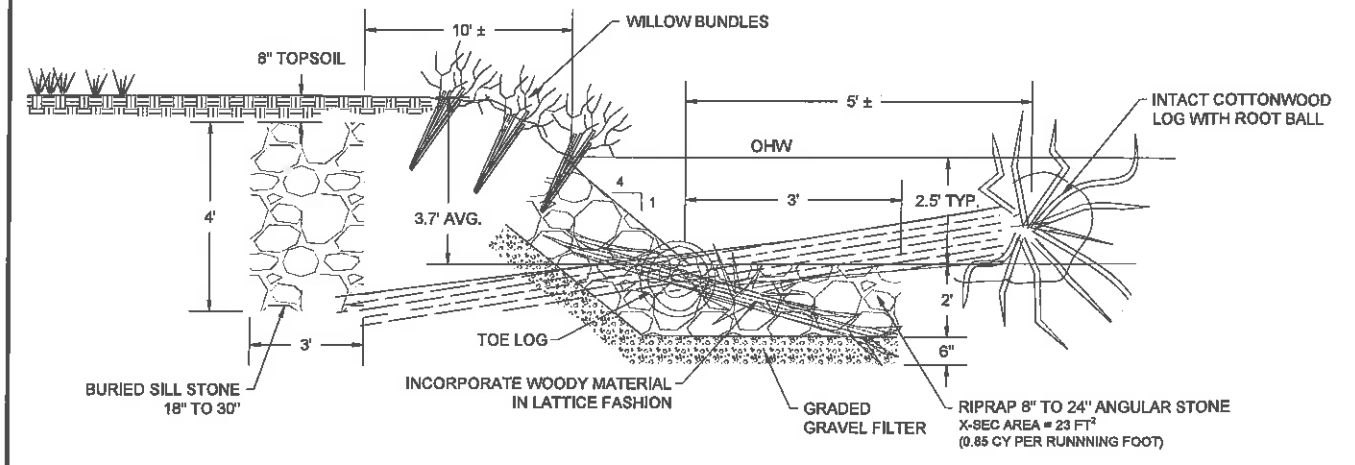


B EAST CHANNEL ENTRANCE SECTION
SCALE: N.T.S.

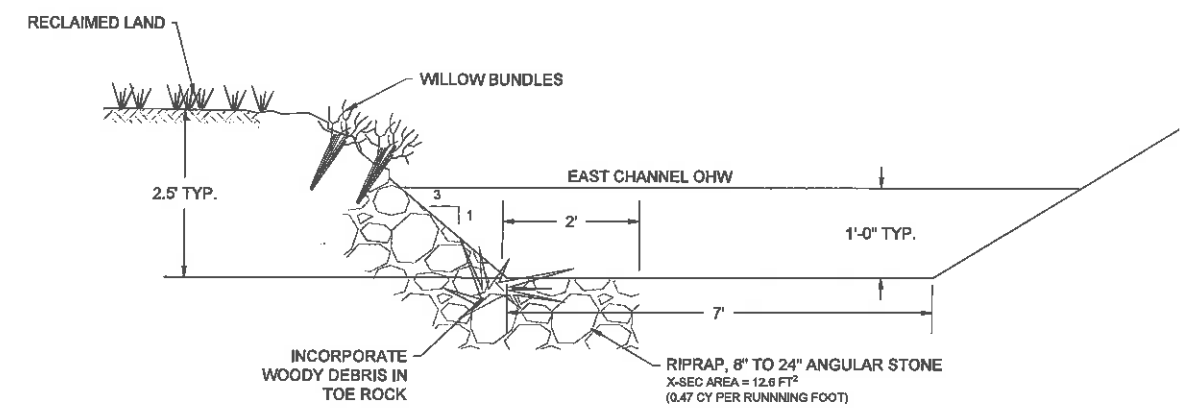
NOTE: ELEVATIONS SHALL BE ADJUSTED IN FIELD AFTER WATER TURNED IN TO DUPLICATE HISTORIC FLOW CONDITIONS IN EAST CHANNEL
TARGET FLOW AT LOW RIVER LEVEL IS 2 CFS. TARGET FLOW WITH PILOT CHANNEL FULL IS 5 CFS.



3 LAND RECLAMATION TREATMENT
SCALE: N.T.S.



2 BANK TREATMENT - MAIN RIVER
SCALE: N.T.S.



4 BANK TREATMENT - SOUTH EDGE OF RECLAMATION
SCALE: N.T.S.

NOT FOR CONSTRUCTION

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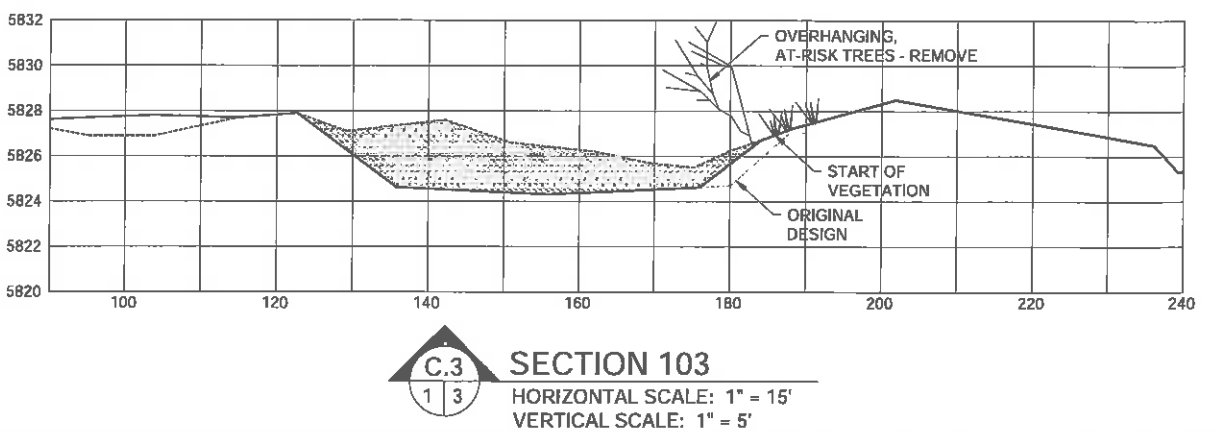
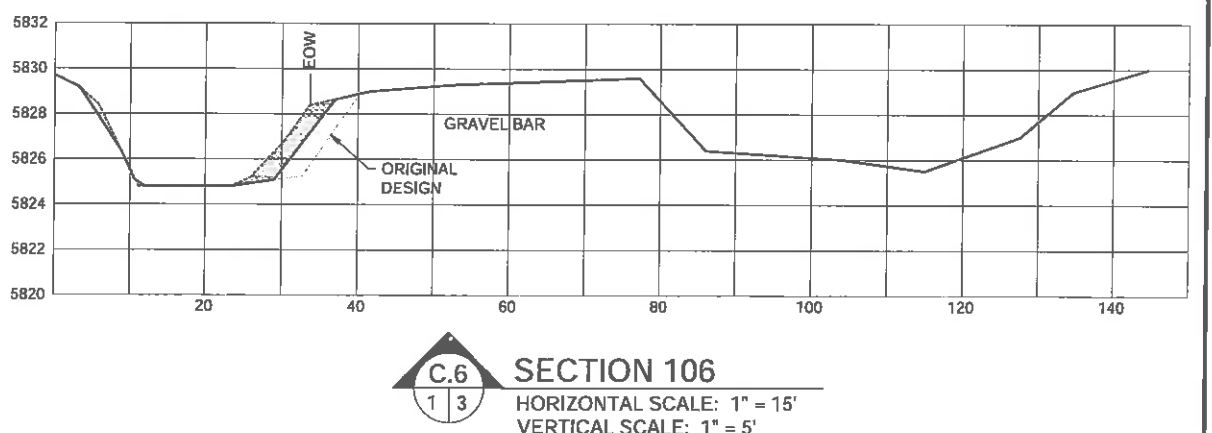
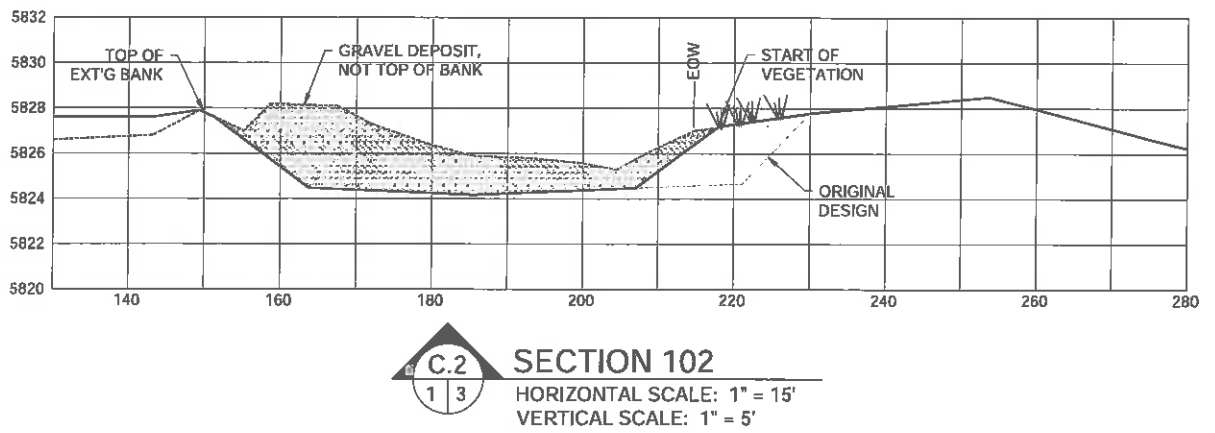
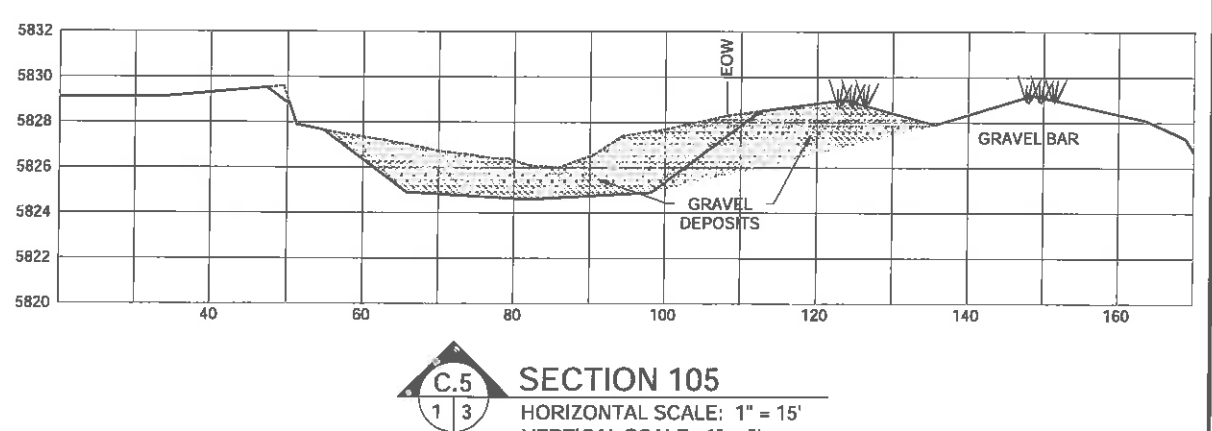
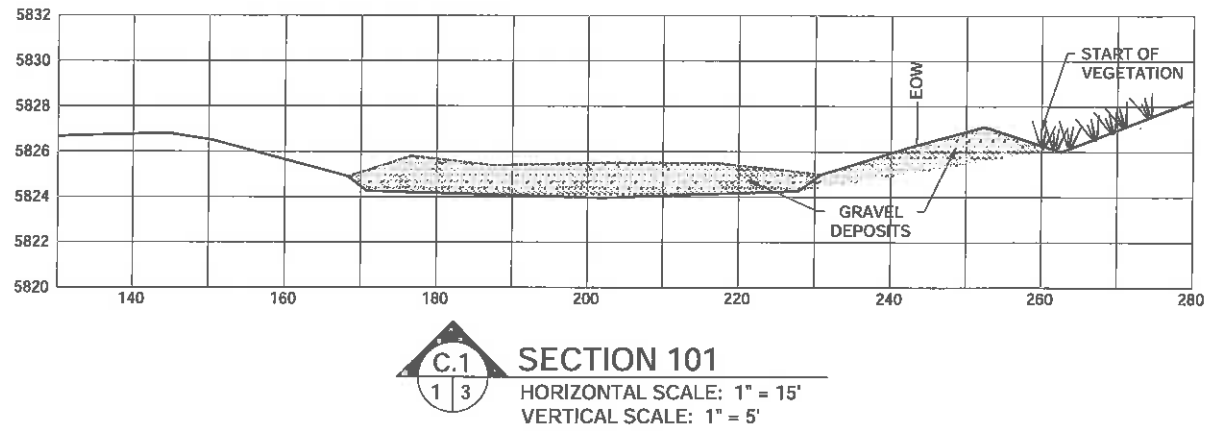
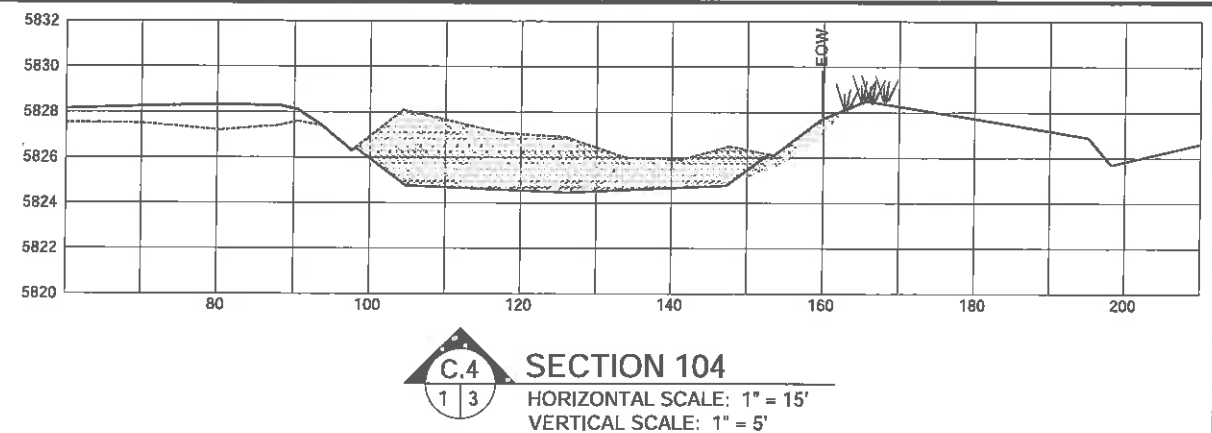
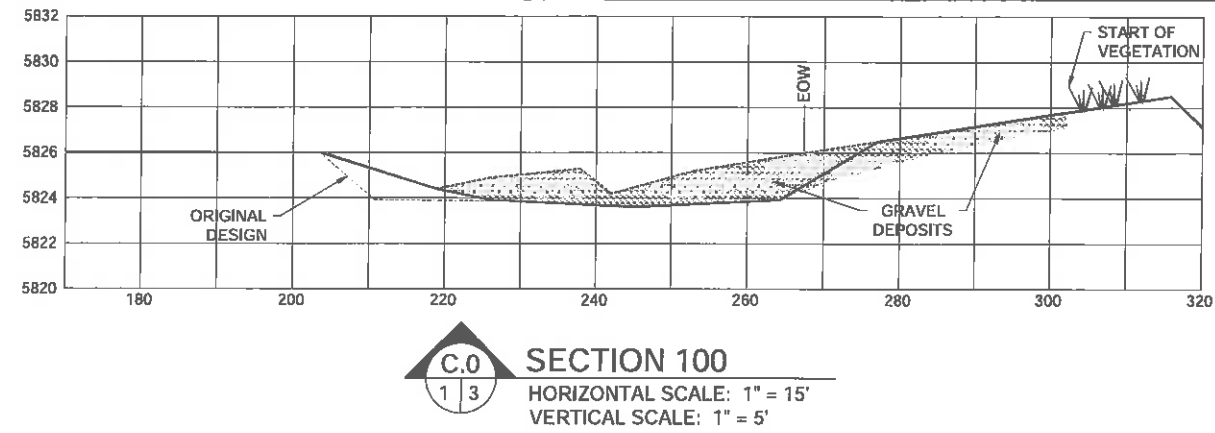
REV	DESCRIPTION	DATE	APPD.	REFERENCE DRAWINGS
F	GEOGRID REMOVAL FOR CITY	9/16/19		
E	FOR FINAL PERMIT	7/19/19		
D	MODIFICATIONS TO CHANNEL	1/4/19		
C	ISSUE FOR BIDDING	10/18/18		
B	ADDED PROPERTY NAMES	9/28/18		
A	ISSUE FOR PERMITTING	8/27/18		

DESIGNED BY
CGB
DRAFTED BY
ICB
(18 X 24) DWG ONLY

BROCKWAY ENGINEERING, PLLC
HYDRAULICS - HYDROLOGY - WATER RESOURCES
2016 NORTH WASHINGTON, SUITE 4
TWIN FALLS ID, 83301
(208) 736-8543

**SWAN, SANDRA
RIVER RESTORATION PROJECT**
SECTIONS AND DETAILS

PROJECT #
538-17-2016
DWG #
2
REV
A



--- EXISTING CHANNEL - SURVEYED JULY 17, 2018
 --- PROPOSED CHANNEL
 EOW EDGE OF WATER AT TIME OF SURVEY

NOT FOR CONSTRUCTION

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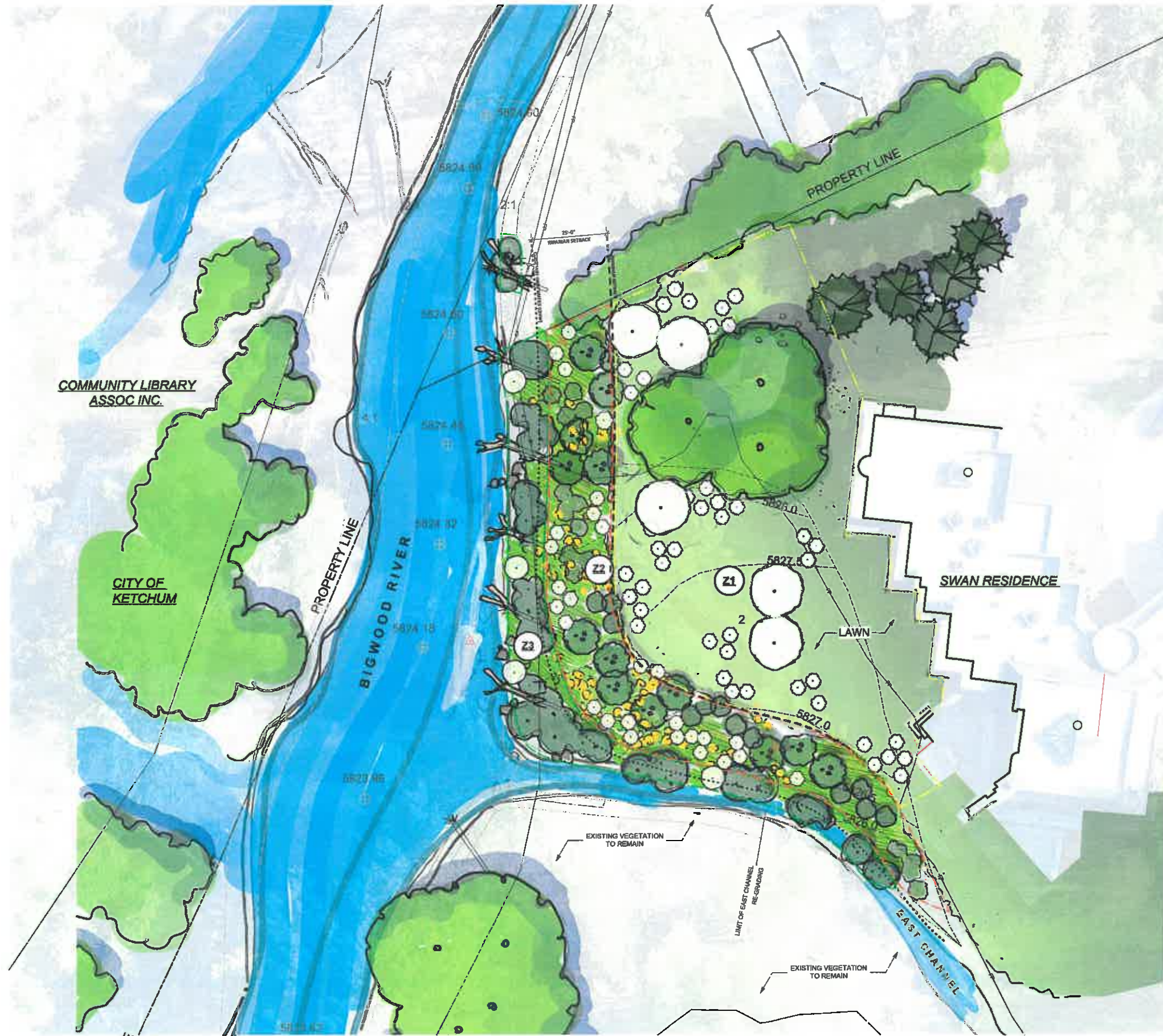
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REV	DESCRIPTION	DATE	APPD.	REFERENCE DRAWINGS

DESIGNED BY
CGB
 DRAFTED BY
ICB
 (18 X 24) DWG ONLY

BROCKWAY ENGINEERING, PLLC
 HYDRAULICS - HYDROLOGY - WATER RESOURCES
 2016 NORTH WASHINGTON, SUITE 4
 TWIN FALLS ID, 83301
 (208) 736-8543

SWAN, SANDRA RIVER RESTORATION PROJECT
 CHANNEL CROSS-SECTIONS

PROJECT #
538-17-2016
 DWG #
3
 REV
A



REVEGETATION PLAN LEGEND	
Symbol	Description
--- (dashed line)	Property Line
① (yellow circle)	ZONE 1 - NON RIPARIAN RECLAIMED LAND & DISTURBED AREAS
② (red circle)	ZONE 2 - 25' RIPARIAN ZONE
③ (green circle)	ZONE 3 - BANK STABILIZATION
..... (dotted line)	ORDINARY HIGH WATER (OHW)
- - - - - (long dashed line)	25' RIPARIAN SETBACK

REVEGETATION PLAN - PLANTING SCHEDULE

ZONE 1 - Reclaimed Land Outside of 25' Riparian Zone
 SHRUBS: (3) Placed per every 1,000 Sq. Ft.

Botanical Name	Common Name
Ribes aureum	Golden Currant
Cornus sericea	Red-osier dogwood
Alnus incana	River Alder
Rosa woodsii	Woods Rose

TREES: (5) Cottonwood Seedlings

GRASSES	
Location	Planting
Lawn	Match original Fine Fescue

ZONE 2 - Riparian Zone w/ 25' of Big Wood River & East Channel
 SHRUBS: (12) Placed per every 1,000 Sq. Ft.

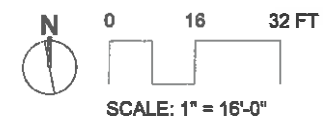
Botanical Name	Common Name
Ribes aureum	Golden Currant
Cornus sericea	Red-osier dogwood
Alnus incana	River Alder
Rosa woodsii	Woods Rose

Riparian Grasses	
Botanical Name	Common Name
Festuca idahoensis	Idaho Fescue
Agropyron riparium	Streambank Wheatgrass
Festuca rubra	Creeping Red Fescue
Pseudoroegneria spicata	Bluebunch Wheatgrass
Lupinus sericeus	Silky Lupine

ZONE 3 - Bank Stabilization
 SHRUBS: Placed 5' apart maximum

Botanical Name	Common Name
Salix boothii	Booth Willow
Salix geyseria	Geyser Willow
Salix lasioandra	Pacific Willow

PLAN NOTES:
 1. THIS PLAN IS A GRAPHIC REPRESENTATION OF THE PROPOSED RESTORATION PLAN BY BROCKWAY ENGINEERING DATED SEPT. 16, 2019. APPROXIMATE SHRUB LOCATIONS SHOWN.
 2. ALL NATIVE WOODY VEGETATION SHALL BE PLANTED WITHIN BANK STABILIZATION (ZONE 3) AT INTERVALS NO GREATER THAN 5 FEET SPACING STARTING FROM THE TOE OF SLOPE AND EXTENDING UP SLOPE ALONG THE TOP OF BANK.



No.	Description	Signature	Date

© copyright 2018
 BYLA Landscape Architects

DRAFT
 NOT FOR CONSTRUCTION

RIVER RESTORATION
SWAN RESIDENCE
 ADDRESS

SITE OVERVIEW

▲ 09.16.2019
 Date:
 11.27.2018
 Drawn By:
 TB, KR
 Checked By:
 CG
 File:
 FILE

Sheet No.
L1.0
 #

Ketchum City Council
480 East Ave. N.
Ketchum, ID 83340

October 25th, 2019

Dear Ketchum City Council,



Regarding: Swan Stream Alteration/Bank Stabilization

We appreciate the opportunity to review and comment on the Swan Stream Alteration/ Bank Stabilization project located at 401 Northwood Way. The Land Trust feels it's important to continue to work with landowners and consultants on stream alteration permit applications to find a compromise of flood protection and enhancing natural river function within the Big Wood River. We would like to thank the applicant, Robert and Sandra Swan and Brockway Engineering PLLC for facilitating site visits in the fall 2018 and listening to our concerns.

The Land Trust has written two comment letters regarding this project. We would like to reiterate the importance to leave as much large woody debris within the project site and if wood is deemed necessary to remove, incorporate it in the bank stabilization on the east bank and side channel. Also we recommend that the monitoring period be extended to 6 years to ensure that proposed project is a long term solution. A 2006 geomorphic assessment conducted by Cygnia Rapp determined that a 10 year flood event or higher has occurred on average every 5.8 years over the last 70 years.

Municipalities are in a tough position to balance protection of infrastructure and ensure river health is maintained or enhanced. Stream restoration projects to undo harmful practices that have been done to the river in the past are expensive. The stream alteration permit (SAP) process may be a unique opportunity to create a funding mechanism to help undo this damage. We would be interested in exploring the potential for creating a mechanism to fund stream restoration at a reach level through the implementation of a surcharge for SAP or other sources to counter balance the effects of sediment and woody debris removal, bank hardening with rip-rap, and channelization. We feel there is a balance that can be reached between restoring the Big Wood River to a more natural state and protect infrastructure throughout the valley, which this fund could help achieve.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Ryan Santo", written over a white background.

Ryan Santo
Wood River Land Trust
Project Coordinator

City Council Members
City of Ketchum
480 East Ave. N.
Ketchum, ID 83340



October 31, 2019

Dear City Council Members,

Thank you for accepting Trout Unlimited's comment letter on the Encroachment Permit related to the Swan Stream Alteration Permit. Trout Unlimited is generally concerned about potential impacts to the long-term health of the Big Wood River because of its importance to the resilience and vitality of our natural and human communities.

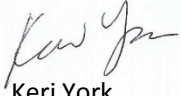
Trout Unlimited appreciates follow-up information, emails, and site visits with Brockway Engineering and the City of Ketchum with regards to this application and permits. We also appreciate updates to the proposed activities that are aligned with natural river and floodplain conditions. Trout Unlimited appreciates the opportunity to provide comment and supports public processes for actions that affect public resources important to this community.

With regards to the Encroachment Permit specifically, included with the Swan Stream Alteration Permit, Trout Unlimited has two specific concerns:

1. Removal of leaner trees and large woody debris should only take place if absolutely necessary. The continual removal of vegetation and large wood within the Big Wood River has degraded natural conditions over time. To restore natural ecosystem processes, large wood and vegetation should be left within riverine and riparian areas wherever possible. Trees, wood and woody debris should not be removed from the river or the riparian zone for aesthetic reasons. We recommend that the applicant explore options other than removing woody debris to establish a bypass channel. We also recommend removing trees only if a threat to structures exists. If removal of trees and woody debris is necessary, the applicant should relocate all material on the mid-channel island so that it may function within the riparian system.
2. Gravel extraction should occur only in accordance with a stream channel design that represents natural geomorphic conditions and stream channel configuration, as indicated Public Record IV Jennifer Zung, PE, Harmony Design & Engineering, memo dated October 11, 2018. According to the 2016 Biota Research and Consulting Big Wood Geomorphic Assessment, restoring natural sediment transport regimes is essential to restoring the health of the Big Wood River. Gravel deposition is a natural occurrence throughout freestone river systems, such as the Big Wood. Extraction should occur when it will restore geomorphic conditions that promote sediment transport regimes to help alleviate the need for future gravel extraction and channel manipulations. The City should assure that the planned gravel removal will result in stream channel configuration representing natural geomorphic conditions, such as recommended by Harmony Design & Engineering.

Trout Unlimited appreciates the City staff's solicitation of our review and comments. Thank you for your consideration of these comments and interest in protecting the health of the Big Wood River watershed. Trout Unlimited representatives are readily available to meet with City staff to further discuss this matter and respond to questions.

Sincerely,



Keri York

Big Wood River Project Manager
Trout Unlimited National Staff



Alan Richardson

Hemingway Chapter Board President
Trout Unlimited Local Volunteers