
NOTICE OF DECISION

Case File: T2-2022-15746

Permit: Significant Environmental Concern for Scenic Views (SEC-v), Significant Environmental Concern for Streams (SEC-s), Significant Environmental Concern for Wildlife Habitat (SEC-h), Willamette River Greenway (WRG), Design Review (DR)

Applicant: Jason R. Smith, Columbia River Estuary Study Taskforce (CREST) **Owners:** Oregon Department of Transportation (ODOT)

Location: Within the right of way of Highway 30 (NW St. Helens Road) and adjacent to:
Map, Tax Lot: 2N1W20BD – 02400
Alternate Account #: R119904010 **Property ID #:** R124319

Base Zone: Commercial Forest Use – 1 (CFU-1)
Multiple Use Agriculture – 20 (MUA-20)

Overlays: Significant Environmental Concern for Scenic Views (SEC-v)
Significant Environmental Concern for Streams (SEC-s)
Significant Environmental Concern for Wildlife Habitat (SEC-h)
Willamette River Greenway (WRG)
Flood Hazard (FH)

Proposal Summary: Application to construct a wildlife migratory underpass culvert underneath Highway 30 (NW St. Helens Road) and to construct concrete walls to channelize and direct migratory wildlife to the new underpass.

Decision: **Approved with Conditions**

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Friday, November 11, 2022 at 4:00 pm.

Issued by:

By: _____
Rithy Khut , Planner

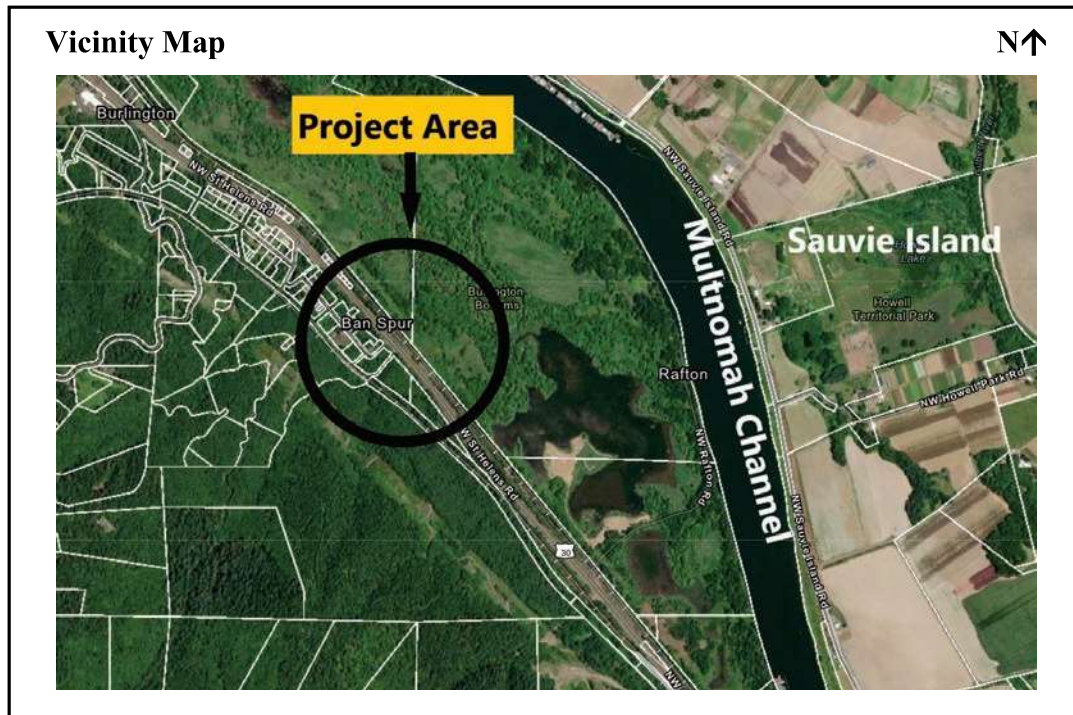
For: Carol Johnson, AICP
Planning Director

Date: Friday, October 28, 2022

Exhibit D.108.6

Opportunity to Review the Record: The complete case file, including the Planning Director Decision containing Findings, Conclusions, Conditions of Approval, and all evidence associated with this application is available for review by contacting Rithy Khut via email at rithy.khut@multco.us. Copies of all documents are available at the rate of \$0.40/per page.

Opportunity to Appeal: An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. To obtain appeal forms or information on the procedure, contact the Land Use Planning office at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision is not appealable to the Land Use Board of Appeals until all local appeals are exhausted.



Applicable Approval Criteria:

For this application to be approved, the proposal will need to meet applicable approval criteria below:

Multnomah County Code (MCC): General Provisions: MCC 39.1515 Code Compliance and Applications, MCC 39.2000 Definitions

Commercial Forest Use – 1 (CFU-1): MCC 39.4070(F) Allowed Use - An uninhabitable structure accessory to fish and wildlife enhancement

Multiple Use Agriculture – 20 (MUA-20): MCC 39.4310(D) Allowed Use - Public and private structures for the protection of water, soil, open space, forest and wildlife resources

Significant Environmental Concern: MCC 39.5510 Uses; SEC Permit Required, MCC 39.5580 Nuisance Plant List, MCC 39.5650 Criteria for Approval of SEC-v Permit – Significant Scenic Views, MCC 39.5750 Criteria for Approval of SEC-s Permit – Significant Streams, MCC 39.5850 Criteria for Approval of SEC-h Permit – Wildlife Habitat

Willamette River Greenway (WRG): MCC 39.5910 Uses – Greenway Permit Required, MCC 39.5925 Greenway Permit Application, MCC 39.5935 Greenway Design Plan, MCC 39.5940 Significant Wetlands

Design Review: MCC 39.8020(B) Application of Regulations, MCC 39.8040(A)(1)(a), (1)(c), and (4) and (7) Design Review Criteria

Copies of the referenced Multnomah County Code sections are available by contacting our office at (503) 988-3043 or by visiting our website at <https://multco.us/landuse/zoning-codes/> under the link: **Chapter 39 - Zoning Code**

Conditions of Approval

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parenthesis.

1. Permit Expiration – This land use permit shall expire as follows:
 - a. Within two (2) years of the date of this final decision for development has not commenced [MCC 39.1185(B)(1) and MCC 39.1185(E)].
 - i. For the purposes of 1.a, commencement of construction shall mean either actual construction of the foundation or frame of the approved structure or actual excavation of trenches for an approved underground development [MCC 39.1185(B)(1)].
 1. For purposes of Condition 1.a.i, notification of commencement of construction will be given to Multnomah County Land Use Planning Division a minimum of seven (7) days prior to date of commencement. Notice of commencement shall be sent to LUP-submittals@multco.us and reference the case number, T2-2022-15746. Work may commence once notice is completed [MCC 39.1175].
 - b. Within four (4) years of the date of commencement of construction when the structure has not been completed [MCC 39.1185(B)(1) and MCC 39.1185(E)].
 - i. For the purposes of Condition 1.b, completion of the structure shall mean completion of the exterior surface(s) of the structure and compliance with all conditions of approval in the land use approval [MCC 39.1185(B)(2)].
 1. For purposes of Condition 1.b.i, the property owner shall provide building permit status in support of completion of exterior surfaces of the structure and demonstrate compliance with all conditions of approval. The written notification and documentation of compliance with the conditions shall be sent to LUP-submittals@multco.us and reference the case number, T2-2022-15746. [MCC 39.1175]

Note: The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 39.1195, as applicable. The request for a permit extension must be submitted prior to the expiration of the approval period.

2. Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other than that, which is specified within Exhibit A.2 through A.4, except as modified by the conditions of approval. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein. [MCC 39.1170(B)]
3. Prior to commencement of construction, the property owner(s) or its representative shall:
 - a. Acknowledge in writing that they have read and understand the conditions of approval and intend to comply with them. A Letter of Acknowledgement has been provided to assist you. The signed document shall be sent to Rithy Khut at rithy.khut@multco.us. [MCC 39.1170(A) & (B)]
 - b. Obtain an Erosion and Sediment Control (ESC) Permit [MCC 39.1515, MCC 39.5750(E)(5), MCC 39.5935(O)]
 - c. Obtain a Flood Development (FD) permit [MCC 39.1515]
4. Prior to and during construction, the property owner(s) or their representative shall:
 - a. Flag, fence, or otherwise mark all work areas to reduce potential damage to habitat outside of the work area. Areas outside of work areas shall remain undisturbed except as otherwise shown in Exhibit A.3 and allowed by the Mitigation Plan in Exhibit A.4. The work area shall remain marked through all phases of development. [MCC 39.5750(E)(6), MCC 39.5935(G), MCC 39.5935(O), MCC 39.5940(B)(3),
 - b. Limit ground disturbing activities to the period between June 15 and September 15. Revegetation/soil stabilization must be accomplished no later than October 15. [MCC 39.5750(D)(1), MCC 39.5750(E)(6), MCC 39.5935(O), MCC 39.5940(B)(3)]
 - c. Follow the following procedures if any Cultural Resources and/or Archaeological Resources are located or discovered on the tax lots or within the project area, including finding any evidence of historic campsites, old burial grounds, implements, or artifacts:
 - i. Halt Construction – All construction activities within 100 feet of the discovered cultural resource shall cease. The cultural resources shall remain as found; further disturbance is prohibited.
 - ii. Notification – The project applicant shall notify the County Planning Director and the State Historic Preservation Office (SHPO) within 24 hours of the discovery. If the cultural resources are prehistoric or otherwise associated with Native Americans, the property owner(s) or their representative shall also notify the Indian tribal governments within 24 hours.
 - iii. Survey and Evaluation – The applicant shall follow any and all procedures outlines by SHPO and if necessary obtain the appropriate permits (see ORS 273.705 and ORS 358.905 to 358.955).
 - iv. All survey and evaluation reports and mitigation plans shall be submitted to the Planning Director and SHPO. Indian tribal governments also shall receive a copy of all reports and plans if the cultural resources are prehistoric or otherwise associated with Native Americans.
 - v. Construction activities may recommence when SHPO requirements are satisfied. [MCC 39.5935(N) and Comprehensive Plan Policy 6.4: Cultural and Archeological Resources]

- d. Follow the following procedures, if human remains are discovered during excavation or construction (human remains means articulated or disarticulated human skeletal remains, bones, or teeth, with or without attendant burial artifacts):
 - i. Halt Activities – All survey, excavation, and construction activities shall cease. The human remains shall not be disturbed any further.
 - ii. Notification – Local law enforcement officials, the Multnomah County Planning Director, State Historic Preservation Office and the Indian tribal governments shall be contacted immediately.
 - iii. Inspection – The State Medical Examiner shall inspect the remains at the project site and determine if they are prehistoric/historic or modern. Representatives from the Indian tribal governments shall have an opportunity to monitor the inspection.
 - iv. Jurisdiction – If the remains are modern, the appropriate law enforcement officials will assume jurisdiction and this protection process may conclude.
 - v. Treatment – Prehistoric/historic remains of Native Americans shall generally be treated in accordance with the procedures set forth in Oregon Revised Statutes, Chapter 97.740 to 97.760. [MCC 39.5935(N) and Comprehensive Plan Policy 6.4: Cultural and Archeological Resources]
5. At the time that the construction of the structures are complete, mitigation work (ground preparation, nuisance plant removal, and plant installation) as described in Exhibit A.2 through A.4 shall commence. The implementation of the Mitigation Plan is contained in the applicant's narrative and Burlington Creek Stream Conservation Plan discussed in Exhibit A.2 and A.4. The Plan is shown in Exhibit A.3 Site Plans. The documents describe and show the minimum mitigation strategies and planting requirements that must be met. [MCC 39.5750(D), MCC 39.5750(E)(4), MCC 39.5935(E), MCC 39.5935(G), MCC 39.5935(L), MCC 39.5940(B)(3), MCC 39.5940(D)]
6. At the time that the mitigation work (ground preparation, nuisance plant removal, and plant installation) as described in Exhibit A.2 through A.4 is completed, the property owner(s) or their representative shall:
 - a. Provide a Post-Mitigation Report. The Post-Mitigation Report shall be provided within 45 days of completion of the mitigation work and shall confirm the mitigation has been completed in compliance with approved designs.
 - i. The Post-Mitigation Report shall include:
 1. Dated pre- and post-construction photos taken of the Mitigation Planting Area described in the Narrative and Mitigation Site Plan. The photos should clearly show the site conditions before and after construction. [MCC 39.1170 and MCC 39.5750(D)(1)(d)]
 - b. Monitor the Mitigation Area to determine whether each type of tree, shrub, and other vegetation planted continues to live, thrive, and grow. The monitoring shall be for a minimum period of five (5) growing seasons after completion of all the initial plantings. Annual monitoring reports are required. [MCC 39.1170 and MCC 39.5750(D)(1)(d)]
 - i. For any replanted area that falls below the 80% threshold, the property owner(s) shall be replant the area during the next planting season. [MCC 39.1170 and MCC 39.5750(D)(1)(d)]

- ii. Annual Monitoring Report Due Date: Annual monitoring reports are due by November 30th of each year. It shall be sent to LUP-submittal@multco.us and include the subject line: "T2-2022-15746." [MCC 39.1170 and MCC 39.5750(D)(1)(d)]

1. The annual monitoring report shall include the following information:

- a. The permit number, monitoring date, report year, and a determination of whether the site is meeting performance standard of Condition #6.b.i above.
- b. Current photographs of the Mitigation Area taken within the last 30 day prior to the report date.
- c. A brief narrative that describes maintenance activities and recommendations to meet performance standard. This includes when irrigation occurred and when the above ground portion of the irrigation system was or will be removed from the site.
- d. The number and location of any Mitigation Plantings that have been replaced or need to be replaced each year due to death or disease and planting date for their replacements.
- e. Any other information necessary or required to document compliance with the performance standard listed in Condition #5. [MCC 39.1170 and MCC 39.5750(D)(1)(d)]

- iii. Extension of the Monitoring Period: The monitoring period may be extended, at the discretion of Land Use Planning for failure to provide monitoring reports, failure of the site to meet performance standards for two consecutive years (without irrigation or replanting), or when needed to evaluate replanting or other corrective or remedial actions. [MCC 39.1170 and MCC 39.5750(D)(1)(d)]

- iv. Release of Monitoring Obligation: Monitoring is required until Land Use Planning has officially released the site from further monitoring. [MCC 39.1170 and MCC 39.5750(D)(1)(d)]

- v. Failure to Submit Monitoring Reports: Failure to submit the required monitoring report by the due date may result in an extension of the monitoring period, and/or enforcement action. [MCC 39.1170 and MCC 39.5750(D)(1)(d)]

7. At the conclusion of construction activities, the property owner(s) or their representative shall:

- a. Demonstrate through photographic evidence that the concrete directional walls are constructed with a nonreflective or low reflective building materials are painted with a dark/natural earth tone gray. Written notification and documentation of compliance with the condition shall be sent to LUP-submittals@multco.us and reference the case number, T2-2022-15746. [MCC 39.5650(C)(2)]

8. As an on-going condition, the property owner or their representative shall:

- a. Ensure that nuisance plants in MCC 39.5580 Table 1 below are not planted in the project area. If the nuisance plants are found in the project area, they are to be removed and kept removed from cleared areas within the project area. Once removed, the property owners shall maintain the cleared area free of these nuisance plants [MCC 39.5580 and MCC 39.5750(B)(7)]

Table 1 - Nuisance Plant List:

Common Name	<i>Scientific Name</i>
Lesser celandine	<i>Chelidonium majus</i>
Canada Thistle	<i>Cirsium arvense</i>
Common Thistle	<i>Cirsium vulgare</i>
Western Clematis	<i>Clematis ligusticifolia</i>
Traveler' s Joy	<i>Clematis vitalba</i>
Poison hemlock	<i>Conium maculatum</i>
Field Morning-glory	<i>Convolvulus arvensis</i>
Night-blooming Morning-glory	<i>Convolvulus nyctagineus</i>
Lady's nightcap	<i>Convolvulus sepium</i>
Pampas grass	<i>Cortaderia selloana</i>
Hawthorn, except native species	<i>Crataegus sp. except C. douglasii</i>
Scotch broom	<i>Cytisus scoparius</i>
Queen Anne's Lace	<i>Daucus carota</i>
South American Waterweed	<i>Elodea densa</i>
Common Horsetail	<i>Equisetum arvense</i>
Giant Horsetail	<i>Equisetum telmateia</i>
Cranesbill	<i>Erodium cicutarium</i>
Roberts Geranium, Herb Robert	<i>Geranium robertianum</i>
English Ivy	<i>Hedera helix</i>
St. John's Wort	<i>Hypericum perforatum</i>
English Holly	<i>Ilex aquafolium</i>
Golden Chain Tree	<i>Laburnum watereri</i>
Duckweed, Water Lentil	<i>Lemna minor</i>
Fall Dandelion	<i>Leontodon autumnalis</i>
Purple Loosestrife	<i>Lythrum salicaria</i>
Eurasian Watermilfoil	<i>Myriophyllum spicatum</i>
Reed Canary grass	<i>Phalaris arundinacea</i>
Annual Bluegrass	<i>Poa annua</i>
Swamp Smartweed	<i>Polygonum coccineum</i>
Climbing Bindweed, Wild buckwheat	<i>Polygonum convolvulus</i>
Giant Knotweed	<i>Polygonum sachalinense</i>
English, Portuguese Laurel	<i>Prunus laurocerasus</i>
Poison Oak	<i>Rhus diversiloba</i>
Himalayan Blackberry	<i>Rubus discolor</i>
Evergreen Blackberry	<i>Rubus laciniatus</i>
Tansy Ragwort	<i>Senecio jacobaea</i>
Blue Bindweed	<i>Solanum dulcamara</i>
Garden Nightshade	<i>Solanum nigrum</i>
Hairy Nightshade	<i>Solanum sarrachoides</i>
Common Dandelion	<i>Taraxacum officinale</i>
Common Bladderwort	<i>Utricularia vulgaris</i>
Stinging Nettle	<i>Urtica dioica</i>
Periwinkle (large leaf)	<i>Vinca major</i>

Common Name	<i>Scientific Name</i>
Periwinkle (small leaf)	<i>Vinca minor</i>
Spiny Cocklebur	<i>Xanthium spinosum</i>
Bamboo sp.	<i>various genera</i>

Note: Once this decision is final, application for building permits may be made with the City of Portland. When ready to have building permits signed off by land use planning, the applicant shall complete the following steps:

1. Read your land use decision, the conditions of approval and modify your plans, if necessary, to meet any condition that states, “Prior to commencement of construction...” Be ready to demonstrate compliance with the conditions.
2. Contact Rithy Khut, Planner, at 503-988-0176 or rithy.khut@multco.us, **for an appointment** for review of the conditions of approval. Please ensure that any items required under, “Prior to commencement of construction...” are ready for land use planning review.

Notice to Mortgagee, Lien Holder, Vendor, or Seller:

ORS Chapter 215 requires that if you receive this notice it must be promptly forwarded to the purchaser.

Findings of Fact

FINDINGS: Written findings are contained herein. The Multnomah County Code (MCC) criteria and Comprehensive Plan Policies are in **bold** font. Staff analysis and comments are identified as ‘**Staff:**’ and address the applicable criteria. Staff comments may include a conclusionary statement in *italic*.

1.0 Project Description:

Staff: The applicant requests Significant Environmental Concern for Streams (SEC-s), Significant Environmental Concern for Wildlife Habitat (SEC-h), Significant Environmental Concern for Scenic Views (SEC-v), and Willamette River Greenway (WRG), Design Review (DR) permits to construct a wildlife underpass underneath US Highway 30 (NW St. Helens Road) to provide a safe migratory pathway. The project area is located entirely within the right of way of US Highway 30.

An approximately 130-foot long, 54-inch steel casing culvert will be installed under the highway and then partially filled with an impervious concrete base, followed by a layer of native substrate to provide a natural bottom. Eight light boxes (non-illuminated skylights) will be installed to bring light and moisture into the culvert. A 3-foot-high cast-in-place, steel rebar reinforced concrete wall roughly 440-feet on the east side of the highway, within the Oregon Department of Transportation (ODOT) right of way, will be constructed. At the western entrance to the culvert, a 160-foot-long of 3-foot-high concrete directional wall will be constructed within the ODOT right of way. A 12-foot-wide temporary access road will be constructed in the ditch between the US Highway 30 road prism and the parallel Portland and Western Railroad rail line.

Ground disturbing activities will occur to construct the directional walls within road fill and to remove non-native vegetation. The wildlife underpass culvert will be installed by trenchless shaft. On the west side of US Highway 30, ground disturbing activities will occur at the inlet to the wildlife crossing to prevent changing the flow of Burlington Creek underneath the highway and to remove patches of non-native reed canary grass.

The project will have a temporary impact on a degraded wetland ditch between US Highway 30 and the rail line, which consists of non-native vegetation (reed canary grass). At the conclusion of construction activities, a Mitigation Plan will be implemented and the degraded wetland will be replanted with native wetland vegetation.

2.0 Property Description & History:

Staff: This application is for US Highway 30 (NW St. Helens Road), a four-lane facility near the unincorporated community of Burlington. The project area is zoned Commercial Forest Use - 1 (CFU-1) and Multiple Use Agriculture (MUA-20) and is located outside of Metro’s Urban Growth Boundary (UGB) boundary. The project area has multiple overlays include a Significant Environmental Concern for Scenic Views (SEC-v), Significant Environmental Concern for Streams (SEC-s), Significant Environmental Concern for Wildlife Habitat (SEC-h) overlays. The eastern side of US Highway 30 is in the Willamette River Greenway (WRG) overlay.

3.0 Public Comment:

Staff: Staff mailed a notice of application and invitation to comment on the proposed application to the required parties pursuant to MCC 39.1105 (Exhibit C.2). Staff did not receive any public comments during the 14-day comment period.

4.0 Code Compliance and Applications:

4.1 MCC 39.1515 CODE COMPLIANCE AND APPLICATIONS.

Except as provided in subsection (A), the County shall not make a land use decision approving development, including land divisions and property line adjustments, or issue a building permit for any property that is not in full compliance with all applicable provisions of the Multnomah County Zoning Code and/or any permit approvals previously issued by the County.

(A) A permit or other approval, including building permit applications, may be authorized if:

- (1) It results in the property coming into full compliance with all applicable provisions of the Multnomah County Zoning Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement; or**
- (2) It is necessary to protect public safety; or**
- (3) It is for work related to and within a valid easement over, on or under an affected property.**

(B) For the purposes of this section, Public Safety means the actions authorized by the permit would cause abatement of conditions found to exist on the property that endanger the life, health, personal property, or safety of the residents or public. Examples of that situation include but are not limited to issuance of permits to replace faulty electrical wiring; repair or install furnace equipment; roof repairs; replace or repair compromised utility infrastructure for water, sewer, fuel, or power; and actions necessary to stop earth slope failures.

Staff: This standard provides that the County shall not make a land use decision approving development for a property that is not in full compliance with County Code or previously issued County approvals, except in the following instances: approval will result in the property coming into full compliance, approval is necessary to protect public safety, or the approval is for work related to or within a valid easement.

This standard was originally codified in the Zoning Code chapter related to land use application procedures and, by its terms, expressly applies to the application review process. Although now codified in the enforcement Part of the Zoning Code as a result of the more recent code consolidation project, the language and intent was not changed during that project and remains applicable to the application review process and not to the post-permit-approval enforcement process.

Importantly, a finding of satisfaction of this standard does not mean that a project is in full compliance with the Zoning Code and all prior permit approvals (and, accordingly, does not preclude future enforcement actions relating to uses and structures existing at the time the finding is made). Instead, a finding of satisfaction of this standard simply means that there is not substantial evidence in the record affirmatively establishing one or more specific instances of noncompliance. As such, an applicant has no initial burden to establish that all elements of the subject property are in full compliance with the Zoning Code and all previously approved

permits; instead, in the event of evidence indicating or establishing one or more specific instances of noncompliance on the subject property, the applicant bears the burden to either rebut that evidence or demonstrate satisfaction of one of the exceptions in MCC 39.1515.

For purposes of the current application, this proposed project is entirely within the State of Oregon right of way; therefore, it is related to and within a valid easement over, on, or under an affected property. *This criterion is met.*

5.0 Commercial Forest Use – 1 (CFU-1) Zone Criteria:

5.1 MCC 39.4070(F) ALLOWED USES

(F) An uninhabitable structure accessory to fish and wildlife enhancement.

Staff: The proposed 130-foot-long casing culvert and light boxes will be constructed to provide a safe migration corridor between the upland forests of the Tualatin Hills and the Burlington Bottoms floodplain wetlands along Multnomah Channel for significant wildlife (amphibian species including Northern Red-Legged frogs and Pacific Chorus frogs). The 440-foot and 160-foot directional walls are intended to direct amphibians to the new underpass. The proposed structures and associated ground disturbance are uninhabitable and accessory to wildlife enhancement. *This criterion is met.*

6.0 Multiple Use Agriculture – 20 (MUA-20) Zone Criteria:

6.1 MCC 39.4310 ALLOWED USE

(D) Public and private conservation areas and structures for the protection of water, soil, open space, forest and wildlife resources.

Staff: The proposed 130-foot-long casing culvert and light boxes will be constructed to provide a safe migration corridor between the upland forests of the Tualatin Hills and the Burlington Bottoms floodplain wetlands along Multnomah Channel for significant wildlife (amphibian species including Northern Red-Legged frogs and Pacific Chorus frogs). The 440-foot and 160-foot directional walls are intended to direct amphibians to the new underpass. The proposed structures and associated ground disturbance are for the protection of wildlife resources. *This criterion is met.*

7.0 Significant Environmental Concern Criteria:

7.1 MCC 39.5510 USES; SEC PERMIT REQUIRED

(A) All uses allowed in the base zone are allowed in the SEC when found to satisfy the applicable approval criteria given in such zone and, except as provided in MCC 39.5515, subject to approval of an SEC permit pursuant to this Subpart.

Staff: The proposal is an allowed use in the underlying CFU-1 and MUA-20 base zones, if the proposal meets certain requirements of Multnomah County Code. The application is subject to the SEC-v, SEC-s, and SEC-h permit requirements. The applicant has met the approval criteria

as described in this decision. A few criteria will require additional action by the applicant using Conditions of Approval to demonstrate compliance with all of the applicable approval criteria.

(B) Any excavation or any removal of materials of archaeological, historical, prehistorical or anthropological nature shall be conducted under the conditions of an SEC permit, regardless of the zoning designation of the site.

Staff: No archaeological, historical, prehistoric, or anthropological excavations are proposed as part of this project; therefore, this criterion is not applicable. *This criterion is not applicable.*

7.2 MCC 39.5580 NUISANCE PLANT LIST

Table 1
Nuisance Plant List:

Common Name	Scientific Name
Lesser celandine	<i>Chelidonium majus</i>
Canada Thistle	<i>Cirsium arvense</i>
Common Thistle	<i>Cirsium vulgare</i>
Western Clematis	<i>Clematis ligusticifolia</i>
Traveler's Joy	<i>Clematis vitalba</i>
Poison hemlock	<i>Conium maculatum</i>
Field Morning-glory	<i>Convolvulus arvensis</i>
Night-blooming Morning-glory	<i>Convolvulus nyctagineus</i>
Lady's nightcap	<i>Convolvulus sepium</i>
Pampas grass	<i>Cortaderia selloana</i>
Hawthorn, except native species	<i>Crataegus sp. except C. douglasii</i>
Scotch broom	<i>Cytisus scoparius</i>
Queen Anne's Lace	<i>Daucus carota</i>
South American Waterweed	<i>Elodea densa</i>
Common Horsetail	<i>Equisetum arvense</i>
Giant Horsetail	<i>Equisetum telmateia</i>
Cranesbill	<i>Erodium cicutarium</i>
Roberts Geranium, Herb Robert	<i>Geranium robertianum</i>
English Ivy	<i>Hedera helix</i>
St. John's Wort	<i>Hypericum perforatum</i>
English Holly	<i>Ilex aquafolium</i>
Golden Chain Tree	<i>Laburnum watereri</i>
Duckweed, Water Lentil	<i>Lemna minor</i>
Fall Dandelion	<i>Leontodon autumnalis</i>
Purple Loosestrife	<i>Lythrum salicaria</i>
Eurasian Watermilfoil	<i>Myriophyllum spicatum</i>
Reed Canary grass	<i>Phalaris arundinacea</i>
Annual Bluegrass	<i>Poa annua</i>
Swamp Smartweed	<i>Polygonum coccineum</i>
Climbing Bindweed, Wild buckwheat	<i>Polygonum convolvulus</i>
Giant Knotweed	<i>Polygonum sachalinense</i>
English, Portuguese Laurel	<i>Prunus laurocerasus</i>

Common Name	Scientific Name
Poison Oak	<i>Rhus diversiloba</i>
Himalayan Blackberry	<i>Rubus discolor</i>
Evergreen Blackberry	<i>Rubus laciniatus</i>
Tansy Ragwort	<i>Senecio jacobaea</i>
Blue Bindweed	<i>Solanum dulcamara</i>
Garden Nightshade	<i>Solanum nigrum</i>
Hairy Nightshade	<i>Solanum sarrachoides</i>
Common Dandelion	<i>Taraxacum officinale</i>
Common Bladderwort	<i>Utricularia vulgaris</i>
Stinging Nettle	<i>Urtica dioica</i>
Periwinkle (large leaf)	<i>Vinca major</i>
Periwinkle (small leaf)	<i>Vinca minor</i>
Spiny Cocklebur	<i>Xanthium spinosum</i>
Bamboo sp.	<i>various genera</i>

Staff: The applicant must ensure that nuisance plants in MCC 39.5580 Table 1 above shall not be used as landscape plantings within the project area. The property owner shall remove the nuisance plants listed in Table 1 from the cleared areas of the project area. Once removed, the property owner shall maintain the cleared area free of these nuisance plants. *As conditioned, this criterion is met.*

7.3 MCC 39.5650 CRITERIA FOR APPROVAL OF SEC-V PERMIT – SIGNIFICANT SCENIC VIEWS,

* * *

(C) Any portion of a proposed development (including access roads, cleared areas and structures) that will be visible from an identified viewing area shall be visually subordinate. Guidelines which may be used to attain visual subordination, and which shall be considered in making the determination of visual subordination include:

Staff: The western portion of the proposed development is located in the SEC-v overlay and is topographically visible from the following identified Viewing Areas: Bybee-Howell House, Highway 30, Kelly Point Park, Multnomah Channel, Public Roads on Sauvie Island, Sauvie Island Wildlife Refuge, Smith and Bybee Lakes, and Virginia Lakes. Therefore, the proposed development will need to be designed to attain visual subordination as discussed below.

(1) Siting on portions of the property where topography and existing vegetation will screen the development from the view of identified viewing areas.

Staff: The proposed structures include 3-foot-high walls, vertical light shaft/boxes, and a new culvert (wildlife underpass). The wall within the SEC-v will be constructed with concrete and then backfilled with gravel. As designed only six inches of exposed concrete will be visible (Exhibit A.2 and Exhibit A.3: Sheet C-6 and C-8). The elevation profiles show that the walls are designed to not be viewable from identified viewing areas as the wall is below US Highway 30 (Exhibit A.3: Sheet C7). Similarly, the underpass inlet and outlet will not contrast with or appear separate from US Highway 30, as the entrance to the culvert will be below US Highway 30, in order to reduce visibility of the structure thereby preventing people from attempting to

access the underpass. Lastly, the underpass culvert and light shaft boxes will not be visible as they are underground or level with the road surface of US Highway 30. *This criterion is met.*

(2) Use of nonreflective or low reflective building materials and dark natural or earthtone colors.

Staff: As proposed, the concrete directional walls will be painted with a nonreflective dark/natural earth tone gray and the light shafts will appear as stormwater grates (Exhibit A.2). A condition of approval will be required to ensure that the building materials are low reflective and painted with a dark natural or earth tone color. *As conditioned, this criterion is met.*

(3) Exterior lighting that it is not highly visible from identified viewing areas and meets the Dark Sky Lighting Standards of MCC 39.6850. Shielding and hooding materials should be composed of nonreflective, opaque materials.

Staff: The proposal does not include any exterior lighting. The eight light boxes will be non-illuminated skylights to allow light to penetrate the underpass. *This criterion is not applicable.*

(4) Use of screening vegetation or earth berms to block and/or disrupt views of the development. Priority should be given to retaining existing vegetation over other screening methods. Trees planted for screening purposes should be coniferous to provide winter screening. The applicant is responsible for the proper maintenance and survival of any vegetation used for screening.

Staff: The proposed wildlife undercrossing corridor will be under the US Highway 30 road prism and not visible. The 3-foot-high walls are designed to not be viewable from US Highway 30 in order to prevent people from attempting to access the underpass. According to the applicant, the two 3-foot-high concrete directional walls will appear less than 1 foot high except from the ditch between US Highway 30 and the rail line, or in Burlington Creek, which are not accessible to the public. No screening is needed. *This criterion is met.*

(5) Proposed developments or land use shall be aligned, designed and sited to fit the natural topography and to take advantage of vegetation and land form screening, and to minimize visible grading or other modifications of landforms, vegetation cover, and natural characteristics.

Staff: The proposed wildlife undercrossing corridor will be under the US Highway 30 road prism and not visible. The two 3-foot-high concrete directional walls are the minimum height to prevent frogs from jumping out of the underpass culvert. The 3-foot-high walls are designed to not be viewable from US Highway 30 in order to prevent people from attempting to access the underpass. Grading will occur to install the directional walls within road fill and to remove non-native vegetation. The wildlife underpass culvert will be installed by trenchless shaft (Exhibit A.3: Sheets C-1 and C-2). *This criterion is met.*

(6) Limiting structure height to remain below the surrounding forest canopy level.

Staff: The proposed wildlife undercrossing corridor will be under the US Highway 30 road prism and not visible. The two 3-foot-high concrete directional walls are the minimum height

to prevent frogs from jumping out of the underpass culvert. The culvert and directional walls will be lower than the surrounding forest canopy in the project area. *This criterion is met.*

(7) Siting and/or design so that the silhouette of buildings and other structures remains below the skyline of bluffs or ridges as seen from identified viewing areas. This may require modifying the building or structure height and design as well as location on the property, except:

* * *

Staff: The proposed wildlife undercrossing corridor will be under the US Highway 30 road prism and not visible. The two 3-foot-high concrete directional walls will appear less than 1 foot high except from the ditch between US Highway 30. The culvert and directional walls will be below the skyline bluffs and ridges. *This criterion is met.*

(E) The approval authority may impose conditions of approval on an SEC-v permit in accordance with MCC 39.5535, in order to make the development visually subordinate. The extent and type of conditions shall be proportionate to the potential adverse visual impact of the development as seen from identified viewing areas, taking into consideration the size of the development area that will be visible, the distance from the development to identified viewing areas, the number of identified viewing areas that could see the development, and the linear distance the development could be seen along identified viewing corridors.

Staff: Conditions of approval included with this decision are to ensure that the proposed structures will be visually subordinate from the identified viewing areas. The conditions include the use of nonreflective or low reflective building materials and dark natural or earth tone colors. *As conditioned, this criterion is met.*

7.4 MCC 39.5750 CRITERIA FOR APPROVAL OF SEC-S PERMIT– SIGNIFICANT STREAMS

* * *

(B) Except for the exempt uses listed in MCC 39.5515, no development shall be allowed within a Stream Conservation Area unless approved by the Approval Authority pursuant to the provisions of MCC 39.5750 (C) through (F).

Staff: The applicant is requesting a permit to authorize the development activities within a Stream Conservation Area. The development is associated with an uninhabitable structure accessory to fish and wildlife enhancement use in the CFU-1 zone and a public and private conservation areas and structures for the protection of water, soil, open space, forest and wildlife resources use in the MUA-20 zone, as discussed in Section 5.1 and 6.1. The use and associated ground disturbance are not an exempt use listed in MCC 39.5515. Therefore, the development is subject to the SEC-s permit requirements, which are discussed below.

(D) For the protected stream resources, the applicant shall demonstrate that the proposal:
(1) Will enhance the fish and wildlife resources, shoreline anchoring, flood storage, water quality and visual amenities characteristic of the stream in its pre-

development state, as documented in a Mitigation Plan. A Mitigation Plan and monitoring program may be approved upon submission of the following:

- (a) A site plan and written documentation which contains the applicable information for the Stream Conservation Area as required by subsection (C) above;**

Staff: The applicant has provided a narrative, site plan, and a report that discusses how the proposal will enhance the fish and wildlife resources, shoreline anchoring, flood storage, water quality, and visual amenities characteristic of the stream in its pre-development state. The applicant's narrative in Exhibit A.2 includes descriptions of how the proposal meets the approval criteria and the Burlington Creek Stream Conservation Plan in Exhibit A.4 contains a Mitigation Plan and Monitoring program. The narrative was written by Jason Smith, Habitat Restoration Project Manager and the Burlington Creek Stream Conservation Plan was written by April Silva, Lead Ecologist.

Based on available information and an on-site assessment, the existing conditions were determined and a delineation of the water resources occurred. Based on an assessment of the existing condition, mitigation strategies were devised to offset the development impact (Exhibit A.2 and A.4). As designed the construction of the project will temporary impact a small, low quality wetland. After the construction is complete, mitigation will occur resulting in the planting of native trees, shrubs, and other emergent vegetation. In order to mitigate the impacts of the development activities, the Mitigation Plan recommends the planting of the following:

Planting Table 1 – Mitigation Planting Plan from Burling Creek Stream Conservation Plan

Size of tree to be removed (inches in diameter)	Number of trees and shrubs to be planted	Hwy 30 Wildlife Corridor Tree Removal (See SHT C-1)	Plantings Required
6 to 12	2 trees and 3 shrubs	12 in the 6-12" DBH Range	24 trees 36 shrubs
13 to 18	3 trees and 6 shrubs	4 in the 13-18" DBH Range	12 trees 24 shrubs
19 to 24	5 trees and 12 shrubs	2 in the 19-24" DBH Range	10 trees 24 shrubs
25 to 30	7 trees and 18 shrubs	No Trees of this size class will be removed	0
over 30	10 trees and 30 shrubs	No Trees of this size class will be removed	0
Exhibit A.4			

When the Mitigation Plans planting are completed, the applicant will have planted 46 trees and 84 native shrubs in mitigation area. Lastly, it was recommended that the plantings be installed after construction is finished. Soil disturbing activities (soil preparation, digging, planting, etc.) are only allowed between June 15th and September 15th in the SEC-s overlay zone. A condition of approval has been included requiring the planting to occur within this work window.

The planting of native trees, shrubs, and placement of the seed mix ground cover will enhance water quality, promote flood storage, improve water quality, and enhance the visual amenities

that are characteristic of the intermittent creek. The native plantings and ground cover will promote natural infiltration of stormwater into the ground allowing for additional flood storage.

Lastly, by planting native trees and shrubs will enhance the visual amenities characteristic of the stream. The measures above demonstrate retention and enhancement of the resource values addressed in subsection (D)(1) above; however to ensure that these measures are carried out and the plantings thrive, a condition of approval will be required that an annual monitoring plan for a period of five years, which ensures an 80 percent annual survival rate is required. *As conditioned, this criterion is met.*

(b) A description of the applicant's coordination efforts to date with the requirements of other local, State, and Federal agencies;

Staff: The concurrence letter from the Oregon Department of State Lands regarding the wetlands and streams, dated April 6, 2022 (Exhibit B.3). The applicant is a state agency, ODOT. ODOT has coordinated with the Oregon Department of Fish and Wildlife on surveying wildlife migration patterns and mortality and on the design and placement of the wildlife passage culvert and directional walls. *This criterion is met.*

(c) A Mitigation Plan which demonstrates retention and enhancement of the resource values addressed in subsection (D)(1) above;

Staff: As discussed above in subsection (D)(1), a Mitigation Plan has been provided that demonstrates retention and enhancement of the resource values. *This criterion is met.*

(d) An annual monitoring plan for a period of five years which ensures an 80 percent annual survival rate of any required plantings.

Staff: In the monitoring plan in the Burlington Creek Stream Conservation Plan, the applicant states that all vegetation plantings will be monitored by the applicant and ODFW to determine the success rate of replanting over time and to ensure that an 80% survival rate of all the plantings associated with the project is achieved (Exhibit A.4). Vegetation monitoring will be implemented during the growing season annually for five years with permanent one-meter-square plots. A condition of approval requires monitoring for a 5-year period and replacement of plants as needed to ensure an 80 percent survival rate. *As conditioned, this criterion is met.*

(E) Design Specifications: The following design specifications shall be incorporated, as appropriate, into any developments within a Stream Conservation Area:

(1) A bridge or arched culvert which does not disturb the bed or banks of the stream and are of the minimum width necessary to allow passage of peak winter flows shall be utilized for any crossing of a protected streams.

Staff: The applicant is not proposing any crossing of a protected stream; therefore, this criterion is not applicable. *This criterion is not applicable.*

(2) All storm water generated by a development shall be collected and disposed of on-site into dry wells or by other best management practice methods which emphasize groundwater recharge and reduce peak stream flows.

Staff: No stormwater will be generated by the development of the culvert. *This criterion is not applicable.*

(3) Any exterior lighting associated with a proposed development shall be placed, shaded or screened to avoid shining directly into a Stream Conservation Area.

Staff: The proposal does not include any exterior lighting. *This criterion is not applicable.*

(4) Any trees over 6" in caliper that are removed as a result of any development shall be replaced by any combination of native species whose combined caliper is equivalent to that of the trees removed.

Staff: The applicant lists trees to be removed in the Burlington Creek Stream Conservation Plan and the planting required for replacement (Exhibit A.4). The table replicated below, indicates that the trees over 6" that are removed will be replaced by a combined caliper that is equivalent.

Planting Table 1 – Mitigation Planting Plan from Burling Creek Stream Conservation Plan

Size of tree to be removed (inches in diameter)	Number of trees and shrubs to be planted	Hwy 30 Wildlife Corridor Tree Removal (See SHT C-1)	Plantings Required
6 to 12	2 trees and 3 shrubs	12 in the 6-12" DBH Range	24 trees 36 shrubs
13 to 18	3 trees and 6 shrubs	4 in the 13-18" DBH Range	12 trees 24 shrubs
19 to 24	5 trees and 12 shrubs	2 in the 19-24" DBH Range	10 trees 24 shrubs
25 to 30	7 trees and 18 shrubs	No Trees of this size class will be removed	0
over 30	10 trees and 30 shrubs	No Trees of this size class will be removed	0

This criterion is met.

(5) Satisfaction of the erosion control standards of MCC 39.5090.

Staff: The applicant's erosion and sediment control plans on Sheets ESC-1 through ESC-6 in the plan set in Exhibit A.3 list best management practices that will be implemented prior to construction, including straw wattles, inlet protection, and check dams. The applicant has also applied for an Erosion and Sediment Control (ESC) permit. The ESC permit must be issued prior to any additional ground disturbing activities to ensure compliance with this criterion. *As conditioned, this criterion is met.*

(6) Soil disturbing activities within a Stream Conservation Area shall be limited to the period between June 15 and September 15. Revegetation/soil stabilization must be accomplished no later than October 15. Best Management Practices related to erosion control shall be required within a Stream Conservation Area.

Staff: The proposed project work will be entirely within the existing state right of way. Project construction is scheduled to occur during the summer, June 15 to September 15, when erosion from runoff is less likely and Burlington Creek is not flowing or minimal. The construction area on the US Highway 30 embankment is mostly aggregate with little soil, which minimizes potential for erosion. The applicant's erosion and sediment control plans on Sheets ESC-1 through ESC-6 list best management practices that will be implemented prior to construction, including straw wattles, inlet protection, and check dams. The applicant is required to obtain an Erosion and Sediment Control Permit prior to construction and soil-disturbing activities within a Stream Conservation Area shall be limited to the period between June 15 and September 15. Revegetation/soil stabilization must be accomplished no later than October 15. *As conditioned, this criterion is met.*

(7) Demonstration of compliance with all applicable state and federal permit requirements.

Staff: The concurrence letter for the proposed project from the Oregon Department of State Lands regarding the wetlands and streams, dated April 6, 2022, was provided demonstrating compliance with all known applicable state and federal permit requirements (Exhibit B.3). *This criterion is met.*

(F) For those Stream Conservation Areas located within Metro's jurisdictional boundaries, the following requirements apply in addition to subsections (C) through (E) above:

* * *

Staff: The Stream Conservation Area is not within Metro's jurisdictional boundaries; therefore, these requirements are not applicable. *These criteria are not applicable.*

7.5 MCC 39.5860 CRITERIA FOR APPROVAL OF SEC-H PERMIT

* * *

(B) Development standards:

(1) Where a parcel contains any nonforested "cleared" areas, development shall only occur in these areas, except as necessary to provide access and to meet minimum clearance standards for fire safety.

Staff: Adopted in 1994, Ordinance 801 created the Significant Environmental Concern for Wildlife Habitat (SEC-h) overlay. At the time of adoption, areas of wildlife habitat, which include forested areas, were protected as a Statewide Planning Goal 5 resource. As defined:

“an area that has at least 75 percent crown closure, or 80 square feet of basal area per acre, of trees 11 inches DBH and larger, or an area which is being reforested pursuant to Forest Practice Rules of the Department of Forestry.”

Based on the 1994 date, the location of the proposed development, the wildlife underpass culvert, concrete directional walls, and associated ground disturbance, will be entirely within existing state right of way (Exhibit A.3). The right of way is nonforested, as it does not meet the definition above. *This criterion is met.*

(2) Development shall occur within 200 feet of a public road capable of providing reasonable practical access to the developable portion of the site.

Staff: The proposed project will be entirely within existing public right of way. As the underpass culvert, other structures, and associated ground disturbance are adjacent to the US Highway 30, a public road, the development will occur within 200 feet of a public road (Exhibit A.3). *This criterion is met.*

(3) The access road/driveway and service corridor serving the development shall not exceed 500 feet in length.

Staff: The proposed project will be entirely within existing public right of way. The underpass culvert, other structures, and associated ground disturbance will require a temporary access road from US Highway 30. The access road is adjacent to the highway and is less than 500 feet in length (Exhibit A.3 – Sheet ESC-2). *This criterion is met.*

(4) For the purpose of clustering access road/driveway approaches near one another, one of the following two standards shall be met:

(a) The access road/driveway approach onto a public road shall be located within 100 feet of a side property line if adjacent property on the same side of the road has an existing access road or driveway approach within 200 feet of that side property line; or

(b) The access road/driveway approach onto a public road shall be located within 50 feet of either side of an existing access road/driveway on the opposite side of the road.

Staff: The proposed project will require an access road that will be temporary. At the completion of the project, the access road will be removed (Exhibit A.3). As no permanent access road/driveway approach is proposed, this criterion is not applicable. *This criterion is not applicable.*

(5) The development shall be within 300 feet of a side property line if adjacent property has structures and developed areas within 200 feet of that common side property line.

Staff: The proposed project will be entirely within existing public right of way. There are no common side property lines. *This criterion is not applicable.*

(6) Fencing within a required setback from a public road shall meet the following criteria:

(a) Fences shall have a maximum height of 42 inches and a minimum 17 inch gap between the ground and the bottom of the fence.

(b) Wood and wire fences are permitted. The bottom strand of a wire fence shall be barbles. Fences may be electrified, except as prohibited by County Code.

(c) Cyclone, woven wire, and chain link fences are prohibited.

(d) Fences with a ratio of solids to voids greater than 2:1 are prohibited.

(e) Fencing standards do not apply in an area on the property bounded by a line along the public road serving the development, two lines each drawn

perpendicular to the principal structure from a point 100 feet from the end of the structure on a line perpendicular to and meeting with the public road serving the development, and the front yard setback line parallel to the public road serving the development. (See Figure 4 below.)
(f) Fencing standards do not apply where needed for security of utility facilities

Staff: The applicant is not proposing any fencing; therefore, this criterion is not applicable. *This criterion is not applicable.*

(7) The nuisance plants in MCC 39.5580 Table 1 shall not be planted on the subject property and shall be removed and kept removed from cleared areas of the subject property.

Staff: The applicant states that nuisance plants listed in MCC 39.5580 Table 1 will be removed. A condition will be required that nuisance plants in MCC 39.5580 Table 1 shall not be planted in addition to being kept removed from developed areas. *As conditioned, this criterion is met.*

(C) Wildlife Conservation Plan. An applicant shall propose a wildlife conservation plan if one of two situations exist.

(1) The applicant cannot meet the development standards of subsection (B) because of physical characteristics unique to the property. The applicant must show that the wildlife conservation plan results in the minimum departure from the standards required in order to allow the use; or

* * *

Staff: The application can meet the development standards of MCC 39.5860(B); therefore, a Wildlife Conservation Plan is not required. *These criteria are not applicable.*

8.0 Willamette River Greenway (WRG) Criteria:

8.1 MCC 39.5910 USES – GREENWAY PERMIT REQUIRED

All uses allowed in the base zone are allowed in the WRG when found to satisfy the applicable approval criteria given in such zone and, except as provided in MCC 39.5920, subject to approval of a WRG permit pursuant to this Subpart.

Staff: The applicant is requesting a permit to authorize the development activities within the Willamette River Greenway, which is on the eastern side of US Highway 30. The development is associated with an uninhabitable structure accessory to fish and wildlife enhancement use in the CFU-1 zone and a public and private conservation areas and structures for the protection of water, soil, open space, forest and wildlife resources use in the MUA-20 zone, as discussed in Section 5.1 and 6.1. The use and associated ground disturbance are not an exempt use listed in MCC 39.5920; therefore, a Greenway Permit is required.

8.2 MCC 39.5935 GREENWAY DESIGN PLAN

The elements of the Greenway Design Plan are:

(A) The maximum possible landscaped area, scenic and aesthetic enhancement, open space or vegetation shall be provided between any use and the river.

Staff: The Burlington Bottoms floodplain wetland/Palensky Wildlife Area and Portland and Western Railroad rail line is between the project area in US 30 right of way and the Multnomah Channel. The project is located as far as possible from the river. The project will plant oak, and willow, and other vegetation between the US 30 Highway and the railroad berm where temporary impacts are proposed for construction access (Exhibit A.3: Sheet R-1 and R-2 and Exhibit A.4). The plantings will enhance natural landscape and ensure maximum possible landscaped area, scenic and aesthetic enhancement, open space, and vegetation shall be provided the proposed development and the river. *This criterion is met.*

(B) Reasonable public access to and along the river shall be provided by appropriate legal means to the greatest possible degree and with emphasis on urban and urbanizable areas.

Staff: The project area is located within the right of way of US Highway 30 and is not along the Multnomah Channel. The project cannot provide access to the Multnomah Channel across US Highway 30 for safety reasons. Public access to the Multnomah Channel is provided in other more appropriate areas outside of this project area. *This criterion is met.*

(C) Developments shall be directed away from the river to the greatest possible degree, provided, however, that lands in other than rural and natural resource base zones may continue in urban uses.

Staff: The proposed culvert, other associated structures, and ground disturbance must be placed around and under US Highway 30 in order to provide wildlife passage to and from the Burlington Bottoms wetland. The project area is located more than 2,500 feet (.47 miles) from the river, which is as far away from the channel as possible. *This criterion is met.*

(D) Agricultural lands shall be preserved and maintained for farm use.

Staff: The proposal is entirely within existing State owned right of way and not on or affecting agricultural lands. *This criterion is not applicable.*

(E) The harvesting of timber, beyond the vegetative fringes, shall be conducted in a manner which shall insure that the natural scenic qualities of the Greenway will be maintained to the greatest extent practicable or will be restored within a brief period of time on those lands inside the Urban Growth Boundary.

Staff: The proposal does not include harvesting of timber; however, the project does propose to remove 18 trees 6 inches in diameter or larger (Exhibit A.4). These trees are located on the fringes on the Greenway. After removal of the trees, the applicant plans to revegetate the project area with 46 trees to ensure that the natural scenic qualities of the Greenway will be restored (Exhibit A.3 and A.4). Once the tree plantings are established, it will ensure that the natural scenic qualities of the Greenway are maintained. *As conditioned, this criterion is met.*

(F) Recreational needs shall be satisfied by public and private means in a manner consistent with the carrying capacity of the land and with minimum conflicts with farm uses.

Staff: The proposal is located with the right of way of US Highway 30. The recreational needs of the public to access public or private recreation areas are not affected by the proposed development nor will project alter any recreational facilities. *This criterion is met.*

(G) Significant fish and wildlife habitats shall be protected.

Staff: The purpose of the proposed development is to provide a migration corridor, which US Highway 30 bisects, between the upland forests of the Tualatin Hills and the Burlington Bottoms floodplain wetlands along Multnomah Channel for significant wildlife species including Northern Red-Legged frogs and Pacific Chorus frogs. All project elements are to protect significant wildlife habitat and passage (Exhibit A.2 and A.4). The applicant has designed construction access routes and staging areas to minimize impacts and protect sensitive wetland habitats. Project construction will occur during the approved work window determined by Oregon Department of Fish and Wildlife in order to minimize impacts to sensitive species. A condition will be required that the mitigation measures be met to ensure that significant wildlife habitats are enhanced and protected. *As conditioned, this criterion is met.*

(H) Significant natural and scenic areas and viewpoints and vistas shall be preserved.

Staff: There are no known significant viewpoints located within the project area. The proposed development will occur within the right of way of US Highway 30 and none of the proposed development will occur in significant natural areas within the Greenway and along the Multnomah Channel. Lastly, as shown in Exhibit A.3: Sheets R-1 and R-2, Restoration and Planting Plan and described in Exhibit A.4, the planting of trees and other vegetation will ensure the scenic quality to or from the project area towards the Burlington Bottomlands and Multnomah Channel are enhanced and preserved. *This criterion is met.*

(I) Maintenance of public safety and protection of public and private property, especially from vandalism and trespass, shall be provided to the maximum extent practicable.

Staff: The directional walls are designed to not be viewable from US Highway 30 in order to prevent people from attempting to access the underpass. The applicant states that ODOT may retrofit the underpass with bars or a gate to prevent access in non-migratory seasons. These measures will ensure that public safety is maintained and public/private is protected. *This criterion is met.*

(J) The natural vegetation along the river, lakes, wetlands and streams shall be enhanced and protected to the maximum extent practicable to assure scenic quality, protection from erosion, screening of uses from the river, and continuous riparian corridors.

Staff: The project area, which is the US Highway 30 right of way, is separated from the Burlington Bottomlands by the Portland and Western Railroad rail line. No project activities will occur along the Multnomah Channel, which is more than 2,500 feet (.47 miles) from the project area. Further as shown in Exhibit A.3: Sheet R-1, Restoration and Planting Plan and described in Exhibit A.4, natural vegetation will be planted. Lastly, the directional walls are designed to not be viewable from US Highway 30 in order to assure the scenic quality is protected. A condition will be required that the mitigation measures be met. *As conditioned, this criterion is met.*

(K) Extraction of known aggregate deposits may be permitted, pursuant to the provisions of MCC 39.7300 through 39.7330, when economically feasible and when conducted in a manner designed to minimize adverse effects on water quality, fish and wildlife, vegetation, bank stabilization, stream flow, visual quality, noise, safety, and to guarantee necessary reclamation.

Staff: The proposal does not include extraction of aggregate; therefore, this criterion is not applicable. *This criterion is not applicable.*

(L) Areas of annual flooding, flood plains, water areas and wetlands shall be preserved in their natural state to the maximum possible extent to protect the water retention, overflow and natural functions.

Staff: The proposed development will disturb a low quality wetland area. To mitigate the disturbance, the applicant is proposing mitigation through that planting of vegetation to improve areas of annual flooding, floodplains, wetlands, or water areas within the Willamette River Greenway. The mitigation is shown in Exhibit A.3 and described in Exhibit A.4. A condition will be required that the mitigation measures be met. *As conditioned, this criterion is met.*

(M) Significant wetland areas shall be protected as provided in MCC 39.5940.

Staff: Significant wetland areas are addressed in Section 8.3. *This criterion is met.*

(N) Areas of ecological, scientific, historical or archaeological significance shall be protected, preserved, restored, or enhanced to the maximum extent possible.

Staff: The overarching purpose of the development is preserve, restore, and enhance areas of ecological and scientific significance as previously discussed. For historical or archaeological significance, there are no known areas of historical or archaeological significance within the project area. However, because there is a possibility that of historical or archaeological significance could be found, a condition of approval will be required that the applicant or their agents stop work, if artifacts or deposited are found and follow appropriate procedures as outlined by the Oregon State Historic Preservation Office (SHPO). *As conditioned, this criterion is met.*

(O) Areas of erosion or potential erosion shall be protected from loss by appropriate means which are compatible with the character of the Greenway.

Staff: The applicant has submitted a separate Erosion and Sediment Control (ESC) permit that is being reviewed concurrently to this application. As discussed in the ESC permit, the Project construction is scheduled to occur during the summer, June 15 to September 15, when erosion from runoff is less likely and Burlington Creek is not flowing or minimal. The construction area on the US Highway 30 embankment is mostly aggregate with little soil, which minimizes potential for erosion. The applicant's erosion and sediment control plans in Exhibit A.3 on Sheets ESC-1 through ESC-6 list best management practices that will be implemented prior to construction, including straw wattles, inlet protection, and check dams. The applicant is

required to obtain an Erosion and Sediment Control Permit prior to construction. *As conditioned, this criterion is met.*

(P) The quality of the air, water and land resources in and adjacent to the Greenway shall be preserved in development, change of use, or intensification of use of land designated WRG.

Staff: The overarching purpose of the development is preserve, restore, and enhance the quality of the air, water, and land resources in and adjacent to the Greenway. In improving the wildlife crossing for wildlife, the applicant is also proposing to enhance the natural hydrology, stormwater infiltration, and water quality in the project area through removal of invasive species and the planting of native vegetation. This mitigation strategy will ensure that the development will preserve the quality of the air, water, and land resources in and adjacent to the Greenway. *This criterion is met.*

(Q) A building setback line of 150 feet from the ordinary low waterline of the Willamette River shall be provided in all rural and natural resource base zones, except for non-dwellings provided in conjunction with farm use and except for buildings and structures in conjunction with a water-related or a water dependent use.

Staff: The applicant is not proposing a building as part of this application; therefore, this criterion is not applicable. *This criterion not applicable.*

(R) Any development, change of use or intensification of use of land classified WRG, shall be subject to design review, pursuant to MCC 39.8000 through 39.8050, to the extent that such design review is consistent with the elements of the Greenway Design Plan.

Staff: The construction of the proposed culvert and directional walls are considered development; therefore, the proposal is subject to design review. Findings for the design review approval criteria are in Section 9.0 of this decision document.

(S) The applicable policies of the Comprehensive Plan are satisfied.

Staff: Findings for the Comprehensive Plan approval criteria are in Section 10.0 of this decision document.

8.3 MCC 39.5940 SIGNIFICANT WETLANDS

Significant wetlands consist of those areas designated as Significant on aerial photographs of a scale of 1"=200' made a part of the supporting documentation of the Comprehensive Plan. Any proposed activity or use requiring an WRG permit which would impact those wetlands shall be subject to the following:

*** * ***

(B) In addition to the criteria listed in MCC 39.5935 the applicant shall demonstrate that the proposal:

(1) Is water-dependent or requires access to the wetland as a central element of its basic design function, or is not water dependent but has no practicable alternative as described in subsection (C) below;

Staff: The project will have a temporary impact on a degraded wetland ditch between the US Highway 30 and the rail line, which consists of non-native vegetation (reed canary grass). As the project is working within a wetland ditch, it requires access to a wetland as a central element of its basic design function. A Wetland Delineation has been conducted and the wetland areas have been mapped (Exhibit A.6). Impacts to the wetland could not be prevented, so the applicant is proposing mitigation to improve the wetland by replanting with native wetland vegetation after construction. It will have no permanent impacts to the wetland (Exhibit A.2, A.3, and A.4). In order to provide a feasible wildlife migration corridor, the applicant selected the location with the highest wildlife mortality and greatest connectivity opportunity. Therefore, the project requires temporary access to the degraded wetland as there is no practicable alternative as discussed below. *This criterion is met.*

(2) Will have as few adverse impacts as is practical to the wetland's functional characteristics and its existing contour, vegetation, fish and wildlife resources, shoreline anchoring, flood storage, general hydrological conditions, and visual amenities. This impact determination shall also consider specific site information contained in the adopted wetlands inventory and the economic, social, environmental, and energy (ESEE) analysis made part of the supporting documentation of the comprehensive plan;

Staff: The proposed project will have few adverse impacts and no permanent wetland impacts. As discussed previously, a Wetland Delineation has been conducted and the wetland areas have been mapped (Exhibit A.6). Much of the wetland is degraded. After construction, the degraded wetland area that is temporarily affected will be replanted with appropriate native plantings, replacing the non-native reed canary grass and roadway debris and enhancing the wetland from its existing condition (Exhibit A.2 through A.4). The restoration work after construction of the culvert underpass will improve vegetation, fish and wildlife resources, shoreline anchoring, flood storage, general hydrological conditions, and have little to no visual impacts. *This criterion is met.*

(3) Will not cause significant degradation of groundwater or surface water quality;

Staff: The proposed wildlife undercrossing will be entirely within the existing state right of way. It will not change or intensify the highway use. Project construction is scheduled to occur during the summer, June 15 to September 15, when erosion from runoff is less likely and Burlington Creek is not flowing or minimal (Exhibit A.2). The construction area on the US Highway 30 embankment is mostly aggregate with little soil, which minimizes potential for erosion. The applicant's erosion and sediment control plans on Sheets ESC-1 through ESC-6 list best management practices that will be implemented prior to construction, including straw wattles, inlet protection, and check dams (Exhibit A.3). The applicant is required to obtain an Erosion and Sediment Control Permit prior to construction. *As conditioned, this criterion is met.*

(4) Will provide a buffer area of not less than 50 feet between the wetland boundary and upland activities for those portions of regulated activities that need not be conducted in the wetland;

Staff: A Wetland Delineation has been conducted and the wetland areas have been mapped. The proposed project will occur within a degraded wetland that is a ditch (Exhibit A.6). The

wetland area will be buffered by over 100 feet from upland activities. Those upland activities include the staging area of construction equipment and stockpiling of soil (Exhibit A.3: ESC-1 through ESC-6). In the end, the development will have no permanent impact to a wetland. *This criterion is met.*

(5) Will provide offsetting replacement wetlands for any loss of existing wetland areas. This Mitigation Plan shall meet the standards of subsection (D).

Staff: As discussed previously, a Wetland Delineation has been conducted and the wetland areas have been mapped (Exhibit A.6). The project will affect the degraded wetland area through the construction of the wildlife underpass. After construction, the degraded wetland area will be replanted with appropriate native plantings, replacing the non-native reed canary grass and roadway debris, and enhancing the wetland from its existing condition (Exhibit A.2 through A.4). These mitigation measures meet the standards of subsection (D) as discussed below. *This criterion is met.*

(C) A finding of no practicable alternative is to be made only after demonstration by the applicant that:

- (1) The basic purpose of the project cannot reasonably be accomplished using one or more other practicable alternative sites in Multnomah County that would avoid or result in less adverse impact on a wetland. An alternative site is to be considered practicable if it is available for purchase and the proposed activity can be conducted on that site after taking into consideration costs, existing technology, infrastructure, and logistics in achieving the overall project purposes;**
- (2) The basic purpose of the project cannot be accomplished by a reduction in the size, scope, configuration, or density of the project as proposed, or by changing the design of the project in a way that would avoid or result in fewer adverse effects on the wetland; and**
- (3) In cases where the applicant has rejected alternatives to the project as proposed due to constraints, a reasonable attempt has been made to remove or accommodate such constraints.**

Staff: The applicant provided a narrative, site plan, wetland delineation and mitigation plan to demonstrate that the basic purpose of the project cannot reasonably accomplished using one or more other practicable alternative sites in Multnomah County that would avoid or result in less adverse impact on a wetland. As discussed in the narrative, mitigation plan and wetland delineation, in order to provide a feasible wildlife migration corridor, the location with the highest wildlife mortality and greatest connectivity opportunity between the West Hills upland and the Burlington Bottomlands is located at this location (Exhibit A.2 through A.4 and A.6). The mitigation strategies are designed to retain the resource values upon completion of the construction activities. Although the project requires temporary access to the degraded wetland the applicant is mitigate adverse impacts through the planting of native vegetation and increasing the functional floodplain wetland habitat (Exhibit A.4). To ensure the success of the Mitigation Plan, a condition will be required that the applicant implement the plan as described.

(D) A Mitigation Plan and monitoring program may be approved upon submission of the following:

- (1) A site plan and written documentation which contains the applicable information for the replacement wetland as required by MCC 39.5935 and subsection (A) of this section;**
- (2) A description of the applicant's coordination efforts to date with the requirements of other local, State, and Federal agencies;**
- (3) A Mitigation Plan which demonstrates retention of the resource values addressed in subsection (B) (2) above;**
- (4) Documentation that replacement wetlands were considered and rejected according to the following order of locational preferences:**
 - (a) On the site of the impacted wetland, with the same kind of resource;**
 - (b) Off-site, with the same kind of resource;**
 - (c) On-site, with a different kind of resource;**
 - (d) Off-site, with a different kind of resource.**

Staff: As stated above, the proposed project involves the enhancement of a wildlife crossing and restoration work for the degraded wetland areas within the project area. As discussed in the Mitigation Plan, the applicant will be removing invasive vegetation and replacing any impacted wetlands with the same kind of resource on site. No other wetlands off-site are part of this project. Through a Condition of Approval, the implementation of the Mitigation Plan, the wetland resource will be retained as required in subsection (B)(2).

Lastly, the Department of State Lands (DSL) has reviewed the wetland delineation report and applicant has received concurrence and approval (Exhibit B.3). Therefore, the project requires temporary access to the degraded wetland and there is no practicable alternative. *As conditioned, this criterion is met.*

9.0 Design Review Approval Criteria:

9.1 MCC 39.8020 APPLICATION OF REGULATIONS

(A) Except those exempted by MCC 39.8015, the provisions of MCC 39.8000 through 39.8050 shall apply to all conditional and community service uses, and to specified uses, in any base zone.

Staff: The proposed project is subject to 39.5935(R) Greenway Design Plan. Which requires design review. The proposed project is not exempted by MCC 39.8015; therefore, Design Review is required.

(B) Uses subject to Design Review that require the creation of fewer than four new parking spaces pursuant to MCC 39.6590 shall only be subject to the following Design Review approval criteria: MCC 39.8040(A)(1)(a) and (1)(c), and (4) and (7), except when located in the RC, BRC, OR, OCI, PH-RC or SRC zone base zones.

Staff: The proposal does not include the construction of a building; therefore, it does not require the creation of any parking spaces. Additionally, the project is located within right of way in CFU-1 and MUA-20 base zones. Therefore, it is only subject to Design Review approval criteria MCC 39.8040(A)(1)(a) and (1)(c), (4), and (7).

9.2 MCC 39.8040 DESIGN REVIEW CRITERIA

(A) Approval of a final design review plan shall be based on the following criteria:

(1) Relation of Design Review Plan Elements to Environment.

(a) The elements of the design review plan shall relate harmoniously to the natural environment and existing buildings and structures having a visual relationship with the site

* * *

Staff: The structures proposed as part of the project are an underground culvert for wildlife passage and two directional walls. The 3-foot-high walls are designed to not be viewable from US Highway 30 in order to prevent people from attempting to access the underpass. The underpass will be adjacent to an existing culvert that conveys water from Burlington Creek and its watershed through US Highway 30. The applicant selected the placement and height of the new culvert (wildlife underpass) to ensure that it would not alter the flow of Burlington Creek and become the primary flow path. The inlet and the outlet of the wildlife underpass will be 20 feet south of the existing culvert's inlet and outlet, and the underpass' opening will be 18 inches higher than the existing culvert. The outlet of the wildlife underpass will direct wildlife to Burlington Bottoms (Exhibit A.2). After construction of the structures, the applicant is proposing to restore the natural environment with native plantings appropriate for the site (Exhibit A.3: Sheets R-1 and R-2 and Exhibit A.4). The project elements, structures, and plantings will be harmonious with the Burlington Bottomlands, Burlington Creek, and the Multnomah Channel. *This criterion is met.*

(c) Each element of the design review plan shall effectively, efficiently, and attractively serve its function. The elements shall be on a human scale, inter related, and shall provide spatial variety and order.

* * *

Staff: The purpose of the proposed culvert and walls is to provide migratory passage for amphibians and small mammals. As discussed in the narrative and mitigation plan in addition to being shown on the site plans, each element, including the removal of invasive vegetation, the construction of the wildlife underpass, and restoration of the site through native replanting all serve their designed function, are interrelated, and provide spatial variety and order. Although the main element is not intended to be on a human-scale, the restoration of the large project site will convey a human scaled restoration project. *This criterion is met.*

(4) Preservation of Natural Landscape - The landscape and existing grade shall be preserved to the maximum practical degree, considering development constraints and suitability of the landscape or grade to serve their functions. Preserved trees and shrubs shall be protected during construction.

* * *

Staff: As discussed previously, the project area was specifically chosen as a major wildlife crossing area. The grading that will occur is constrained to this location, as it is located within the right of way of US Highway 30. In order to construct the directional walls within road fill and to remove non-native vegetation, the applicant is proposing minimal changes to the existing grade (Exhibit A.2 and A.3). The wildlife underpass culvert will be installed by trenchless shaft. Lastly, at the conclusion of construction activities, the applicant is proposing landscaping to restore the project area (Exhibit A.3: Sheet R-1 and R-2). The plans show that

native vegetation will be protected during construction and graded areas will be seeded and planted with native emergent and riparian species. *This criterion is met.*

(7) Buffering and Screening - Areas, structures and facilities for storage, machinery and equipment, services (mail, refuse, utility wires, and the like), loading and parking, and similar accessory areas and structures shall be designed, located, buffered or screened to minimize adverse impacts on the site and neighboring properties.

Staff: No structures and facilities for storage, machinery, and equipment are proposed as part of this project. Additionally, no services (mail, refuse, utility wires, and the like), loading and parking, and similar accessory areas and structures are proposed for this project. The only permanent impacts on the site that will be visible to neighboring properties will be natural vegetation. *This criterion is met.*

10.0 Comprehensive Plan Policies

10.1 NATURAL RESOURCES

5.6 – Protect vegetated riparian corridors in order to maintain their water quality functions including the following:

- 1. Providing shade to maintain or reduce stream temperatures to meet state water quality standards;**
- 2. Supporting wildlife in the stream corridors;**
- 3. Minimizing erosion, nutrient, and pollutant loading into water;**
- 4. Maintaining natural hydrology; and**
- 5. Stabilizing slopes to prevent landslides that contribute to sedimentation of water.**

Staff: The overall purpose of the project is to provide a wildlife crossing of US Highway 30. As part of the project, the applicant will restore and enhance the habitat in the degraded wetland area. The staging of the project will begin during the summertime construction period to reducing runoff when soils are exposed and allowing effective work area isolation and the ability to excavate and transport soils without causing turbidity issues or impairing water quality (Exhibit A.2). The upland work areas that are not currently paved or gravel, including temporary access routes on the east side of the project area, will be reseeded with a native grass seed mix immediately after construction. Native wetland plugs including sedges will be installed directly after construction to stabilize the soils adjacent to the wetlands. Planting of native shrubs and trees will occur after construction. *This policy is satisfied.*

5.34 Work with State and local agencies, Soil and Water Conservation Districts, and other public and private conservation groups to protect high value habitat such as, but not limited to, oak woodlands, bottomland cottonwood/ash forests, and old growth forests.

Staff: The applicant is working with ODOT and ODFW to provide wildlife passage through a migration corridor between an upland habitat (West Hills) and the Burlington Bottomlands. Lastly, the Department of State Lands (DSL) has reviewed the wetland delineation report and applicant has received concurrence and approval (Exhibit B.3). *This policy is satisfied.*

10.2 CULTURAL AND ARCHEOLOGICAL RESOURCES

6.4 Require reporting of the discovery of Native American artifacts and other cultural resources to SHPO and the Native American Tribes

Staff: There are no known areas of historical or archaeological significance on the property. However, given the possibility for discovery of archaeological artifacts or deposits during the project, a condition of approval will be included in the decision that directs the applicant and/or property owner to contact Oregon State Historic Preservation Office (SHPO) for instructions on addressing discovered artifacts/deposits. *As conditioned, this policy is satisfied.*

11.0 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden Necessary for a Significant Environmental Concern for Scenic Views (SEC-v) permit, Significant Environmental Concern for Streams (SEC-s) permit, Significant Environmental Concern for Wildlife Habitat (SEC-h) permit, Willamette River Greenway (WRG) permit, and Design Review in the CFU-1 and MUA-20 zones to:

1. Authorize the construction to establishment of an approximately 130-foot long, 54-inch steel casing culvert with light boxes, one 440-foot-long 3-foot-high concrete wall, one 160-foot 3-foot-high concrete wall;
2. Authorize new ground disturbing activities, subject to an Erosion and Sediment Control permit and Flood Development permit within the existing roadway embankment and fill materials of US Highway 30
3. Implement a mitigation plan to remove invasive species and to plant trees, shrubs and other vegetation in the SEC-v, SEC-s, SEC-h, and WRG overlay.

This approval is subject to the conditions of approval established in this report.

12.0 Exhibits

‘A’ Applicant’s Exhibits
‘B’ Staff Exhibits
‘C’ Procedural Exhibits

Exhibits with a “*” after the exhibit # have been included as part of the mailed decision. Those exhibits have been reduced to a size of 8.5” x 11” for mailing purposes. All other exhibits are available for review in Case File T2-2022-15746.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	General Application Form	05/05/2022
A.2	65	Applicant Narrative	05/05/2022
A.3*	30	Site Plans and Construction Plans	05/05/2022

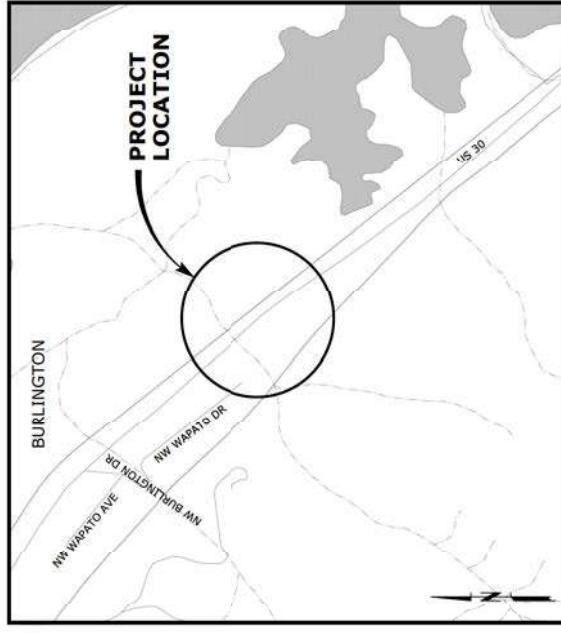
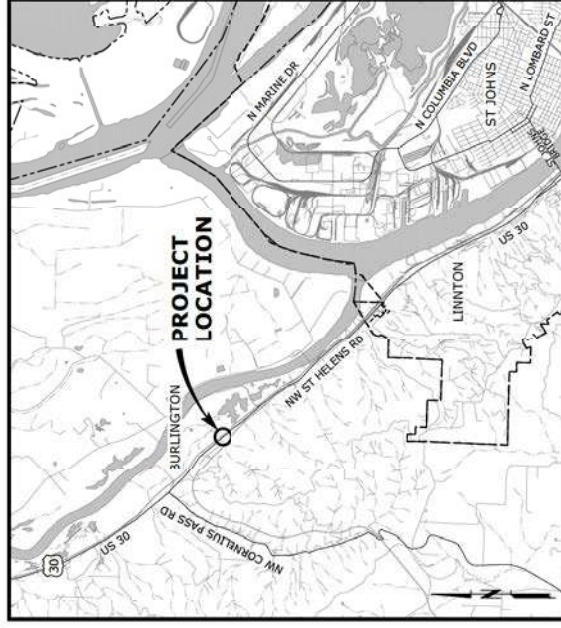
		<ul style="list-style-type: none"> - *Sheet G-1: Cover Sheet, Index of Drawings, Vicinity and Location Maps - Sheet G-2: General Notes - Sheet G-3: Symbols, Abbreviations, and Legend - *Sheet G-4: Site Layout - Sheet TC-1: Traffic Control Plan - Sheet TC-2: Traffic Control Standard Drawings - 1 - Sheet TC-3: Traffic Control Standard Drawings - 2 - Sheet ESC-1: Erosion and Sediment Control Cover Sheet and General Notes - Sheet ESC-2: Erosion and Sediment Control Plan - 1 - Sheet ESC-3: Erosion and Sediment Control Plan - 2 - Sheet ESC-4: Erosion and Sediment Control Standard Drawings - 1 - Sheet ESC-5: Erosion and Sediment Control Standard Drawings - 2 - Sheet ESC-6: Erosion and Sediment Control Standard Drawings - 3 - *Sheet C-1: Wildlife Underpass Plan - 1 - *Sheet C-2: Wildlife Underpass Plan - 2 - *Sheet C-3: Wildlife Underpass Profile - Sheet C-4: Civil Details - 1 - Sheet C-5: Civil Details - 2 - Sheet C-6: Civil Details - 3 - Sheet C-7: Civil Details - 4 - Sheet C-8: Civil Details - 5 - Sheet C-9: Civil Details - 6 - Sheet C-10: Civil Details - 7 - Sheet C-11: Civil Details - 8 - Sheet C-12: Civil Details - 9 - Sheet C-13: Civil Details - 10 - Sheet C-14: Civil Standard Drawings - *Sheet R-1: Restoration and Planting Plan - 1 - *Sheet R-2: Restoration and Planting Plan - 2 - *Sheet R-3: Restoration and Planting Details 	
A.4	32	Burlington Creek Stream Conservation Plan and Burlington Creek Wildlife Conservation Plan	05/05/2022
A.5	11	PF-2022-15532 Pre-file Meeting Notes	05/05/2022
A.6	35	Wetland Delineation	05/05/2022
A.7	417	Contract Documents	05/05/2022
'B'	#	Staff Exhibits	Date
B.1	1	Division of Assessment, Recording, and Taxation (DART): Map with 2N1W20 with project area highlighted	05/05/2022
B.2	1	Aerial Photo from Summer 2020	05/05/2022

B.3	8	Oregon Department of State Lands Wetland Delineation Report Concurrence and Approval Letter	06/14/2022
‘C’	#	Administration & Procedures	Date
C.1	3	Complete letter (day 1)	06/03/2022
C.2	12	Opportunity to Comment	08/16/2022
C.3	1	Extension of 150-Day Timeline	12/13/2022
C.4	18	Administrative “Short” Decision and mailing list	10/28/2022
C.5	43	Administrative Decision and mailing list	10/28/2022

PALENSKY WILDLIFE UNDERPASS PROJECT

APRIL 2022

DRAFT-FINAL SUBMITTAL



INDEX OF DRAWINGS

GENERAL	
1	G-1 COVER SHEET, INDEX OF DRAWINGS, VICINITY AND LOCATION MAPS
2	G-2 GENERAL NOTES
3	G-3 SYMBOLS, ABBREVIATIONS, AND LEGEND
4	G-4 SITE LAYOUT
TRAFFIC CONTROL	
5	TC-1 TRAFFIC CONTROL PLAN
6	TC-2 TRAFFIC CONTROL STANDARD DRAWINGS - 1
7	TC-3 TRAFFIC CONTROL STANDARD DRAWINGS - 2
EROSION AND SEDIMENT CONTROL	
8	ESC-1 EROSION AND SEDIMENT CONTROL PLAN
9	ESC-2 EROSION AND SEDIMENT CONTROL STANDARD DRAWINGS - 1
10	ESC-3 EROSION AND SEDIMENT CONTROL STANDARD DRAWINGS - 2
11	ESC-4 EROSION AND SEDIMENT CONTROL STANDARD DRAWINGS - 3
12	ESC-5 EROSION AND SEDIMENT CONTROL STANDARD DRAWINGS - 4
13	ESC-6 EROSION AND SEDIMENT CONTROL STANDARD DRAWINGS - 5
CIVIL	
14	C-1 WILDLIFE UNDERPASS PLAN - 1
15	C-2 WILDLIFE UNDERPASS PLAN - 2
16	C-3 WILDLIFE UNDERPASS PROFILE
17	C-4 CIVIL DETAILS - 1
18	C-5 CIVIL DETAILS - 2
19	C-6 CIVIL DETAILS - 3
20	C-7 CIVIL DETAILS - 4
21	C-8 CIVIL DETAILS - 5
22	C-9 CIVIL DETAILS - 6
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24	C-11 CIVIL DETAILS - 8
25	C-12 CIVIL DETAILS - 9
26	C-13 CIVIL DETAILS - 10
27	C-14 CIVIL STANDARD DRAWINGS
RESTORATION AND PLANTING	
28	R-1 RESTORATION AND PLANTING PLAN - 1
29	R-2 RESTORATION AND PLANTING PLAN - 2
30	R-3 RESTORATION AND PLANTING DETAILS



THIS DESIGN COMPLIES WITH OAS 92.044 (7) IN THAT NO UTILITY INFRASTRUCTURE IS DESIGNED TO BE WITHIN ONE (1) FOOT OF A SURVEY MONUMENT LOCATION SHOWN ON A SUBDIVISION OR PARTITION PLAT. NO DESIGN EXCEPTION NOR FINAL RECORD MAPS SHALL BE SUBMITTED FOR ANY UTILITY INFRASTRUCTURE TO BE PLACED WITHIN THE PROHIBITED AREA.

ATTENTION: OREGON LAW REQUIRES THE CONTRACTOR TO FOLLOW THE RULES ADOPTED BY THE OREGON UTILITY NOTIFICATION CENTER. THOSE RULES ARE SET FORTH IN OAR 952-001-0010 THROUGH OAR 952-001-0090. THE CONTRACTOR MAY OBTAIN COPIES OF THE RULES BY CALLING THE UTILITY NOTIFICATION CENTER (503-332-1987) OR VISITING THE WEBSITE (WWW.OREGONUTILITYNOTIFICATIONCENTER.ORG).





PLAN
SCALE: 1"=40'



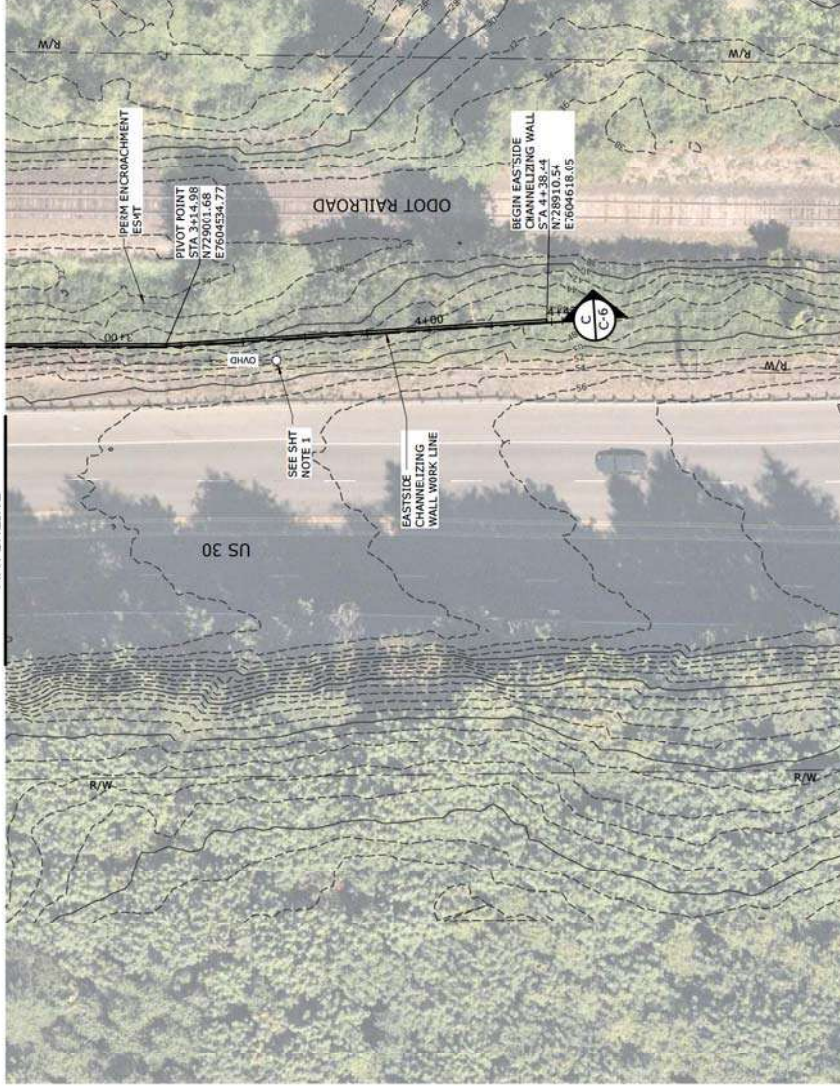
DRAFT-FINAL SUBMITTAL

PROJECT NO. 21-3024	SCALE: AS SHOWN	DATE: APRIL 2022	SHEET G-4 X of X
PALENSKY WILDLIFE UNDERPASS PROJECT	MURRAYSMITH	PRELIMINARY ONLY DO NOT USE FOR CONSTRUCTION APRIL 2022 Murraysmith www.murraysmith.com	<div> <div>NOTICE</div> <div> <div>0 1/2</div> <div>IF THIS BAR DOES NOT MEASURE 1/2" THEN SCALE IS NOT TO SCALE</div> </div> </div> <div> <div>DESIGNED</div> <div>DRAWN</div> <div>CHECKED</div> </div>
NO.	DATE	BY	REVISION

SHEET NOTES:

1. PROTECT EXISTING UTILITY POLE AND OVERHEAD UTILITIES FOR DURATION OF WORK.
2. SEE SPECIFICATIONS FOR RAILROAD FLAGGING REQUIREMENTS.

SEE SHEET C-1
MATCHLINE

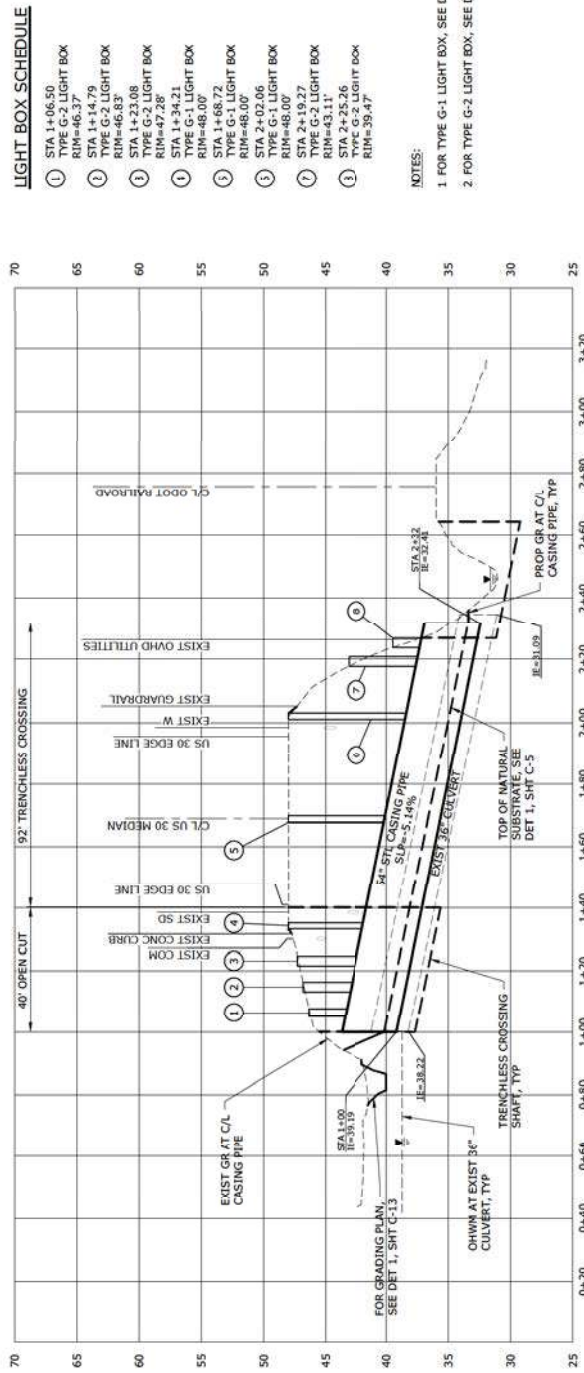


PLAN
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DRAFT-FINAL SUBMITTAL

				SHEET	
				C-2	
				X of X	
				WILDLIFE UNDERPASS PLAN - 2	
				PROJECT NO.: 21-3024	
				SCALE: AS SHOWN	
				DATE: APRIL 2022	
				PALENSKY WILDLIFE UNDERPASS PROJECT	
					
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LIGHT BOX SCHEDULE

- ① STA 1+06.50
TYPE G-2 LIGHT BOX
RIM=46.37
- ② STA 1+14.79
TYPE G-2 LIGHT BOX
RIM=46.83
- ③ STA 1+23.08
TYPE G-2 LIGHT BOX
RIM=47.28
- ④ STA 1+34.21
TYPE G-1 LIGHT BOX
RIM=48.00
- ⑤ STA 1+68.72
TYPE G-1 LIGHT BOX
RIM=48.00
- ⑥ STA 1+70.06
TYPE G-1 LIGHT BOX
RIM=48.00
- ⑦ STA 2+19.27
TYPE G-2 LIGHT BOX
RIM=43.11
- ⑧ STA 2+25.26
TYPE G-2 LIGHT BOX
RIM=39.47

NOTES:

- 1 FOR TYPE G-1 LIGHT BOX, SEE DETAIL 4, SHEET C-5.
- 2 FOR TYPE G-2 LIGHT BOX, SEE DETAIL 5, SHEET C-5.

PROFILE
SCALE 1"=20' HORIZ, 1"=5' VERT

DRAFT-FINAL SUBMITTAL

NO.	DATE	BY	REVISION	NOTICE	BDF DESIGNED	DKH DRAWN	BWO CHECKED	PRELIMINARY ONLY DO NOT USE FOR CONSTRUCTION APRIL 2022 Murraysmith www.murraysmith.com		PALENSKY WILDLIFE UNDERPASS PROJECT	WILDLIFE UNDERPASS PROFILE	SHEET C-3 X of X
				0' 0" : 1" = 1' 0"								

SEEDING SCHEDULES

TABLE 1. WETLAND SEED MIX, AREA 0.05 AC, ELEVATION RANGE <311' NAVD88		
COMMON NAME	BOTANICAL NAME	LBS PLS/ACRE
SPRIKE BENTGRASS	AGRISETIS EXARATA	0.25
MEADOW BARLEY	HORDEUM BRACHYANTHERUM	700
TUFTED HAIRGRASS	DESCHAMPSIA CESPITOSA	100
SLOUGH GRASS	BECKHAMIA SYZIGACHNE	1.25
PUGET SOUND GUMWEED	GROEDLIA INTEGRIFOLIA	100
CLUSTERED TARWEED	MADA GLOMERATA	100
LARGE-LEAF LUPINE	LUPINUS POLYPHYLLUS	100

TABLE 2. UPLAND SEED MIX, AREA 0.27 AC, ELEVATION RANGE >311' NAVD88		
COMMON NAME	BOTANICAL NAME	LBS PLS/ACRE
BLUE WILDBIRD	ELYMUS GLAUCUS	500
CALIFORNIA BROME	BROMUS CARINATUS	700
SHOWY TARWEED	MADA ELEGANS	150
YARROW	ACHILLEA MILLEFOLIUM	0.13
WOOL OR/OX SUNSHINE	ERIOGYLLUM LANATUM	0.25
RIVERBANK LUPINE	LUPINUS RIVULARIS	0.50
CINQUEFOIL	POTENTILLA GRACILIS	0.25
SELFHEAL; FEAL-ALL	PRUNELLA VULGARIS VAR. LANCEOLATA	200
WESTERN BUTTERCUP	RANUNCULUS OCCIDENTALIS	200
MEADOW CHECKERBLOW	SIDALCEA CAMPESTRIS	300
CALIFORNIA DATGRASS	DANthonIA CALIFORNICA	400
ROMER'S FESCUE	FESTUCA ROEMERI	200

TABLE 3. UPLAND SEED MIX (STAGING AREA), AREA 0.05 AC, ELEVATION RANGE >311' NAVD88		
COMMON NAME	BOTANICAL NAME	LBS PLS/ACRE
BLUE WILDBIRD	ELYMUS GLAUCUS	500
CALIFORNIA BROME	BROMUS CARINATUS	700
SHOWY TARWEED	MADA ELEGANS	150
YARROW	ACHILLEA MILLEFOLIUM	0.13
WOOL OR/OX SUNSHINE	ERIOGYLLUM LANATUM	0.25
RIVERBANK LUPINE	LUPINUS RIVULARIS	0.50
CINQUEFOIL	POTENTILLA GRACILIS	0.25
SELFHEAL; FEAL-ALL	PRUNELLA VULGARIS VAR. LANCEOLATA	200
WESTERN BUTTERCUP	RANUNCULUS OCCIDENTALIS	200
MEADOW CHECKERBLOW	SIDALCEA CAMPESTRIS	300
CALIFORNIA DATGRASS	DANthonIA CALIFORNICA	400
ROMER'S FESCUE	FESTUCA ROEMERI	200

PLANTING SCHEDULES

TABLE 4. WETLAND PLANTING SCHEDULE, AREA 0.05 AC, ELEVATION RANGE <311' NAVD88		
COMMON NAME	BOTANICAL NAME	QTY
SOFT STEM MULRUSH	SCHREPOLECTUS TABERNABONTANI	100
CATTAIL	TYPA LATIFOLIA	50
SLOUGH SEED	CAREX ORNUPTA	50
NODDING BIGGARTICKS	BIDENS CERNUA	50
SWAMP CLUSTERED ROSE	ROSA PISCICARPA	50
PACIFIC WILLOW	SALIX LASIANDBA	50
SITKA WILLOW	SALIX SITCHENSIS	50
HOOVER'S PIPER'S WILLOW	SALIX HOOKERIANA	50
DOUGLAS SIREA	SPIREA DOUGLASSII	100
RED-OSIER DOGWOOD	CORBUS STOLONIFERA	50

TABLE 5. UPLAND PLANTING SCHEDULE, AREA 0.27 AC, ELEVATION RANGE >311' NAVD88		
COMMON NAME	BOTANICAL NAME	QTY
TALL OREGON GRAPE	MAHONIA AQUIFOLIUM	50
OSODERBY/INDIAN PLUM	OEBERIA CERASTIFORMIS	50
WESTERN CHICKCHERRY	PRUNUS VIRGINIANA VAR. DUMOSA	50
OREGON WHITE OAK	QUERCUS GARRYANA	1 GAL
RED FLOWERING CURRANT	RIBES SANGUINEUM	50
BLUE ELDERBERRY	SAMBUCUS CAERULEA	50
BLACK HAWTHORN	CRATAEGUS DOUGLASSII	50
CASCARA	RAMBUS PURSHIANA	50
NOOTKA ROSE OR BALDWIN	ROSA NUTMANA OR R. GYMNOCARPA	50
SNOWBERRY	SYMPHORICARPOS ALBA	50



- HARDSHORE NOTES:**
1. IF AN EXCAVATION CROSSES INTO A TRAVEL LANE, RESTORATION REQUIREMENTS WILL INCLUDE A FULL LANE WIDTH PATCH OF THE IMPACTED TRAVEL LANE, 50-FOOT IN WIDTH, AND A 10-FOOT IN WIDTH PATCH OF THE ADJACENT TRAVEL LANE. COMPLETE RECONSTRUCTION OF ANY DISTURBED PAVEMENT SECTIONS.
 2. TO FACILITATE INSTALLATION OF THE CASING PIPE, IT IS ANTICIPATED THAT EXCAVATION WILL CROSS INTO THE SOUTHBOUND INTERIOR LANE AND THE NORTHBOUND INTERIOR LANE. EXCAVATION WILL CROSS INTO THE SOUTHBOUND INTERIOR LANE AND THE NORTHBOUND INTERIOR LANE.
 3. REMOVE AND REPLACE ASPHALT CONCRETE PAVEMENT AND GUTTER, CONCRETE CURB, AND CONCRETE DRIVEWAY IN THE SOUTHERN SHOULDER AS REQUIRED.
 4. REMOVE AND REPLACE ASPHALT CONCRETE PAVEMENT IN THE NORTHERN SHOULDER AS REQUIRED.
 5. FINAL RESTORATION REQUIREMENTS WILL BE THE DECISION OF ODOT.

ZONE LEGEND

- UPLAND SEEDING (STAGING AREA)
- UPLAND SEEDING AND PLANTING
- WETLAND SEEDING AND PLANTING

MATCHLINE
SEE SHEET R.2

PLAN
SCALE: 1"=30.0'



PALENSKY WILDLIFE
UNDERPASS PROJECT



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NOTICE	
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RESTORATION AND PLANTING PLAN - 1

R-1

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SHEET

PROJECT NO.	21-3024	SCALE:	AS SHOWN	DATE:	APRIL 2022
X of X					

SEEDING SCHEDULES

TABLE 1. WETLAND SEED MIX, AREA 0.05 AC, ELEVATION RANGE < 311 FT NAVD88		
COMMON NAME	BOTANICAL NAME	LBS PLS/ACRE
SPRIKE BENTGRASS	AGRESTIS EXARATA	0.25
MEADOW BARLEY	HORDEUM BRACHYANTHERUM	7.00
TUFTED HAIRGRASS	DESCHAMPSIA CESPERTOSA	1.00
SLOUGH GRASS	BECKMANNIA SYZIGACHNE	1.25
PIGLET SOUND GUMWEED	GRIELOELLA INTEGRIFOLIA	1.00
CLUSTERED FANWEED	MADA GLOMERATA	1.00
LARGE-LEAF LUPINE	LUPINUS POLYPHYLLUS	1.00

TABLE 2. UPLAND SEED MIX, AREA 0.27 AC, ELEVATION RANGE > 311 FT NAVD88		
COMMON NAME	BOTANICAL NAME	LBS PLS/ACRE
BLUE WILDBIRD	ELYMUS GLAUCUS	5.00
CALIFORNIA BROOME	BROMUS CARINATUS	7.00
SHOWY TANNED	MADA ELEGANS	1.50
YARROW	ACHILLEA MILLEFOLIUM	0.13
WOOL OR/OX SUNSHINE	ERIOGYLLUM LANATUM	0.25
RIVERBANK JUPINE	LUPINUS RIVULARIS	0.50
CINQUEFOIL	POTENTILLA GRACILIS	0.25
SELF-HEAL; FEAL-ALL	PRUNELLA VULGARIS VAR. LANCEOLATA	2.00
WESTERN BUTTERCUP	RANUNCULUS OCCIDENTALIS	2.00
MEADOW CHECKERBLOW	SIDALCEA CAMPESTRIS	3.00
CALIFORNIA DATAGRASS	DAN THONIA CALIFORNICA	4.00
ROMER'S FESCUE	FESTUCA ROEMERI	2.00

TABLE 3. PLAND SEED MIX (STAGING AREA), AREA 0.05 AC, ELEVATION RANGE > 311 FT NAVD88		
COMMON NAME	BOTANICAL NAME	LBS PLS/ACRE
BLUE WILDBIRD	ELYMUS GLAUCUS	5.00
CALIFORNIA BROOME	BROMUS CARINATUS	7.00
SHOWY TANNED	MADA ELEGANS	1.50
YARROW	ACHILLEA MILLEFOLIUM	0.13
WOOL OR/OX SUNSHINE	ERIOGYLLUM LANATUM	0.25
RIVERBANK JUPINE	LUPINUS RIVULARIS	0.50
CINQUEFOIL	POTENTILLA GRACILIS	0.25
SELF-HEAL; FEAL-ALL	PRUNELLA VULGARIS VAR. LANCEOLATA	2.00
WESTERN BUTTERCUP	RANUNCULUS OCCIDENTALIS	2.00
MEADOW CHECKERBLOW	SIDALCEA CAMPESTRIS	3.00
CALIFORNIA DATAGRASS	DAN THONIA CALIFORNICA	4.00
ROMER'S FESCUE	FESTUCA ROEMERI	2.00

PLANTING SCHEDULES

TABLE 4. WETLAND PLANTING SCHEDULE, AREA 0.05 AC, ELEVATION RANGE < 311 FT NAVD88		
COMMON NAME	BOTANICAL NAME	QTY
SOFT STEM MULRUSH	SCHREINOPLECTUS TABERNABONTANI	100
CAITAIL	TYPHA LATIFOLIA	50
SLOUGH SERGE	CAREX OBNUPTA	50
NODDING BIGGARTICKS	BIDENS CERNUA	50
SWAMP CLUSTERED ROSE	ROSA DISCARPA	50
PACIFIC WILLOW	SALIX LASIANDRA	50
STYKA WILLOW	SALIX STICHENSIS	50
HOOVER'S WILLOW	SALIX HOOKERIANA	50
DOUGLAS SHREA	SPIREA DOUGLASII	100
RED-OSIER DOGWOOD	CORBUS STOLONIFERA	50

TABLE 5. UPLAND PLANTING SCHEDULE, AREA 0.27 AC, ELEVATION RANGE > 311 FT NAVD88		
COMMON NAME	BOTANICAL NAME	QTY
TALL OREGON GRAPE	MAMMIA AQUIFOLIUM	50
OSOBERRY/INDIAN PLUM	OEBERIA CERASTIFORMIS	50
WESTERN CHOCCHERRY	PRUNUS VIRGINIANA VAR. OMISSA	50
OREGON WHITE OAK	QUEKUS GARRYANA	1 GAL
RED FLOWERING CURRANT	RIBES SANGUINEUM	50
BLUE ELDERBERRY	SAMBUCUS CAERULEA	50
BLACK HAWTHORN	CRATAEGUS DOUGLASII	50
CASCARA	RAMBUS MURSHIANA	50
NOOTKA ROSE OR BALDHIP	ROSA NUTMANA OR R. GYMNCARPA	50
SNOWBERRY	SYMPHORECARPOS ALBA	50



ZONE LEGEND

- UPLAND SEEDING (STAGING AREA)
- UPLAND SEEDING AND PLANTING
- WETLAND SEEDING AND PLANTING

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PALENSKY WILDLIFE UNDERPASS PROJECT				
RESTORATION AND PLANTING PLAN - 2				
R-2				
PROJECT NO. 21-3024 SCALE AS SHOWN DATE: APRIL 2022 X of X				

GENERAL LANDSCAPE NOTES:

1. THE CONTRACTOR SHALL EXAMINE FINISH SURFACE, GRADES, TOPSOIL QUANTITIES AND DEPTH, AND NOT START ANY WORK UNTIL ALL SUFFICIENCY CONDITIONS HAVE BEEN CORRECTED. VERIFY LIMITS OF WORK BEFORE STARTING.
2. CONTRACTOR TO REPORT ALL DAMAGES TO EXISTING CONDITIONS AND INCONSISTENCIES WITH PLANS TO THE ENGINEER.
3. IMPROVE EXISTING SOIL WITH ORGANIC MATTER BY ADDING 4" COMPOST AND TILL INTO TOP 12" OF TOPSOIL. PRIOR TO PLANTING AT LOCATIONS DETERMINED BY ENGINEER.
4. PLANTINGS SHALL BE TAGGED FOR DORMANT SEASON IDENTIFICATION AND SHALL REMAIN ON PLANT MATERIAL AFTER PLANTING FOR MONITORING PURPOSES.
5. TREES AND SHRUBS PLANTED IN UPLAND AREAS SHALL BE MULCHED A MINIMUM OF THREE INCHES IN DEPTH AND 18 INCHES IN DIAMETER.
7. BACKFILL MATERIAL FOR TREE AND SHRUB PLANTING SHALL CONTAIN: ONE-PART FINE GRADE COMPOST TO ONE-PART TOPSOIL BY VOLUME, BONE MEAL PER MANUFACTURER'S RECOMMENDATION, AND SLOW RELEASE FERTILIZER PER MANUFACTURER'S RECOMMENDATION.
8. CONTRACTOR SHALL OBTAIN WRITTEN APPROVAL FOR ALL PLANT MATERIAL SUBSTITUTIONS FROM THE ENGINEER PRIOR TO INSTALLATION. PLANT SUBSTITUTIONS WITHOUT PRIOR WRITTEN APPROVAL THAT DO NOT COMPLY WITH THE DRAWINGS AND SPECIFICATIONS MAY BE REJECTED AT NO COST TO THE CONTRACTOR. THE CONTRACTOR SHALL BE RESPONSIBLE FOR REPLACING WITH PLANT MATERIALS THAT ARE IN COMPLIANCE WITH THE DRAWINGS.
9. ALL PLANT MATERIALS SHALL BE NURSERIES GROWN WITH HEALTHY ROOT SYSTEMS AND FULL BRANCHING, DISEASE AND INSECT FREE AND WITHOUT DEFECTS SUCH AS SUN SCALD, ABRASIONS, INJURIES AND DISFIGUREMENT.
10. ALL PLANT MATERIAL SHALL BE INSTALLED AT THE SIZE AND QUANTITY SPECIFIED. WITHOUT APPROVAL, THE ENGINEER IS NOT RESPONSIBLE FOR SUB-STANDARD RESULTS CAUSED BY REDUCTION IN SIZE AND/OR QUANTITY OF PLANT MATERIALS.
11. CONTRACTOR SHALL PROVIDE TWO-YEAR PLANT ESTABLISHMENT PERIOD TO MAINTAIN PLANTS IN A VIGOROUS GROWING CONDITION. INSURE PLANTING AREAS ARE FREE OF INVASIVE WEEDS. PLANTS SHALL BE FREE OF INSECTS AND DISEASES WHILE SHOWING SIGNS OF CONTINUING HEALTH. THE PLANT ESTABLISHMENT PERIOD BEGINS IMMEDIATELY AFTER THE COMPLETION OF ALL PLANTING OPERATION AND WRITTEN NOTIFICATION TO THE ENGINEER.
12. DISTURBANCE ALONG ACCESS ROUTES AND IN STAGING AREAS SHALL BE SEEDED WITH THE APPROPRIATE SEED MIX AND AT THE RATES SPECIFIED IN TABLE 2, AND TABLE 3. ON SHEETS R-1 AND R-2.
13. SEED WETLAND AREAS ABOVE ELEVATION 20- FEET AS SHOWN ON SHEETS R-1 AND R-2 WITH THE WETLAND SEED MIX FROM TABLE 1.
14. PLANT WETLAND PLUGS, LIVE STAKES, AND BARE ROOT PLANTS IN CLUSTERS AS DIRECTED IN THE FIELD BY THE OWNER'S REPRESENTATIVE.

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NO.		DATE	BY	REVISION	
<div>NOTICE 0 1/8" IF THIS BAR DOES NOT MEASURE 1/8" THEN IT IS NOT TO SCALE</div> <div>BOF DESIGNED MEE DRAWN BVO CHECKED</div> <div>PRELIMINARY ONLY DO NOT USE FOR CONSTRUCTION APRIL 2022 Murraysmith www.murraysmith.com</div> <div> murraysmith</div> <div>PALENSKY WILDLIFE UNDERPASS PROJECT</div> <div>RESTORATION AND PLANTING DETAILS</div> <div>SHEET R-3</div> <div>PROJECT NO. 21-3024 SCALE: AS SHOWN DATE: APRIL 2022 X of X</div>					