

LAND EXCHANGE AGREEMENT

Chelan County, Washington

THIS LAND EXCHANGE AGREEMENT (“Agreement”) is made between the PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN COUNTY, Washington, a municipal corporation (“District”); and the CITY OF WENATCHEE, Washington, a municipal corporation (“City”), collectively hereinafter referred to as “Parties”.

RECITALS

A. The City is a non-charter code city authorized under the laws of the State of Washington to transfer and acquire land, structures, property, property rights and privileges within and without its limits necessary for the purpose of constructing streets, avenues, highways, bridges, and related purposes.

B. The District is a Washington municipal corporation authorized under the laws of the State of Washington, to transfer and acquire land, structures, property, property rights and privileges within and without its limits necessary for the purpose of furnishing itself, its inhabitants and other persons within or without the District with electrical utility services and domestic water for all uses and, in furtherance thereof, is authorized to acquire land for utility lines, structures, electrical power, and all other facilities necessary for the furnishing and transmission of electricity and domestic water.

C. The District owns and operates the Rock Island Hydroelectric Project (“Rock Island”) under License No. 943, issued by the Federal Energy Regulatory Commission (“FERC”) on January 18, 1989, including recreation facilities approved in the Recreation Plan for the project.

D. The City is proposing the Confluence Parkway Project described on Exhibit “A” attached hereto (“Project”) to address regional traffic congestion and safety challenges on North Wenatchee Ave. The Federal Highway Administration (“FHWA”), the Washington State Department of Transportation (“WSDOT”) and the City have initiated an Environmental Assessment process under the National Environmental Policy Act (“NEPA”) for the Project.

E. Because the proposed Project would take lands associated with the District’s Rock Island project—specifically portions of the Horan Natural Area (“HNA”) and other portions of Wenatchee Confluence State Park (“Confluence Park”), which are incorporated into the District’s Rock Island license under the project’s Recreation Plan—FERC is a participating agency for purposes of NEPA but has informally designated the District as its non-federal representative for the NEPA process. The District is a cooperating agency for the proposed Project under NEPA.

F. FHWA is the lead federal agency for purposes of Section 4(f) of the U.S. Department of Transportation Act of 1966 (“Federal Transportation Act”), which provides for consideration of park and recreation lands, wildlife and waterfowl refuges and historic sites during transportation project development. The City and the District have been working closely to evaluate avoidance, minimization and mitigation measures associated with the City’s Project, to

support the FHWA's determination under Section 4(f) of the Federal Transportation Act. The District has an opportunity to officially comment on the City's Project in advance of the FHWA's Section 4(f) determination. Per the District's Memorandum of Understanding with the Washington State Parks and Recreation Commission ("State Parks"), which operates Confluence Park, the District is coordinating with State Parks regarding the Project and its effects on Confluence Park throughout the processes identified herein.

G. In addition to FHWA's Section 4(f) determination, the District has responsibilities under the Federal Power Act ("FPA") to ensure that the City's Project is consistent with the District's Rock Island license obligations and apply to FERC for the necessary approvals. Several applications and FERC approvals will be required to facilitate Confluence Parkway—including a license amendment to remove lands from the Rock Island license and change certain elements of the FERC-approved Rock Island Recreation Plan and Rock Island project boundary. In evaluating the applications, FERC will need to comply with NEPA and other federal and state environmental requirements, which require development of a full and complete record and consultations with federal and state regulators, Native American Tribes, and the public.

H. The overlapping federal requirements for the City's proposed Project are complex. While FWHA's obligations under Section 4(f) of the Federal Transportation Act center on evaluating whether feasible and prudent alternatives to a use of Section 4(f) properties exist and on demonstrating that all possible planning has been done to avoid and minimize such uses, FERC under section 10(a) of the FPA has an obligation to ensure that Rock Island is "best adapted to a comprehensive plan for improving or developing" the Rock Island project area for many public purposes, including recreation. In meeting this broad requirement, FERC must consult with federal and state regulators to evaluate whether the proposed use (such as the City's Project) will not endanger health, create a nuisance, or otherwise be incompatible with overall project recreational use; not be inconsistent with Rock Island license terms and conditions; and that construction, operation, and maintenance of structures or facilities on the lands removed will occur in a manner that will protect the scenic, recreational, and environmental values of the Rock Island project.

I. The District owns approximately ____ acres of real property located in Wenatchee, Chelan County, Washington, shown at Exhibit "B" attached hereto and incorporated herein by this reference (the "District Property"). The City needs to acquire the District Property to complete the Project, and the District, subject to FERC approval and the conditions stated herein, is willing to transfer the District Property to the City in exchange for the City Property under the terms of this Agreement.

J. The City owns or will acquire real property located in Wenatchee, Chelan County, Washington, generally depicted at Exhibit "C" (the "City Property") attached hereto and incorporated herein by this reference. The City, subject to the conditions stated herein, is willing to transfer the City Property to the District in exchange for the District Property under the terms of this Agreement.

K. Due to the number of transactions to be completed as part of this Agreement, in the event any issue or detail arises that reasonably needs to be amended or has not been addressed, the

Parties agree to review in good faith and work towards resolving the matter and, if necessary, amend this Agreement or other transactions.

NOW, THEREFORE, in consideration of the mutual benefits and obligations set forth herein, the recitals set forth above, which are incorporated herein by this reference, and for other good and valuable consideration the receipt of which is hereby acknowledged, the Parties agree as follows:

1. Exchange of Property.

Subject to the terms of this Agreement, the District agrees to transfer and convey to City the District Property, and the City agrees to transfer and convey to the District the City Property.

2. Purchase Price.

There is no Purchase Price for either the District Property or the City Property. The mutual exchange of property between the City and the District and the covenants contained herein are acknowledged as adequate consideration for this Agreement.

3. Conveyance of Title.

At Closing, the District shall convey to the City fee simple title to the District Property by duly executed and acknowledged quitclaim deed (the “District Deed”), free and clear of all defects and encumbrances and subject only to those exceptions that the City approves under Section 3.1.3 (the “City Permitted Exceptions”). At Closing, the City shall convey to the District fee simple title to the City Property by duly executed and acknowledged quitclaim deed (the “City Deed”), free and clear of all defects and encumbrances and subject only to those exceptions that the District approves under Section 3.1.3 (the “District Permitted Exceptions”).

3.1. Title Insurance. Within fourteen (14) days after the satisfaction of the contingencies stated in Sections 7.6 (City Property Ownership) and 7.7 (Property Divisions), the Parties shall obtain the preliminary commitments described in this Section 3, unless otherwise agreed by the Parties.

3.1.1. Preliminary Commitment for Title Insurance (District Property). The District shall provide the City, at the City’s expense, a preliminary title commitment for a standard policy of title insurance in the amount of the District Property’s fair market value to be issued by CW Title and Escrow (the “Title Company”), and accompanied by copies of all documents referred to in the commitment (the “District Preliminary Commitment”) showing the District’s title to the District Property to be good, marketable, and insurable. If the City desires to obtain an extended coverage policy of title insurance, it shall be solely responsible for the extra cost of same.

3.1.2. Preliminary Commitment for Title Insurance (City Property). The City shall provide the District, at the City’s expense, a preliminary title commitment for a standard policy of title insurance in the amount of the City Property’s fair market value to be issued by Title Company, and accompanied by copies of all documents referred to in the commitment (the “City Preliminary Commitment”) showing the City’s title to the City Property to be good, marketable, and insurable. If the District desires to obtain an extended coverage policy of title insurance, it shall be solely responsible for the extra cost of same.

3.1.3. Permitted Exceptions.

3.1.3.1. Each transferee Party shall notify the transferor Party of any defects or encumbrances on the transferor Party's title indicated in either the District Preliminary Commitment or the City Preliminary Commitment, or any supplemental report thereto, to which transferee Party objects ("Disapproved Exceptions"), within thirty (30) days after either Preliminary Commitment or supplemental report thereto.

3.1.3.2. At either transferee Party's option, this Agreement shall terminate upon written notice, unless: (a) within ten (10) days of the transferee Party's notice of Disapproved Exceptions, the transferor Party removes all Disapproved Exceptions using that Party's best efforts and due diligence to complete such removal as soon as feasible before Closing, or (b) the transferee Party notifies the transferor Party in writing that it waives any Disapproved Exceptions which transferor party does not agree to remove. Notwithstanding anything to the contrary in this Agreement, the transferor Party will remove from title on or before Closing Date those Disapproved Exceptions not waived by transferee Party.

3.1.4. Policy of Title Insurance. Each transferor Party will cause the Title Company to issue to the transferee Party at closing a standard coverage owner's policy of title insurance insuring the transferee Party's title to the respective Property in the full amount of the each Property's fair market value, subject only to the Permitted Exceptions and those accepted by the transferee Party pursuant to Section 3.1.3 above (the "Title Policy"). The Title Policy must be dated as of the Closing Date.

4. Due Diligence.

4.1. City Due Diligence Materials. The City has made available to the District, or will make available to the District for inspection all materials that exist and that are in the City's actual possession or that the City knows exist and to which the City has access (including those of the current owner(s) of the City Property), that a reasonably prudent purchaser would consider pertinent and relevant to the evaluation and investigation of the City Property (collectively, the "City Due Diligence Materials"). If the City discovers any additional items that should have been included among the City Due Diligence Materials, the City will promptly deliver them to the District. City Due Diligence Materials include but are not limited to:

4.1.1. copies of any existing and proposed easements, covenants, restrictions, agreements or other documents that, to the City's knowledge, affect title to the City Property and that are not disclosed by the Preliminary Commitment;

4.1.2. all surveys or plats relating to the City Property that are not disclosed by the Preliminary Commitment;

4.1.3. all leases for the City Property, or any portion of the City Property;

4.1.4. all information related to underground pipes, tanks, vaults or man-made underground features on the City Property;

4.1.5. any historical documents in the City’s possession or available to any person related to any use of the City Property that has been made and without limitation, any agreements related to water and/or storm water facilities;

4.1.6. any soil sampling reports for the City Property;

4.1.7. all warranties and guarantees affecting any portion of the City Property;

4.1.8. notice of any existing or threatened litigation affecting or relating to the City Property and copies of any pleadings with respect to that litigation; and

4.1.9. all environmental assessment reports (if any) with respect to the City Property that were performed or are being performed by or for the City, (ii) any raw data that relates to the environmental condition of the City Property, (iii) any governmental correspondence, orders, requests for information or action and other legal documents that relate to the presence of Hazardous Material (as defined in Section 10.1.2) on, in or under the City Property, and (iv) any other information material to the environmental condition or potential contamination of the City Property.

4.2. Feasibility.

4.2.1. District Feasibility Study Period. The District may conduct an inspection of the City Property where necessary to facilitate the terms of this Agreement and a review of the information relating to the City Property and satisfy itself with respect to the condition and other matters related to the City Property and its suitability for the District’s intended use, (the “District Feasibility Study”).

4.2.2. License for District Feasibility Study Inspection. The execution of this Agreement shall constitute the grant by the City, as soon as the City owns the City Property, of a License for Inspection to the District as follows:

4.2.2.1. District. As used in this Section 4, “District” shall include District’s officers, employees, agents, contractors and subcontractors.

4.2.2.2. Scope. The License for the District Feasibility Study Inspection affects the City Property. The District may enter and go over and upon the City Property for the purpose of inspecting and conducting such tests thereon as the District deems necessary to determine if the City Property is appropriate for its purposes and restoring the City Property after said testing.

4.2.2.3. Term. The License for District Feasibility Study Inspection shall commence upon the Effective Date of this Agreement and shall continue until the last contingency in Section 7 is fulfilled, unless otherwise agreed; provided, however, that such period shall not be less than nine (9) months from the time the City acquires full and uncontested possession of the City Property. The District will have the right to terminate this Agreement if, in the District’s sole discretion, the City Property is not suitable for the District’s intended uses. The District will deliver written notice to the City on or before end of the District Feasibility Study Period or any agreed extension thereto. If the District does not timely provide the notice of termination, then the District

shall be deemed to have waived the feasibility contingency and to have accepted the condition of the City Property.

4.3. District's Feasibility Contingencies. Unless waived, the District's obligation to transfer the District Property and to acquire the City Property is expressly contingent upon the following:

4.3.1 Feasibility Study. The District's approval, should it choose to perform a District Feasibility Study prior to the end of the District Feasibility Study Period, of the suitability of the City Property as a result of the District Feasibility Study;

4.3.2 Survey. The District's review and approval, prior to end of the District Feasibility Study Period, of surveys of the District Property and the City Property;

4.3.3 Environmental Condition. The District's approval, prior to end of the District Feasibility Study Period, of the environmental condition of the City Property under Agreement Section 10.4;

4.3.4 Title Policy. The District's receipt of the Title Company's firm commitment to issue the Title Policy at Closing, as described in Agreement Section 3;

4.3.5 Representations and Warranties. All of the City's representations and warranties contained in or made under this Agreement being true and correct when made and as of the Closing Date;

4.3.6 The City's Compliance. The City's timely performance of all its obligations under this Agreement.

4.3.7 District Contingencies. The foregoing conditions are collectively referred to in this Agreement as "District's Contingencies."

4.3.8 Satisfaction/Waiver of the District's Contingencies. The District's Contingencies are solely for the benefit of the District. The District will have the right, at its sole election, either to waive all or some of the District's Contingencies that are outstanding in writing and proceed with the purchase or to terminate this Agreement within the applicable timeframes identified elsewhere in this Agreement. If the District elects to terminate this Agreement, the escrow will be terminated and all documents will be returned to the Party who deposited them, and neither Party will have any further rights or obligations under this Agreement and the City will pay the cost of terminating the escrow and the Preliminary Commitments.

4.4 District Due Diligence Materials. The District has made available to the City, or will make available to the City for inspection all materials that exist and that are in the District's actual possession or that the District knows exist and to which the District has access (including those of the current owner(s) of the District Property), that a reasonably prudent purchaser would consider pertinent and relevant to the evaluation and investigation of the District Property (collectively, the "District Due Diligence Materials"). If the District discovers any additional items

that should have been included among the District Due Diligence Materials, the District will promptly deliver them to the City. District Due Diligence Materials include but are not limited to:

4.4.1 copies of any existing and proposed easements, covenants, restrictions, agreements or other documents that, to the District's knowledge, affect title to the District Property and that are not disclosed by the Preliminary Commitment;

4.4.2 all surveys or plats relating to the District Property that are not disclosed by the Preliminary Commitment;

4.4.3 all leases for the District Property, or any portion of the District Property;

4.4.4 all information related to underground pipes, tanks, vaults or man-made underground features on the District Property;

4.4.5 any historical documents in the District's possession or available to any person related to any use of the District Property that has been made and without limitation, any agreements related to water and/or storm water facilities;

4.4.6 any soil sampling reports for the District Property;

4.4.7 all warranties and guarantees affecting any portion of the District Property;

4.4.8 notice of any existing or threatened litigation affecting or relating to the District Property and copies of any pleadings with respect to that litigation; and

4.4.9 all environmental assessment reports (if any) with respect to the District Property that were performed or are being performed by or for the District, (ii) any raw data that relates to the environmental condition of the District Property, (iii) any governmental correspondence, orders, requests for information or action and other legal documents that relate to the presence of Hazardous Material (as defined in Section 10.1.2) on, in or under the District Property, and (iv) any other information material to the environmental condition or potential contamination of the District Property.

4.5 Feasibility.

4.5.1 City Feasibility Study Period. The City may conduct an inspection of the District Property where necessary to facilitate the terms of this Agreement and a review of the information relating to the District Property and satisfy itself with respect to the condition and other matters related to the District Property and its suitability for the City's intended use, (the "City Feasibility Study").

4.5.2 License for City Feasibility Study Inspection. The execution of this Agreement shall constitute the grant by the District of a License for Inspection to the City as follows:

4.5.2.1 City. As used in this Section 4, “City” shall include City’s officers, employees, agents, contractors and subcontractors.

4.5.2.2 Scope. The License for the City Feasibility Study Inspection affects the District Parcel. The City may enter and go over and upon the District Property for the purpose of inspecting and conducting such tests thereon as the City deems necessary to determine if the District Property is appropriate for its purposes and restoring the District Property after said testing.

4.5.2.3 Term. The License for the City Feasibility Study Inspection shall commence upon the Effective Date of this Agreement and shall continue for 90 days, unless otherwise agreed. If the District Property is not suitable for the City’s intended uses due to unresolvable environmental factors, the District and the City will work cooperatively to identify another property to fulfill the land exchange based on similar size, value, function and intended use. The City will deliver written notice to the District on or before end of the City Feasibility Study Period or any agreed extension thereto. If the City does not timely provide the notice of termination, then the City shall be deemed to have waived the feasibility contingency and to have accepted the condition of the District Property.

4.6 City’s Feasibility Contingencies. Unless waived, the City’s obligation to transfer the City Property and to acquire the District Property is expressly contingent upon the following:

4.6.1 Confluence Parkway North Funding. The City’s ability to obtain the necessary funding of the Project.

4.6.2 Feasibility Study. The City’s approval, should it choose to perform a City Feasibility Study prior to the end of the City Feasibility Study Period, of the suitability of the District Property for its intended purposes;

4.6.3 Survey. The City’s review and approval, prior to end of the City Feasibility Study Period, of surveys of the District Property and the City Property;

4.6.4 Environmental Condition. The City’s approval, prior to end of the City Feasibility Study Period, of the environmental condition of the District Property under Agreement Section 10.4;

4.6.5 Title Policy. The City’s receipt of the Title Company’s firm commitment to issue the Title Policy at Closing, as described in Agreement Section 3;

4.6.6 Representations and Warranties. All of the District’s representations and warranties contained in or made under this Agreement being true and correct when made and as of the Closing Date;

4.6.7 The District’s Compliance. The District’s timely performance of all its obligations under this Agreement.

4.6.8 Acquisition of the City Property. The City’s acquisition of the City property.

4.6.9 City Contingencies. The foregoing conditions are collectively referred to in this Agreement as “City’s Contingencies.”

4.6.10 Satisfaction/Waiver of the City's Contingencies. The City's Contingencies are solely for the benefit of the City. The City shall have the right, at its sole election, either to waive all or some of the City's Contingencies that are outstanding in writing and proceed with the purchase or to terminate this Agreement within the applicable timeframes identified elsewhere in this Agreement. If the City elects to terminate this Agreement, the escrow will be terminated and all documents will be returned to the Party who deposited them, and neither Party will have any further rights or obligations under this Agreement and the City will pay the cost of terminating the escrow and the Preliminary Commitments.

5. Closing

Unless otherwise agreed, Closing shall occur no later than 90 days following the fulfillment of all contingencies in Section 7, the conditions to closing in Section 6, and completion of the processes and periods described in Section 3 and Section 4. Closing shall be by the Title Company acting as escrow agent ("Escrow Agent") and shall be held at the office of Escrow Agent. "Closing" shall mean the date that all conveyance documents are recorded.

If the parties mutually determine that a phased Closing is necessary or appropriate for the Project, Closing may be divided into one or more phases upon such terms as the parties may agree. For example, a phased Closing may provide that the District conveys the District Property to the City before the City has fully acquired or improved the City Property, or fulfilled other conditions to Closing or contingencies, consistent with this Agreement. In the event of a phased Closing, no obligation or duty placed on a party by this Agreement is waived or abrogated, and all such duties or obligations shall survive the phased Closing and continue until fully performed.

6. Conditions to Closing

As a condition of Closing, the Parties will take the following actions:

6.1. Easement. The City agrees to the District retaining an easement, either in the conveyance deed or by separate document, over the District Property for all of its existing and anticipated future infrastructure of all kinds, which easement shall include, but is not limited to, the right of use and access to all such infrastructure for all purposes required by the District (the "Easement"). This easement will be in lieu of a franchise for this infrastructure, though the District will coordinate in good faith with the City to ensure that all infrastructure is consistent with the City's Project, prudent utility practices, accepted roadway design, and public safety.

6.2. Apple Capital Loop Recreation Trail Relocation/Operations and Maintenance. The City will own land needed for alignment of the Parkway and adjacent Loop Trail along the upper railroad bench. The portion of Loop Trail that will run parallel to the new roadway, to be owned by the City, will stay within the Rock Island project boundary. The Parties shall enter a lease and operating agreement providing that the District is responsible to maintain the portion of the Loop Trail that is within the Rock Island project boundary and runs adjacent and on top of infrastructure constructed and owned by the City for the Project, including the pedestrian bridge over the Wenatchee River together with its entry ramps. The City shall be responsible to maintain the structural integrity of the bridge and entry ramps, the District shall be responsible to maintain the Loop Trail. The District is also responsible to maintain the Loop Trail portions that remain on District-owned land, including Confluence Park and the HNA.

6.3. Water Well Relocation. The City, at its sole expense, shall replace the water from the District's two water wells that are in the path of the Confluence Parkway. Per the District, the documented water right of the two existing wells is 800 gallons per minute (gpm) for one well and 500 gpm for the other, with a total annual quantity of 296 acre feet for both wells combined. The City will drill new wells in an area identified by the City and approved by the District in its reasonable discretion. Such relocation shall include securing all necessary permitting, drilling the new wells, connecting them to the District's existing infrastructure with appropriate equipment for the District's operations, and decommissioning the old wells. The City shall coordinate with the District to secure any necessary Washington Department of Ecology ("Ecology") approval for the replacement wells (including without limitation transfer of water rights to the new location) and shall pay all costs associated therewith; provided, however, should Ecology deny the approval of replacement wells or should the wells not produce the necessary quantities, then the City may provide identified well production equivalent by other means identified by the City and approved by the District in its reasonable discretion. In any case where potable water is used for irrigation purposes, the City agrees to pay for said potable water use unless otherwise negotiated.

6.4. Utility Relocation. For the property that the City is obtaining from the District, and for District infrastructure not located in City right of way but directly impacted by the Project, the City, at its sole expense, shall reimburse the District for all costs associated with relocations of all utility infrastructure due to the Project as determined by the District in its reasonable discretion consistent with prudent utility practices, consistent with the District's design and construction standards. The District shall be responsible for the cost of upgrades to its infrastructure. For District infrastructure located in City right of way, the current franchise agreement between the City and the District shall apply to relocations. The District will work with the City during the design process for the Project to minimize utility relocations and will provide cost estimates for inclusion in the City's budget once the City has completed necessary design and survey work. The parties agree to meet and confer to informally resolve any disagreements arising from utility relocations due to the Project before seeking any further remedies.

6.5. City Property Clean Up. Prior to transfer of the City Property to the District, the City is responsible, at its sole expense, for removing all existing structures on the City Property and enhancing the natural environment of the HNA in a manner consistent with the character and purpose of the HNA. The plans for this work must be approved in advance by the District in consultation with appropriate stakeholders, including without limitation state and federal agencies, tribes, and the public. The plan for this work may, at the District's sole discretion, be included in the application to FERC as outlined in Section 7.2.1 below and, if included, must be approved by FERC.

6.6. Housing Relocation. The City, at its sole expense, shall replace the staff housing at Confluence Park that is in the path of the Confluence Parkway to an area identified by the City and approved by the District. Such replacement shall include securing all necessary permitting, constructing the new housing, and demolishing the old housing. The City shall coordinate with the District to secure any necessary regulatory approvals for the replacement housing and shall pay all costs associated therewith. The new housing shall be of approximately the same size and quality as the current housing. The City shall work with the District to ensure the location and design of the relocated staff housing, including driveways and yards, considers Confluence Park staff needs and its proximity and impacts to the maintenance facilities.

6.7. Landscaping Plan. The Parties shall enter an agreement on a final landscaping plan that will provide for a substantial vegetative barrier within three years of construction between Confluence Parkway and the Loop Trail and trail spur adjacent to District lands (including those lands transferred to the City for the Project) from Hawley Street to Old Station Road. The City shall fund, construct, install and landscaping as part of the Project, unless otherwise agreed to by the Parties. The specifics of a landscaping maintenance agreement shall be negotiated in good faith by both parties after the design is complete and prior to project completion by the City.

7. Contingencies.

The District's obligation to convey the District Property and to accept the City Property under the terms of this Agreement is expressly contingent upon the following contingencies, the satisfaction of which will be determined in the sole discretion of the District:

7.1. Project NEPA Processes and Approvals.

7.1.1 Section 4(f) Determination. A Final Section 4(f) Individual Evaluation published by the FHWA under Section 4(f) of the Federal Transportation Act that determines no feasible and prudent alternatives to the use of Section 4(f) protected properties exist. The City shall include in its plans and proposal for the Project mitigation measures for noise abatement, public safety, emissions, public recreation, and related purposes as may be requested by the District, which mitigation measures are intended, in the District's reasonable discretion, to satisfy the District's public interest mandate and requirements under its FERC license;

(a) The Final Section 4(f) Individual Evaluation does not materially modify the City's current plans and proposals for the Project, provided the plans and proposals contain the terms and mitigation measures requested by the District;

(b) The Final Section 4(f) Individual Evaluation determination of the City's current plans and proposals shall not include, directly or indirectly, any condition or other requirement that results in: (i) a material adverse modification to the District's license for the Rock Island project; or (ii) any new or changed obligation for the District in its operation and maintenance of the Rock Island project; and

(c) No administrative or judicial litigation challenging the Final Section 4(f) Individual Evaluation shall be pending upon the expiration of all applicable periods in which to commence such litigation.

7.1.2 NEPA Environmental Review. Successful completion of all necessary and appropriate review under NEPA. To satisfy this contingency:

(a) After considering Tribal, agency and public comment on the Environmental Assessment and Individual Section 4(f) Evaluation, FHWA issues a finding of no significant impact (FONSI). No administrative or judicial litigation challenging NEPA compliance, including the FONSI, shall be pending upon the expiration of all applicable periods in which to commence such litigation.

(b) The City shall conduct public outreach and stakeholder engagement for additional consultation through NEPA, consistent with the Confluence Parkway Project Guidance Document for the City of Wenatchee Enhanced Public Outreach in the NEPA Consultation Consistent with the First Amendment of the MOU (November 16, 2021); the Confluence Parkway Project EA Coordination and Public Outreach Plan (June 2020); Memorandum of Understanding between Public Utility District No. 1 of Chelan County and City of Wenatchee Related to Roles and Responsibilities associated with the City's Proposed Confluence Parkway Project (February 2020), as amended ("City MOU").

7.1.4 Endangered Species Act Consultation. Successful completion of the Section 7 consultation process under the ESA. To satisfy this contingency:

(a) Any biological opinion issued by the U.S. Fish and Wildlife Service or National Marine Fisheries Service related to the Project must result in a "no jeopardy" determination;

(b) No reasonable and prudent measures or terms and conditions included in any biological opinion shall result in a material modification to the City's plans and proposal for the Project in a manner inconsistent with this Agreement, as determined by the District in its reasonable discretion; and

(c) No administrative or judicial litigation challenging ESA compliance for the Project shall be pending upon the expiration of all applicable periods in which to commence such litigation.

7.1.5 National Historical Preservation Act ("NHPA"). A successful consultation under section 106 of the NHPA with DAHP and all necessary and appropriate Native American Tribes. To satisfy this contingency:

(a) The City will provide to the District an executed Section 106 Memorandum of Agreement by FHWA and DAHP in consultation with each affected Native American Tribe; and

(b) No administrative or judicial litigation challenging NHPA compliance for the Project shall be pending upon the expiration of all applicable periods in which to commence such litigation.

(c) The City shall conduct outreach with the affected Native American Tribes consistent with the Confluence Parkway Project Guidance Document for the City of Wenatchee Enhanced Public Outreach in the NEPA Consultation, consistent with the First Amendment of the MOU (November 16, 2021); the Confluence Parkway Project EA Coordination and Public Outreach Plan (June 2020); and the City MOU.

7.1.6 Tribal Consultation. The City has followed the Section 106 process and has conducted tribal consultation for the Confluence Parkway Project with the affected Native American Tribes, including but not limited to the Yakama Nation and the Confederated Tribes of the Colville Reservation consistent with Executive Order 13175 and the White House

Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships issued January 26, 2021.

7.2. FERC Processes and Approvals.

7.2.1. License Amendment. An order by FERC approving an amendment to the Rock Island license. To satisfy this contingency:

(a) FERC's order shall approve changes to the Recreation Management Plan to facilitate the Project, including but not limited to removal of the existing pedestrian bridge from the plan, addition of mitigation lands, which means the City Property or such portions thereof as the District chooses in its sole discretion to include in the application to FERC, to the HNA and to Confluence Park, as well as other mitigation and enhancement measures as may be proposed by the District that are necessary to satisfy the District's public interest mandate and requirements under its FERC license;

(b) FERC's order shall approve modifications to the FERC project boundary, which remove lands from the boundary needed for the Project and add lands to the boundary needed for mitigation and the revised Recreation Management Plan;

(c) FERC's order shall not include any license condition or other requirement that results in a material adverse modification to the District's license for the Rock Island project; and

(d) No administrative or judicial litigation challenging FERC's license amendment order shall be pending upon the expiration of all applicable periods in which to commence such litigation.

7.2.2. Non-Project Use of Project Lands and Waters. FERC approving, by any means consistent with its procedures and the Rock Island License, construction and operation of certain Project infrastructure within the FERC boundary for Rock Island. To satisfy this contingency:

(a) FERC's order shall approve use of Rock Island licensed lands for the City's construction and maintenance of the new bridge and pedestrian walkway spanning the Wenatchee River, as well as mitigation and enhancement measures as may be proposed by the District that are necessary to satisfy the District's public interest mandate and requirements under its FERC license;

(b) FERC's order shall not include any license condition or other requirement that results in a material adverse modification to the District's license for the Rock Island project; and

(c) No administrative or judicial litigation challenging FERC's license order shall be pending upon the expiration of all applicable periods in which to commence such litigation.

7.3. Other Permits and Approvals. The City will obtain all necessary and appropriate permits, certifications, and authorizations for the development, construction, operation, and maintenance of the Project, including without limitation the U.S. Army Corps of Engineers permit under section 404 of the Clean Water Act (“CWA”), a permit under Section 10 of the Rivers and Harbor Act, water quality certification(s) from Ecology under section 401 of the CWA, a consistency determination by Ecology under section 307 of the Coastal Zone Management Act. To satisfy this contingency:

7.3.1. At the request of the District, the City shall fully engage and cooperate with the District in its efforts to seek any necessary and appropriate authorization, including in the preparation of application materials and consultation with federal and state regulators, Native American tribes, and the public;

7.3.2. The applicable agency’s permit, certification, or other authorization shall not include any condition or other requirement that results in a material modification to the City’s plans and proposal for the Project;

7.3.3. The applicable agency’s permit, certification, or other authorization shall not include any condition or other requirement that results in: (i) a material adverse modification to the District’s license for the Rock Island project; or (ii) any new or changed obligation for the District in its operation and maintenance of the Rock Island project; and

7.3.4. No administrative or judicial litigation challenging the applicable agency’s permit, certification, or other authorization shall be pending upon the expiration of all applicable periods in which to commence such litigation.

7.4. City Obligation to Fund Mitigation Measures. Notwithstanding any legal, regulatory, or contractual obligation to the contrary, the City will be wholly and solely responsible for funding any and all mitigation measures imposed by FERC, FHWA, other federal and state agencies, or any other person or entity in all permits or other authorizations required to implement the Project.

7.5. Title Policy. The District’s receipt of the Title Company’s firm commitment to issue the Title Policy at Closing, as described above in Section 3.

7.6. City Property Ownership. The City has acquired good and marketable title to the City Property, including the absence of any litigation over the acquisition following the expiration of all applicable period in which to commence such litigation, and can legally convey such property to the District free and clear of any encumbrances (except Permitted Exceptions), whether from a grant of funds to the City or otherwise. As provided in Section 5 hereof, the parties may mutually agree to a phased closing on such terms and conditions they deem necessary or appropriate.

7.7. Property Divisions. The District Property has been properly and legally separated from other property of the District and can be legally conveyed to the City under all applicable state and local laws.

7.8. Education and Interpretive Design. The City’s plans for the Project include viewing and education opportunities to enhance the environment of the HNA and to replace interpretive signs and features impacted by construction, as determined by District in its reasonable discretion.

At the request of the District, the City shall fully engage and cooperate with the District in its efforts to design and implement such opportunities.

7.9. Stormwater. The City's plans for the Project include a stormwater management plan that meets all applicable Ecology regulations.

7.10. Pedestrian Bridge Decommissioning. The City's plans for the Project include removal of the pedestrian bridge that is part of the Apple Capital Loop Recreation Trail. The City is responsible for all costs associated with the removal of the bridge, including without limitation all permitting and construction costs. In addition, the City is responsible to obtain all necessary and appropriate permits and manage the removal process with District input and involvement. The City shall use best efforts to keep the pedestrian bridge open to the public. Should any portions of the trail need to be temporarily rerouted during construction, the City agrees to provide advance notice to the District at least 90 days prior to any such closure for purposes of notifying FERC as required by the District's Rock Island License. Demolition of the existing pedestrian bridge will be scheduled to occur after the new bridge is operational, if feasible.

7.11. Art and Aesthetics. The City and District agree to collaborate on an evaluation of the feasibility of including art and/or other artistic elements on or near the new vehicular and pedestrian bridge to enhance or soften the upriver (Wenatchee River) viewshed from the HNA and Confluence Park. Should the District elect to fund all or part of such enhancements, such details shall be included in a separate agreement between the parties.

7.12. Financing. The City shall provide satisfactory evidence to the District that it possesses all funds necessary to complete the Confluence Project and fulfill its obligations under this Agreement, including without limitation any and all mitigation and requirements imposed by any regulatory agency.

7.13. Conditions to Closing. Satisfactory completion of all conditions to Closing listed in Section 6.

7.14. Horan Natural Area/Confluence State Park Protection. The City shall diligently support all efforts to preserve and protect the natural environment, wildlife, and serenity of the HNA and agrees to work closely with the District during the City's development of the Noise Abatement Plan as described in the Individual Section 4(f) Evaluation and during the design of the and construction of the Project. Such elements are anticipated to include a four-foot noise wall with four-foot lowering of the trail for an effective eight-foot separation between the Loop Trail and roadway at the southern pinch point, installation of a 42-inch safety barrier on the new Confluence Parkway bridge, and four-foot berms along the remaining impacted portions of the HNA and Confluence State Park, substantially as shown in the drawings attached hereto as Exhibit E. Final design and construction of the Project shall not substantially deviate from the mitigation measures shown in these drawings. The City agrees that the Noise Abatement Plan will also include trees and shrubs, in consultation with the District, to maintain visual screening and deflect noise associated with the parkway from the Loop Trail and to protect the unique natural environmental characteristics of the HNA and the recreational characteristics of Confluence State Park.

8. Representations and Warranties.

8.2. City's Representations and Warranties. The City represents and warrants to the District as follows:

(a) The City is a noncharter code city, duly organized and validly existing under the laws of the state of Washington.

(b) The City has or will acquire full power and authority to convey the City Property to District.

(c) To the City's knowledge, the City Property is now, or will be as of the Closing Date, in compliance in all material respects with all applicable zoning, land-use, building, construction, and subdivision and other laws, ordinances and regulations and with all existing covenants, conditions, restrictions and easements involving the City Property.

(d) To the City's knowledge, all Due Diligence Materials and other instruments and documents made available and/or delivered to the District under this Agreement are complete and accurate originals or copies, and the City will advise the District in writing of any inaccuracies in the instruments and documents as the City becomes aware of them. With respect to all other instruments and documents made available, delivered or required to be delivered to the District by the City under this Agreement, the City has not purposefully altered or withheld any of them.

(e) The City has not received notice of any special assessment or condemnation proceedings affecting the City Property.

(f) To the City's knowledge, there is no litigation pending or threatened against the City (or any basis for any claim) that arises out of the ownership of the City Property and that might materially and detrimentally affect (i) the use or operation of the City Property for District's intended use, or (ii) the ability of the City to perform its obligations under this Agreement, or (iii) the value of the City Property.

(g) The City has received no notice of any failure of the City to comply with any applicable governmental requirements in respect of the use, occupation and construction of the City Property, including environmental, fire, health, safety, zoning, subdivision and other land use requirements that have not been corrected to the satisfaction of the appropriate governmental authority, and the City has received no notice of, and has no knowledge of, any violations or investigation relating to any governmental requirement.

(h) The City has received no notice of any default or breach by the City under any covenants, conditions, restrictions, rights of way or easements that may affect the City in respect to the City Property or may affect the City Property or any portion thereof and no default or breach is known to exist.

(i) To the City's knowledge, there are no permits, licenses or consents required by any governmental authority in connection with the current use and occupancy of the City

Property, except those previously obtained by the City and delivered to the District. The City knows of no local improvement districts proposed that will affect the City Property.

(j) All of the representations, warranties and covenants of the City contained in this Agreement are true and correct as of the Effective Date and will be as of the Closing Date and will survive the closing of the transaction contemplated by this Agreement as set forth in Section 14.6 below.

8.2 District's Representations and Warranties. The District represents and warrants to the City as follows:

(a) The District is a public utility district, duly organized and validly existing under the laws of the state of Washington.

(b) In connection with its Feasibility Study, the District will inspect those aspects of the City Property, including its physical condition that the District determines are necessary in order to make a determination whether to acquire the City Property.

(c) As of the date of this Agreement, the District is not aware of any default by the District of any representation or warranty in this Agreement.

(d) To the District's knowledge, the District Property is now, or will be as of the Closing Date, in compliance in all material respects with all applicable zoning, land-use, building, construction, and subdivision and other laws, ordinances and regulations and with all existing covenants, conditions, restrictions and easements involving the District Property.

(e) To the District's knowledge, all Due Diligence Materials and other instruments and documents made available and/or delivered to the District under this Agreement are complete and accurate originals or copies, and the District will advise the City in writing of any inaccuracies in the instruments and documents as the District becomes aware of them. With respect to all other instruments and documents made available, delivered or required to be delivered to the City by the District under this Agreement, the District has not purposefully altered or withheld any of them.

(f) The District has not received notice of any special assessment or condemnation proceedings affecting the District Property.

(g) To the District's knowledge, there is no litigation pending or threatened against the District (or any basis for any claim) that arises out of the ownership of the District Property and that might materially and detrimentally affect (i) the use or operation of the District Property for City's intended use, or (ii) the ability of the District to perform its obligations under this Agreement, or (iii) the value of the District Property.

(h) The District has received no notice of any failure of the District to comply with any applicable governmental requirements in respect of the use, occupation and construction of the District Property, including environmental, fire, health, safety, zoning, subdivision and other land use requirements that have not been corrected to the satisfaction of the appropriate

governmental authority, and the District has received no notice of, and has no knowledge of, any violations or investigation relating to any governmental requirement.

(i) The District has received no notice of any default or breach by the District under any covenants, conditions, restrictions, rights of way or easements that may affect the District in respect to the District Property or may affect the District Property or any portion thereof and no default or breach is known to exist.

(j) To the District's knowledge, there are no permits, licenses or consents required by any governmental authority in connection with the current use and occupancy of the District Property, except those previously obtained by the District and delivered to the City. The District knows of no local improvement districts proposed that will affect the District Property.

(k) All of the representations, warranties and covenants of the District contained in this Agreement are true and correct as of the Effective Date and will be as of the Closing Date and will survive the closing of the transaction subject to Section 14.6 below.

9. Water Rights.

The City agrees to transfer water rights associated with the City Property to the District, if any, in proportion to the area being transferred as the rights pertain to the whole. The City agrees that the District may retain all water rights associated with the District Property and agrees to sign any documents necessary to accomplish that purpose, including without limitation, any applications to the Chelan County Conservancy Board or the Department of Ecology, in the District's sole discretion.

10. Hazardous Material.

10.2. Definitions.

10.2.1. Definition of "Environmental Laws". "Environmental Laws" means any federal, state or local laws, ordinance, permits or regulations, or any common law, regarding health, safety, radioactive materials or the environment, each as amended, and any regulations promulgated under those laws, guidance and directives issued with respect to those laws, or policies adopted by the applicable authorities under those laws.

10.2.2. Definition of "Hazardous Materials". "Hazardous Materials" means: (a) any radioactive materials; (b) any substance or material the transportation, storage, treatment, handling, use, removal or release of which is subject to any Environmental Law; or (c) any substance or material for which standards of conduct are imposed under any Environmental Law. Without limiting the generality of the foregoing, "Hazardous Materials" includes: asbestos and asbestos-containing materials (whether or not friable); urea-formaldehyde in any of its forms; polychlorinated biphenyls; oil, used oil; petroleum products and their by-products; lead-based paint; radon; and any substances defined as "hazardous waste," "hazardous substances," "pollutants or contaminants," "toxic substances," "hazardous chemicals," "hazardous pollutants," or "toxic chemicals" "under any law, statute, ordinance or regulation governing environmental matters or hazardous materials

10.3. City Compliance with Environmental Laws. The City represents and warrants to the District that:

10.3.1. The City has no knowledge of the release or presence of any Hazardous Material on, in, from or onto the City Property other than those that may have occurred arising from historical agricultural operations on the City Property;

10.3.2. The City has not, nor does it have knowledge of others generating, manufacturing, refining, transporting, storing, handling, disposing of or releasing any Hazardous Materials on the City Property, nor has the City permitted the foregoing, except as disclaimed in Subparagraph 10.3.1;

10.3.3. The City has not received and is not aware of any notice or claims made or threatened of any violation of any Environmental Laws concerning the City Property;

10.3.4. To the City's knowledge, no tanks used for the storage of any Hazardous Materials above or below ground are present or were at any time present on or about the City Property; and

10.3.5. No action has been commenced or, to the City's knowledge, threatened regarding the presence of any Hazardous Materials on or about the City Property.

10.4. No Waiver of Liability. To the City's knowledge, without duty of investigation, the City has not released or waived and will not release or waive the liability of any previous owner, lessee or operator of the City Property or any party who may be potentially responsible for the presence or removal of Hazardous Materials on or about the City Property. The City has made no promises of indemnification regarding Hazardous Materials to any party. The District does not waive or release the City from any liability regarding Environmental Laws and/or Hazardous Materials.

10.5. Environmental Inspection. During the Feasibility Study Period, the District will have the right to take soil and water samples (including groundwater samples) from the City Property, and to test and analyze those samples to determine the extent of any contamination of the soils and water (including groundwater) on or about the City Property. If, based on the results of those inspections or tests, the District determines that the condition of the City Property is unsatisfactory or if the District believes that its ownership of the City Property would expose the District to unacceptable risks of government intervention or liability to third parties, the District may, without liability, terminate this Agreement.

10.6. District's Compliance with Environmental Laws. The District represents and warrants to the City that:

10.6.1. The District has no knowledge of the release or presence of any Hazardous Material on, in, from or onto the District Property other than those that may have occurred arising from historical agricultural operations on the District Property;

10.6.2. The District has not, nor does it have knowledge of others generating, manufacturing, refining, transporting, storing, handling, disposing of or releasing any Hazardous Materials on the District Property, nor has the District permitted the foregoing, except as disclaimed in Subparagraph 10.6.1;

10.6.3. The District has not received and is not aware of any notice or claims made or threatened of any violation of any Environmental Laws concerning the District Property;

10.6.4. To the District's knowledge, no tanks used for the storage of any Hazardous Materials above or below ground are present or were at any time present on or about the District Property; and

10.6.5. No action has been commenced or, to the District's knowledge, threatened regarding the presence of any Hazardous Materials on or about the District Property.

10.7. No Waiver of Liability. To the District's knowledge, without duty of investigation, the District has not released or waived and will not release or waive the liability of any previous owner, lessee or operator of the District Property or any party who may be potentially responsible for the presence or removal of Hazardous Materials on or about the District Property. The District has made no promises of indemnification regarding Hazardous Materials to any party. The City does not waive or release the District from any liability regarding Environmental Laws and/or Hazardous Materials.

10.8. Environmental Inspection. During the Feasibility Study Period, the City will have the right to take soil and water samples (including groundwater samples) from the District Property, and to test and analyze those samples to determine the extent of any contamination of the soils and water (including groundwater) on or about the District Property. If, based on the results of those inspections or tests, the City determines that the condition of the District Property is unsatisfactory or if the City believes that its ownership of the District Property would expose the City to unacceptable risks of government intervention or liability to third parties, the City may, without liability, terminate this Agreement.

11. Possession.

The District shall take possession of the City Property on Closing, and the City shall take possession of the District Property on Closing.

12. Escrow/Closing Costs.

Closing shall occur at the Title Company, which shall act as the escrow/closing agent, unless the Parties agree in writing otherwise. Each party shall pay their respective closing costs, if any, as they pertain to tax prorations, assessments, document preparation, excise tax, if any and share equally in the escrow fee charged by Central Washington Title Services. Each party shall be responsible for their own attorney's fees if any.

13. Indemnification.

The City covenants and agrees that it will indemnify, defend, and hold harmless the District and any and all of the District's commissioners, officers, principals, agents and employees, from any claim, liability, loss, damage, cost, charge or expense (including without limitation attorney and expert witness fees and all other costs of litigation), whether direct or indirect, arising from, or relating to, the Project and/or the City's obligations under this Agreement, including without limitation any challenge to the FERC filings required by the Project.

The District covenants and agrees that it will indemnify, defend, and hold harmless the City and any and all of the City officials, principals, agents and employees, from any claim, liability, loss, damage, cost, charge or expense (including without limitation attorney and expert witness fees and all other costs of litigation), whether direct or indirect, arising from, or relating to, the District's obligations under this Agreement.

14. General Provisions.

13.2. Time is of the Essence. Time is of the essence in this Agreement. Both Parties agree to perform all obligations set forth in this agreement in a timely manner.

13.3. Attorney Fees and Costs. In the event of litigation to enforce or interpret any of the terms of this Agreement, each party shall bear its own attorney's fees and costs incurred therein.

13.4. Applicable Law – Venue. This Agreement shall be governed by the laws of the State of Washington. The Superior Court for Chelan County, Washington, shall be the exclusive venue for any and all suits brought to enforce the terms and conditions of this Agreement.

13.5. No Oral Agreements/Entire Agreement. There are no oral or other agreements which modify or affect this Agreement. This Agreement and the instruments anticipated to be executed as expressly provided in this Agreement constitute the full understanding between the parties. This Agreement may be amended or modified only by a written instrument executed by both Parties.

13.6. Notices. Notices shall be in writing and may be mailed or delivered. If mailed, such notices shall be sent postage prepaid, certified or registered mail, return receipt requested. The date marked on the return receipt by the U.S. Postal Service shall be deemed to be the date on which the party received the notice. Notices shall be mailed or delivered as follows:

To the City:

City of Wenatchee-Mayor's Office
301 Yakima Street
Wenatchee, WA 98801
Email: Lgloria@WenatcheeWA.Gov; TStanger@WenatcheeWA.Gov

With a copy to:

Steve Smith
617 Washington Street
Wenatchee, WA 98801
Email: steve@dadkp.com; toni@dadkp.com

To District:

Public Utility District No. 1 of Chelan County
Attn: Managing Director of District Services
P.O. Box 1231
327 N. Wenatchee Ave.
Wenatchee, WA 98807

Email: Justin.Erickson@chelanpud.org

With copy to: General Counsel Erik Wahlquist, Erik.Wahlquist@chelanpud.org

13.7. Survival. All representations and warranties made under this Agreement, and all duties, rights and obligations of the Parties, shall survive closing.

13.8. Waiver. Neither Party's waiver of the breach of any covenant under this Agreement will be construed as a waiver of the breach of any other covenants or as a waiver of a subsequent breach of the same covenant.

13.9. Ambiguity. The Parties acknowledge this Agreement was drafted and negotiated by both parties having the opportunity to be represented by legal counsel and that in the event of an ambiguity or dispute in the interpretation of a provision of this Agreement neither party shall be favored or penalized for being involved in the drafting of this Agreement.

13.10. Exhibits. The following exhibits are attached to and made a part of this Agreement by this reference.

EXHIBIT A – Project Description

EXHIBIT B – District Property Map

EXHIBIT C – City Property Map

EXHIBIT D – Section 4 (f) Evaluation Letter

EXHIBIT E – Drawings of Confluence Parkway Showing Mitigation Measures

14. Sale of Property. Should all or part of the following described property become available for sale or acquired by the City for the Project, the City shall either support the District's acquisition of the portion of the property not required for the Project (including without limitation not seeking to acquire the property itself) or sell the property (or any portion thereof not required for the Project) to the District at its appraised value within 90 days of the City's acquisition of the property or a completed boundary line adjustment or property division, if required. [INSERT LEGAL DESCRIPTION FOR PARCEL] (Parcel #232028130060) ((7.05 acre parcel, Property ID #25155)

15. Section 4(f) Evaluation Letter. Upon mutual approval of this Agreement, the District shall sign and deliver to the City a letter pertaining to the Individual Section 4(f) Evaluation for the Project substantially in the form attached hereto as Exhibit "D", no later than 10 days after the execution of this Agreement.

16. License Amendment. Upon mutual approval of the Agreement, the District shall: apply to FERC when, in its reasonable discretion, it has received and/or prepared all the necessary application materials and has completed all appropriate reviews and outreach (including necessary comment periods). In exercising its discretion, the District will work in good faith to use the City's NEPA materials, acknowledging the work and outreach that have been performed to date.

CITY OF WENATCHEE

PUBLIC UTILITY DISTRICT NO. 1
OF CHELAN COUNTY

By: _____

By: _____

KIRK HUDSON
General Manager

Date: _____

Date: _____

DRAFT

State of _____)
) ss.
County of _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the - _____ of CITY OF WENATCHEE to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this _____ day of _____, 2023.

Signature: _____

_____, Notary Public

My Appointment Expires: _____

State of Washington)
) ss.
County of Chelan)

I certify that I know or have satisfactory evidence that KIRK HUDSON is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the General Manager of PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN COUNTY to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this _____ day of _____, 2023.

Signature: _____

_____, Notary Public

My Appointment Expires: _____

EXHIBIT “A”

PROJECT DESCRIPTION

Confluence Parkway will be a new two-lane arterial street that will begin at the existing U.S. 2/ Euclid Avenue interchange, cross the Wenatchee River on a new bridge, and extend south to the intersection of North Miller Street and SR 285/North Wenatchee Avenue. The corridor will have one vehicle travel lane and bicycle lane in each direction. Two-way left turn lanes will be included between Wenatchee Confluence State Park and the U.S. 2/Euclid Avenue interchange as well as south of the junction of Hawley Street and North Miller Street, where the Project consists of upgrading existing City streets. All Project elements will meet current design standards, including compliance with the Americans with Disabilities Act of 1990 (ADA), where applicable. New traffic signals, illumination upgrades, and safety measures for at-grade railroad crossings will be part of the Confluence Parkway.

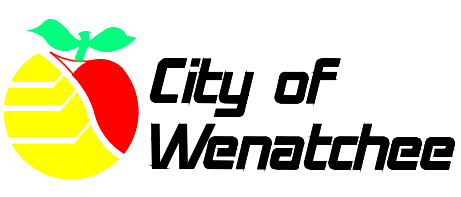
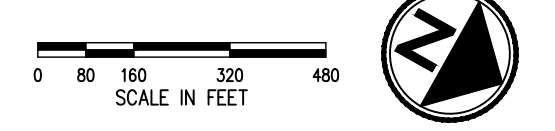
Traffic signals will be installed at, and other modifications made to, the existing U.S. 2/Euclid Avenue interchange to accommodate the additional traffic associated with Confluence Parkway (Figure ES-3a). The new roadway will continue southwest along the existing Euclid Road alignment, cross the railroad tracks on a new at-grade railroad crossing at Euclid Avenue, and follow along the existing Isenhart Avenue alignment. The existing at-grade crossing at Euclid Avenue will remain and the intersection of Confluence Parkway with Euclid Avenue will be upgraded from a three-leg to four-leg intersection to accommodate the through movement on Confluence Parkway. From there, the new roadway will continue south along the current alignment of Isenhart Avenue to Olds Station Road (Figure ES-3b). Olds Station Road will end on the west side of the railroad in a cul-de-sac and the at-grade railroad crossing will be removed.

South of Isenhart Avenue, the new road will turn slightly west and continue through the west side of the existing McDougall & Sons warehouses. The existing Wenatchee Confluence State Park entrance will remain in its current location. Modifications will be required to the southwestern portion of the park for the roadway. The existing Wenatchee Confluence State Park staff housing will be removed and replaced with a new housing facility within the park.

Confluence Parkway will cross the Wenatchee River on a new bridge approximately midway between the existing BNSF rail bridge and the Apple Capital Recreation Loop Trail pedestrian/bicycle bridge (Figure ES-3c). The bridge will be a combined two-level vehicle and pedestrian bridge. The top level will consist of a vehicle travel lane and bike lane in each direction, and the bottom level will consist of a shared use bicycle and pedestrian facility that replaces the existing narrow and aging pedestrian bridge. The new bridge will include three piers in the water, which will likely be in the same alignment as those on the existing railroad bridge. The existing pedestrian bridge will be removed after the new bridge is open.



LEGEND	
[Yellow Box]	NEW PAVEMENT
[Light Green Box]	PAVEMENT OVERLAY
[Dark Green Box]	SIDEWALK
[Light Green Box]	PLANTER STRIP OR STORMWATER FACILITY
[Dark Green Box]	GRAVEL TRAIL
[Brown Box]	BRIDGE OUTLINE
[Orange Box]	RETAINING / NOISE WALL
[Black Box]	EXISTING RAIL ROAD

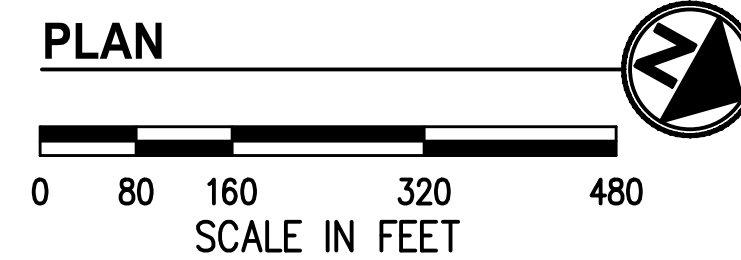
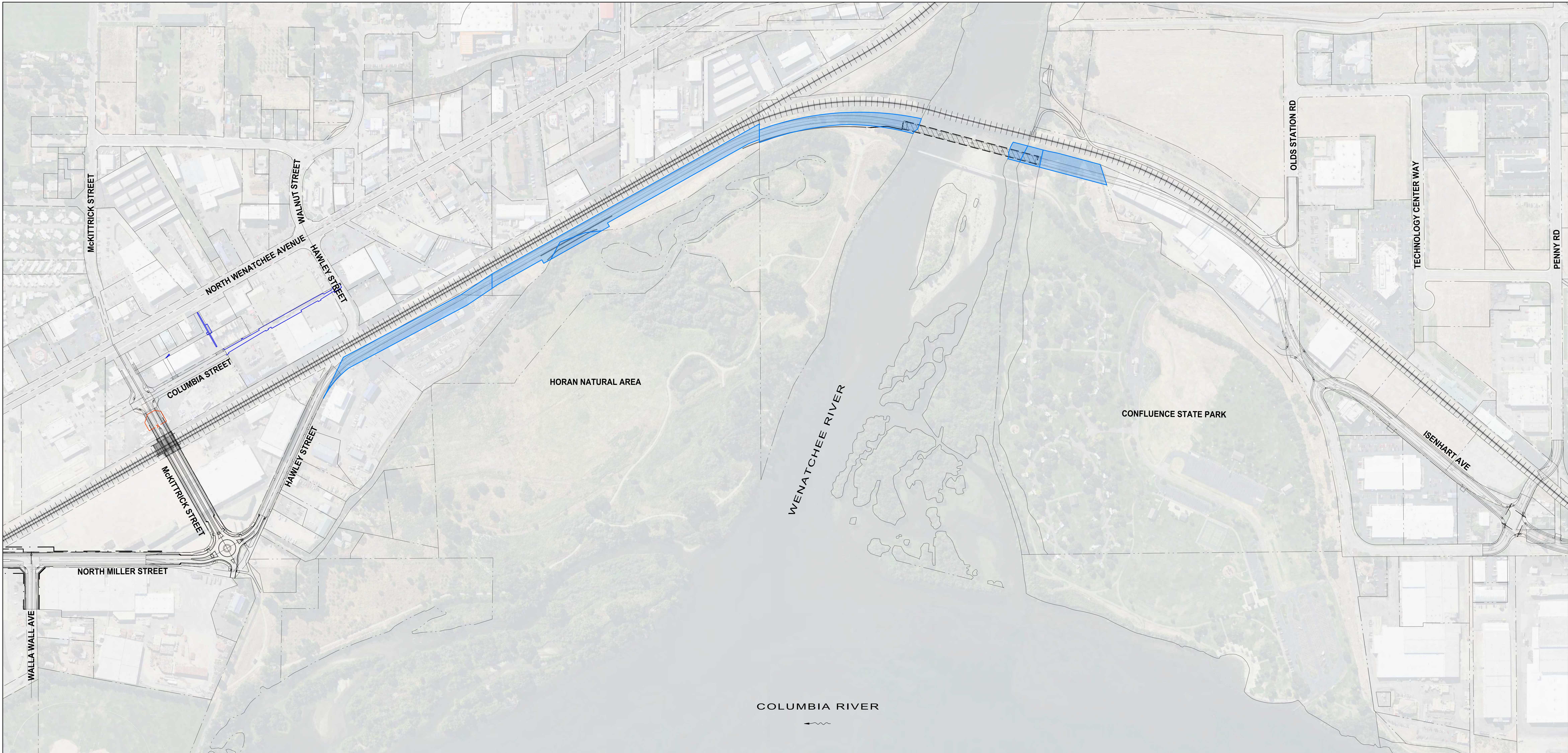


CONFLUENCE PARKWAY
PROJECT OVERVIEW

EXHIBIT “B”

District Property Map

DRAFT



THIS FIGURE PROVIDES AN OVERVIEW OF POTENTIAL MITIGATION MEASURES FOR CONFLUENCE PARKWAY IN THE VICINITY OF CONFLUENCE STATE PARK AND THE HORAN NATURAL AREA FOR DISCUSSION PURPOSES.

LEGEND

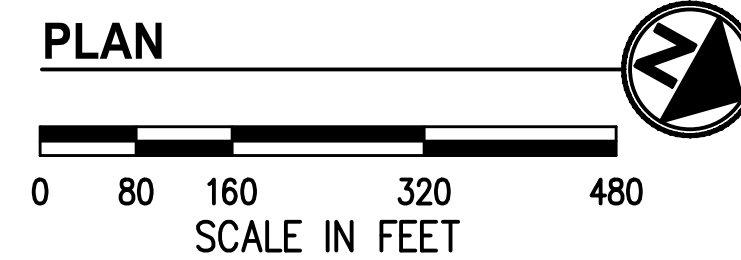
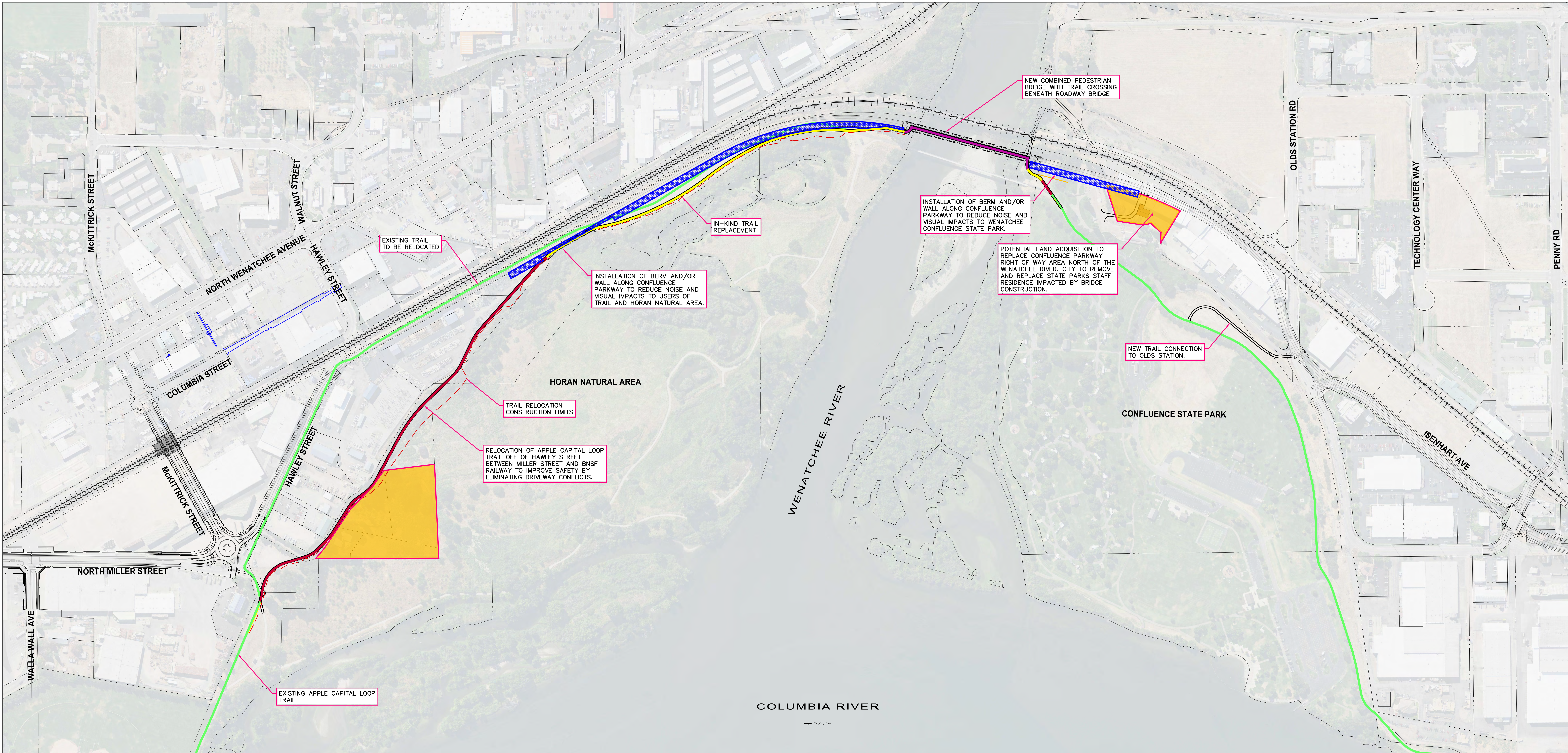
- PROJECT ROADWAY ROW REQUIREMENTS (PUD-FERC)
- APPROXIMATE ROW AREA = 5.6 ACRES
- ~1/2 MILE OF ~60' WIDTH ALONG RAILROAD SOUTH OF RIVER -> 3.9 ACRES
- ~1/10 MILE OF ~80' WIDTH ALONG RAILROAD AT PINCH POINT -> 0.7 ACRES
- ~1/10 MILE OF ~90' WIDTH ALONG RAILROAD NORTH OF RIVER -> 1.0 ACRES

DRAFT



EXHIBIT “C”
City Property Map

DRAFT



THIS FIGURE PROVIDES AN OVERVIEW OF POTENTIAL MITIGATION MEASURES FOR CONFLUENCE PARKWAY IN THE VICINITY OF CONFLUENCE STATE PARK AND THE HORAN NATURAL AREA FOR DISCUSSION PURPOSES.

- LEGEND**
- POTENTIAL LAND ACQUISITION PARK FACILITY (PRIVATE)
 - NOISE BERM AND/OR WALL
 - EXISTING TRAIL
 - RELOCATION OF TRAIL PUD OWNS AND MAINTAINS (STAYS IN REC PLAN)
 - IN-KIND TRAIL REPLACEMENT CITY OWNS, PUD MAINTAINS (STAYS IN REC PLAN)
 - COMBINED VEHICULAR AND PEDESTRIAN BRIDGE CITY OWNS, PUD MAINTAINS (REMOVED FROM REC PLAN)

DRAFT



CONFLUENCE PARKWAY
 CITY OF WENATCHEE / CHELAN COUNTY PUD LAND EXCHANGE AGREEMENT EXHIBIT - APPLE CAPITAL LOOP TRAIL

EXHIBIT “D”

Section 4 (f) Evaluation Letter

DRAFT

<PUD Letterhead>

April __, 2023

Honorable Mayor Frank Kuntz
City of Wenatchee
301 Yakima Street
Wenatchee, WA 98801

Re: Final Individual Section 4(f) Evaluation for the Confluence Parkway Project

Dear Mayor Kuntz,

The Public Utility District No. 1 of Chelan County, Washington, (“the District”) appreciates the opportunity to offer comment in support of the Final Individual Section 4(f) Evaluation for the Confluence Parkway Project (Project). As the owner of Wenatchee Confluence State Park, Walla Walla Point Park and portions of the Apple Capital Recreation Loop Trail in the Project vicinity, the District is the Section 4(f) Official with Jurisdiction of these resources under the Department of Transportation Act of 1966. The Wenatchee Confluence State Park includes both the active recreation area to the north of the Wenatchee River and the passive recreation area known as the Horan Natural Area to the south of the river.

In previous correspondence to you dated August 26, 2021, the District agreed with the findings of the Draft Individual Section 4(f) Evaluation that the Project would have unavoidable permanent and temporary impacts to Wenatchee Confluence State Park and portions of the Apple Capital Recreation Loop Trail associated with construction of the new transportation facility and mitigation measures. That letter also indicated that the District’s final conclusions would come after consideration of public comment received during the Environmental Assessment and Section 4(f) 45-day public review period.

On December 13, 2022, the Project’s Environmental Assessment and the Draft Individual Section 4(f) Evaluation were published, and the public, Tribes and agencies were offered a 45-day comment period. In addition to submitting our own comments on January 31, 2023, the District has reviewed all comments received and the City’s responses to them and find the responses to be appropriate.

Because the project is complex and raises distinctive and important interests, the City and District entered into a Land Exchange Agreement on **March, __ 2023**. This agreement provides conditions, contingencies, and provisions in support of 4(f) resources, including mitigation. With the aforementioned agreement and supporting actions now in place, the purpose of this letter is to document the District’s concurrence with the findings of the Individual Section 4(f) Evaluation which indicates that the selected alternative causes the least overall harm to the Section 4(f) resources under the District’s jurisdiction.

We appreciate the close collaboration between the District and the City of Wenatchee and look forward to continued coordination through project design and construction.

Sincerely,

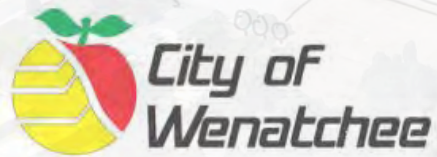
Kirk Hudson
General Manager
Public Utility District No. 1 of Chelan County
Kirk.hudson@chelanpud.org

Draft

EXHIBIT "E"

Drawings of Confluence Parkway Showing Mitigation Measures

DRAFT













CONFLUENCE PARKWAY LOOP TRAIL ALIGNMENT



TRAIL SEGMENT OVERVIEW

LEGEND

-  Roadway, stormwater, utilities improvements
-  Apple Capital Loop Trail
-  Trail Enhancement with Placemaking Opportunities
-  Bicycle/Pedestrian Confluence Node
-  Respite Area
-  Retaining Wall
-  Vegetated Screening
-  Overlook Area
-  Elevated Trail
-  Non-Motorized Pedestrian Bridge

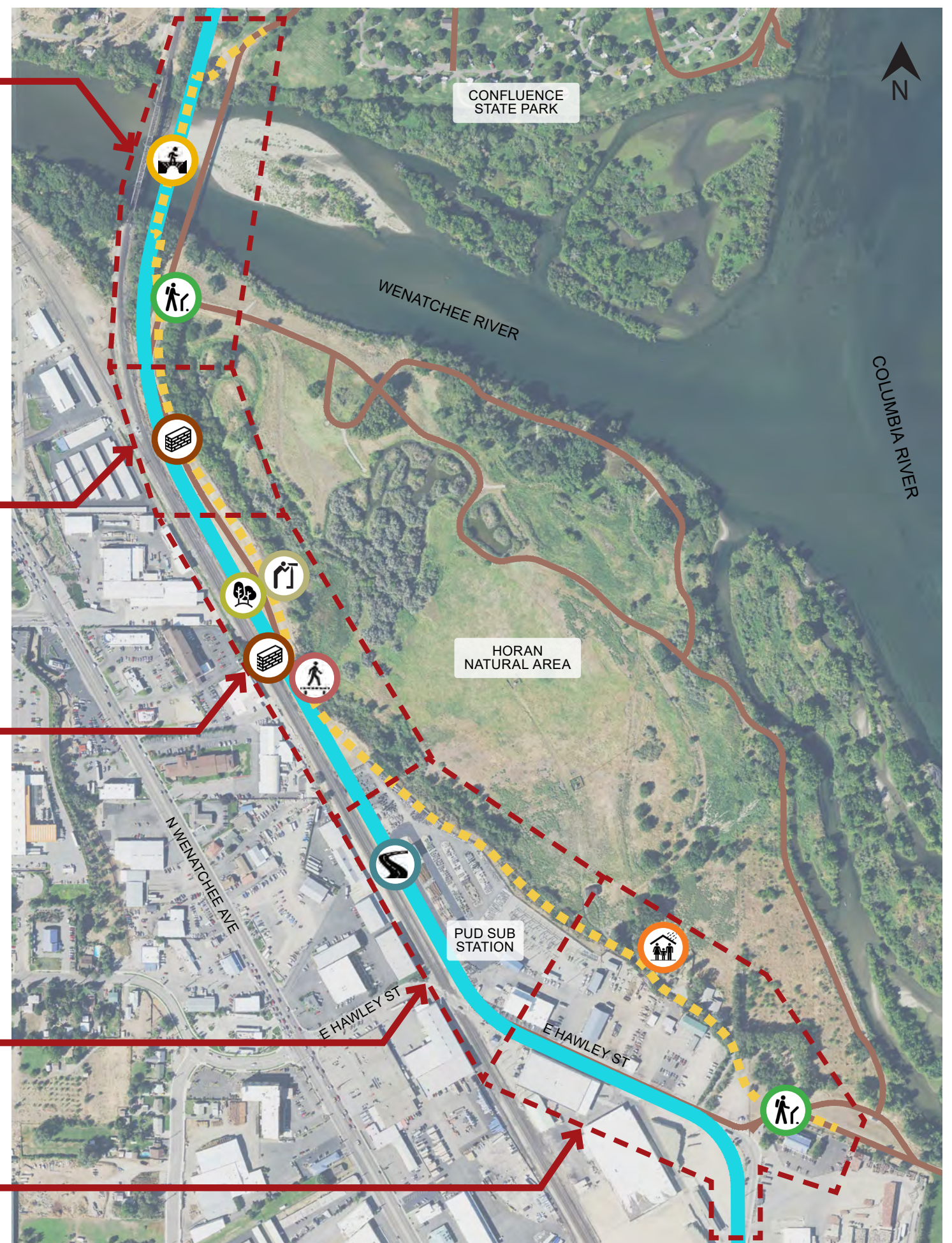
SEGMENT E
NEW TRAIL BRIDGE
CROSSING

SEGMENT D
TRANSITION TO NEW BRIDGE

SEGMENT C
ALONG TOP OF EMBANKMENT

SEGMENT B
TRANSITION TO TOP
OF EMBANKMENT

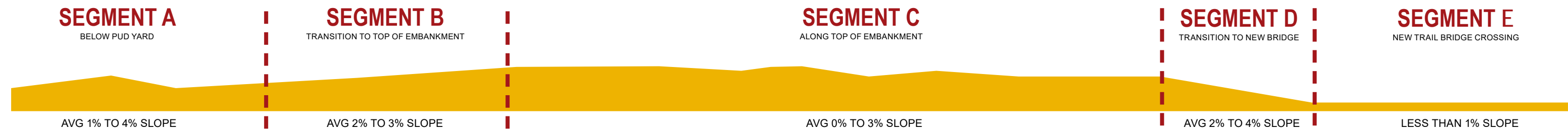
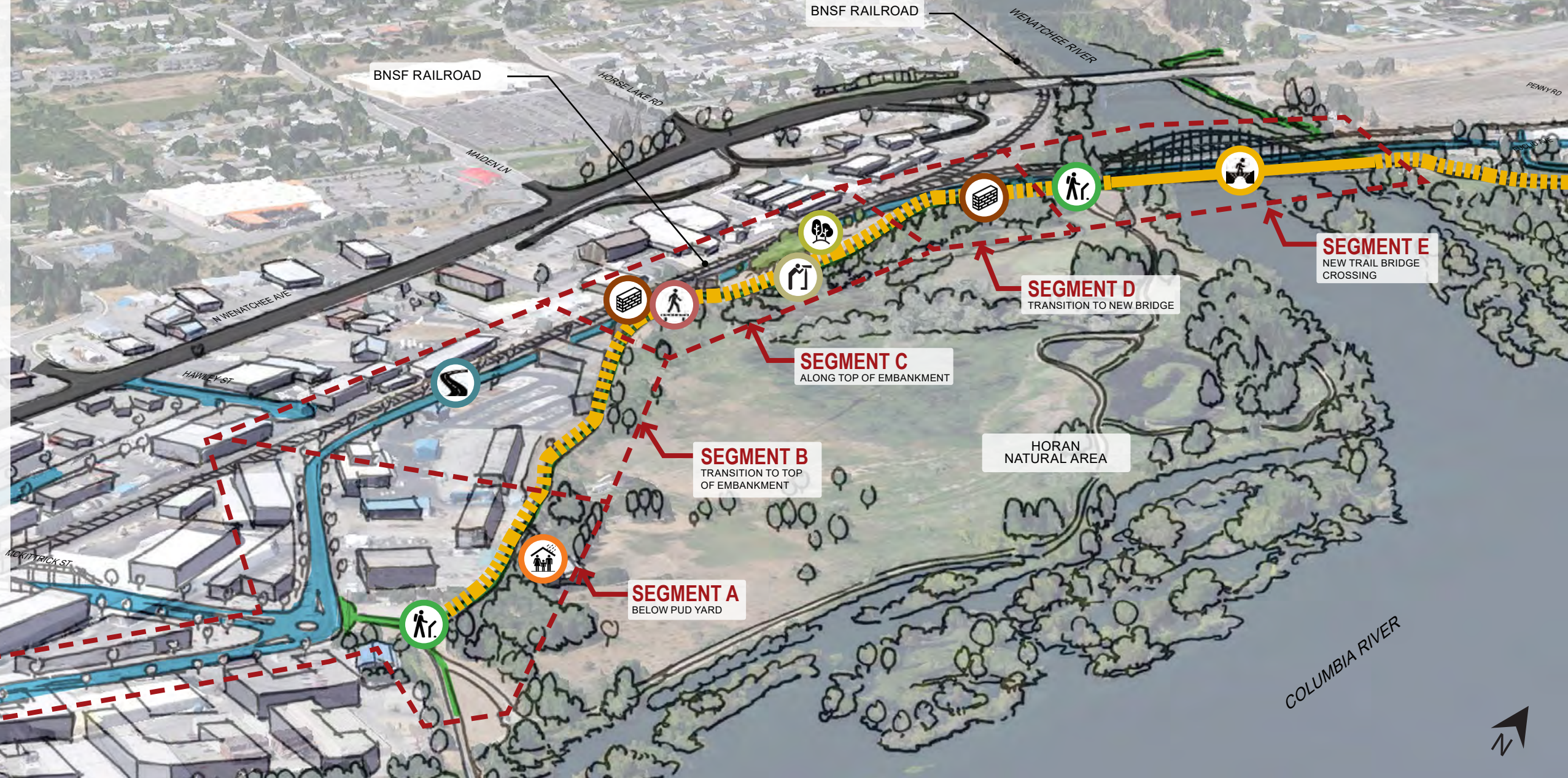
SEGMENT A
BELOW PUD YARD



TRAIL SEGMENT OVERVIEW

LEGEND

-  Roadway, stormwater, utilities improvements
-  Trail Relocation with Enhancement Opportunities
-  Bicycle/Pedestrian Confluence Node
-  Respite Area
-  Retaining Wall
-  Vegetative Screening
-  Overlook Area
-  Elevated Trail
-  New Trail Bridge Combination

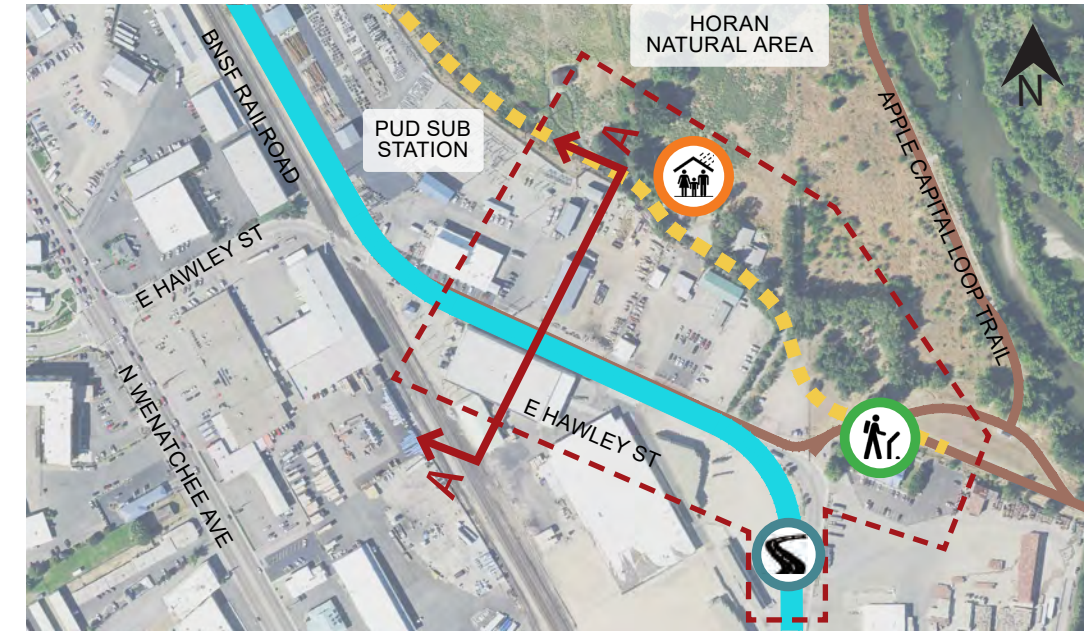
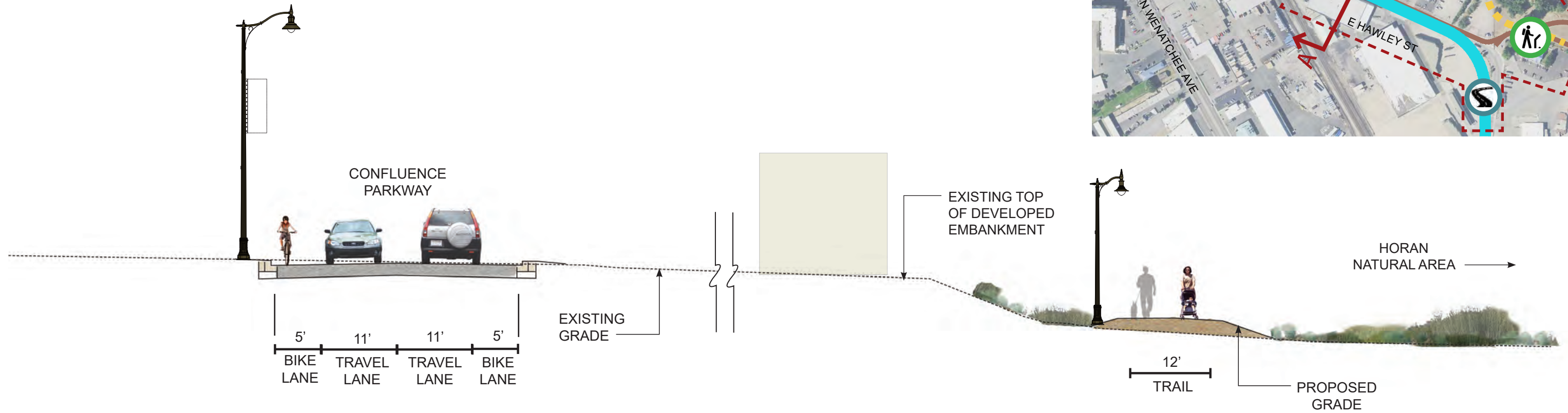


TRAIL VERTICAL PROFILE



SEGMENT A - CROSS SECTION

Loop Trail at STA 9+00

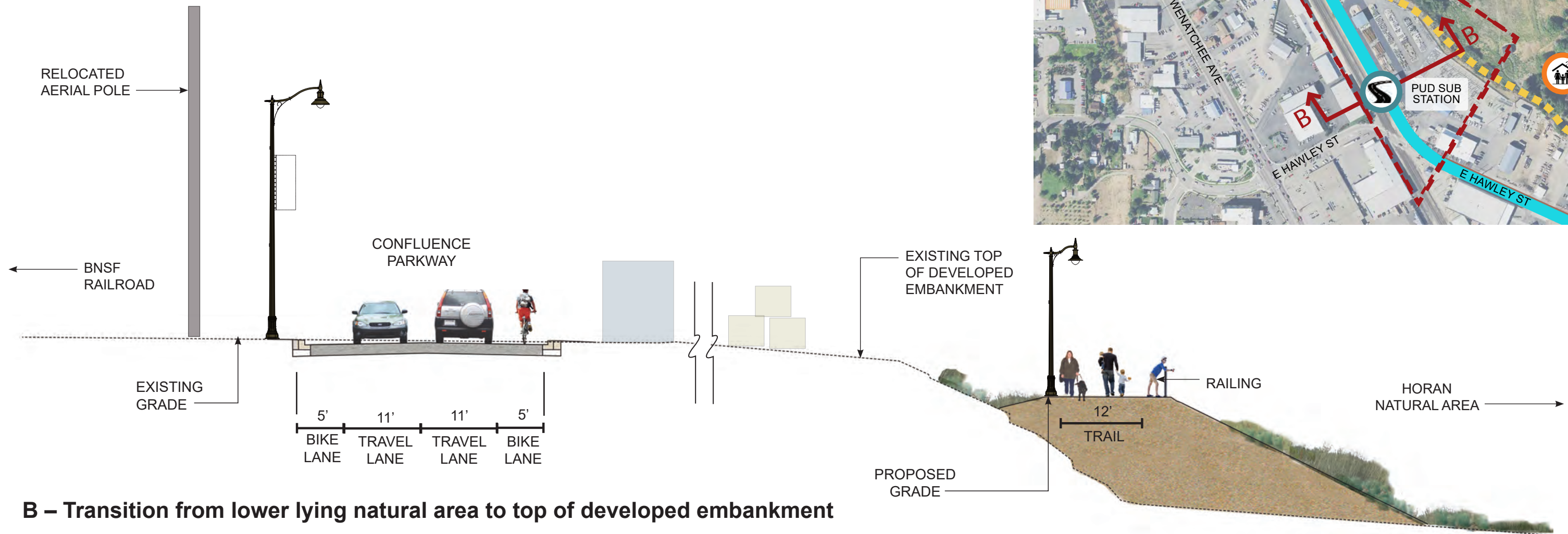


A – South end below PUD yard

- Trail would follow approximate existing ground
- Property to be purchased by City of Wenatchee as part of 1:1 land replacement of Confluence Parkway right of way areas
- Existing driveway / maintenance access to be maintained or relocated as necessary
- Opportunities: eliminate vehicle conflict points along Hawley Street; way finding kiosk/signage to natural area, downtown; respite area

SEGMENT B - CROSS SECTION

Loop Trail at STA 12+00

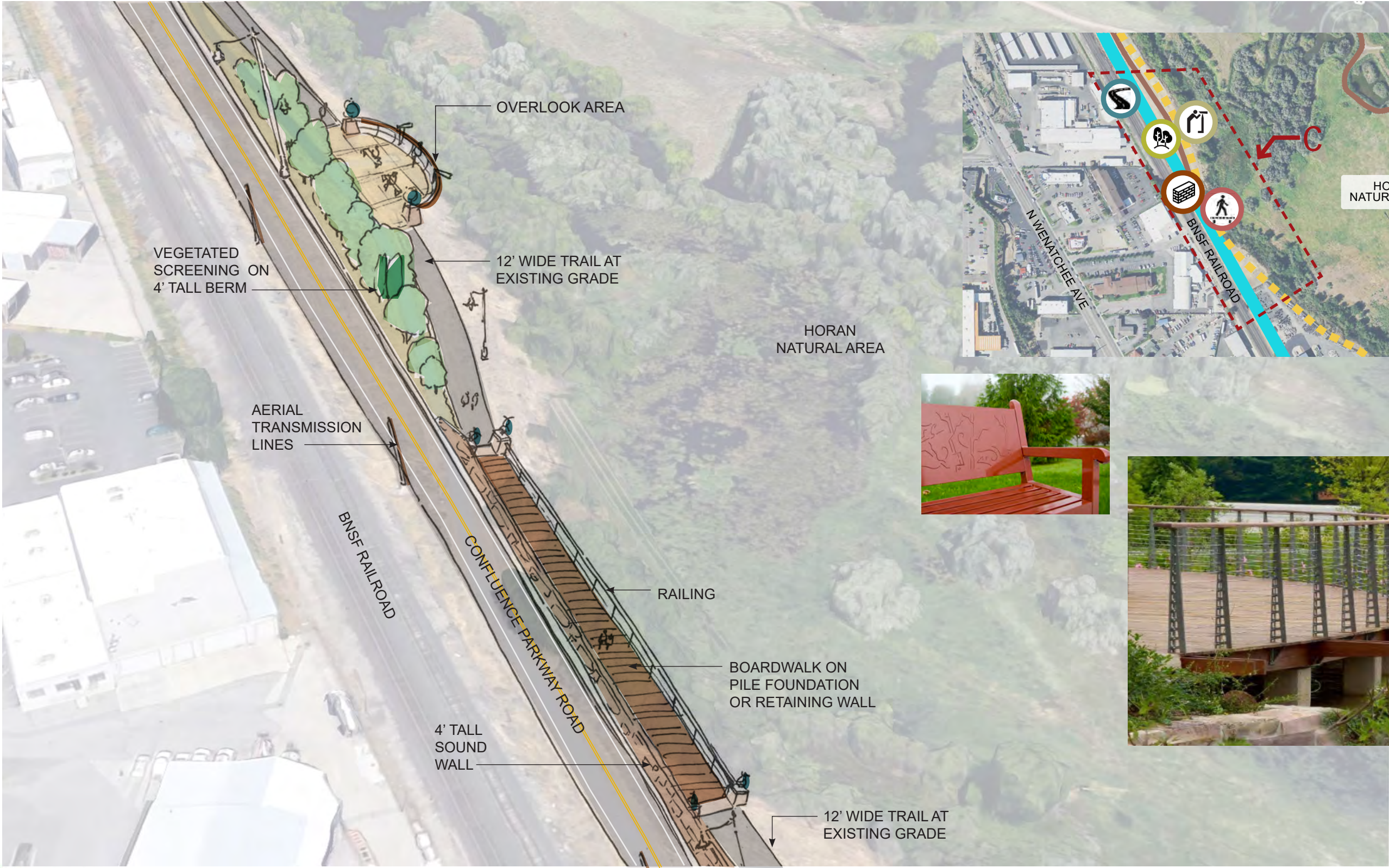


B – Transition from lower lying natural area to top of developed embankment

- Trail would be routed along 400-600' embankment slope to achieve necessary grade change
- Avoids conflicts to substation facility and operational needs
- Reconstruct existing embankment at similar slope to current conditions
- Trail gradient will meet all ADA requirements, with handrail along eastern side of trail
- Aerial pole relocation is likely, alignment will be optimized in final design to minimize utility conflicts

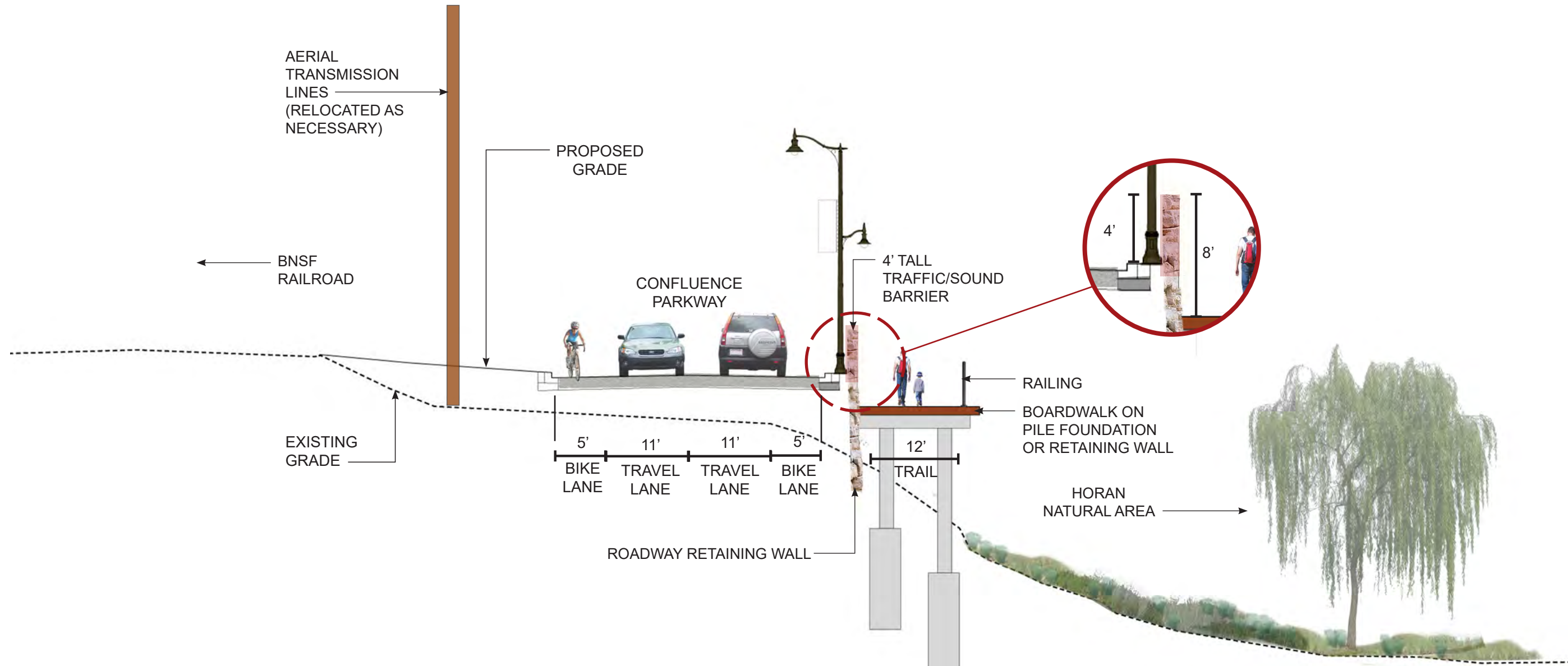
SEGMENT C - BIRD'S EYE SKETCH

Berm, Overlook and Elevated Loop Trail View



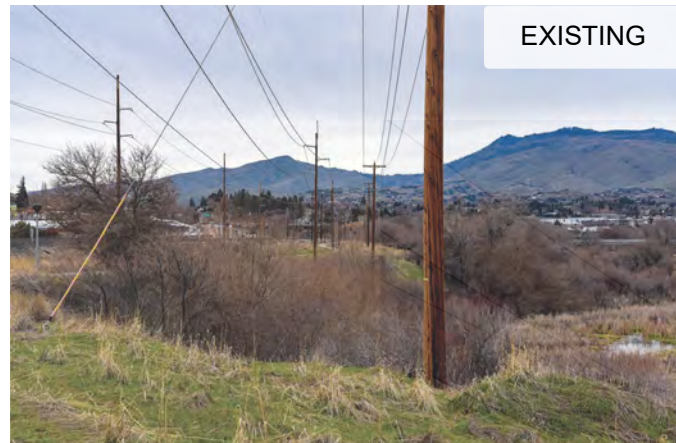
SEGMENT C - CROSS SECTION

Elevated Loop Trail at STA 26+00
(Southern Pinch Point)



SEGMENT C - PERSPECTIVE VIEW

North Facing View Towards Elevated Loop Trail, Berm and Overlook



EXISTING



PROPOSED

12' WIDE TRAIL AT EXISTING GRADE

VEGETATED SCREENING ON 4' TALL BERM

OVERLOOK AREA

AERIAL TRANSMISSION LINES

CONFLUENCE PARKWAY (BEHIND)

BNSF RAILROAD

4' TALL SOUND WALL

BOARDWALK ON PILE FOUNDATION OR RETAINING WALL

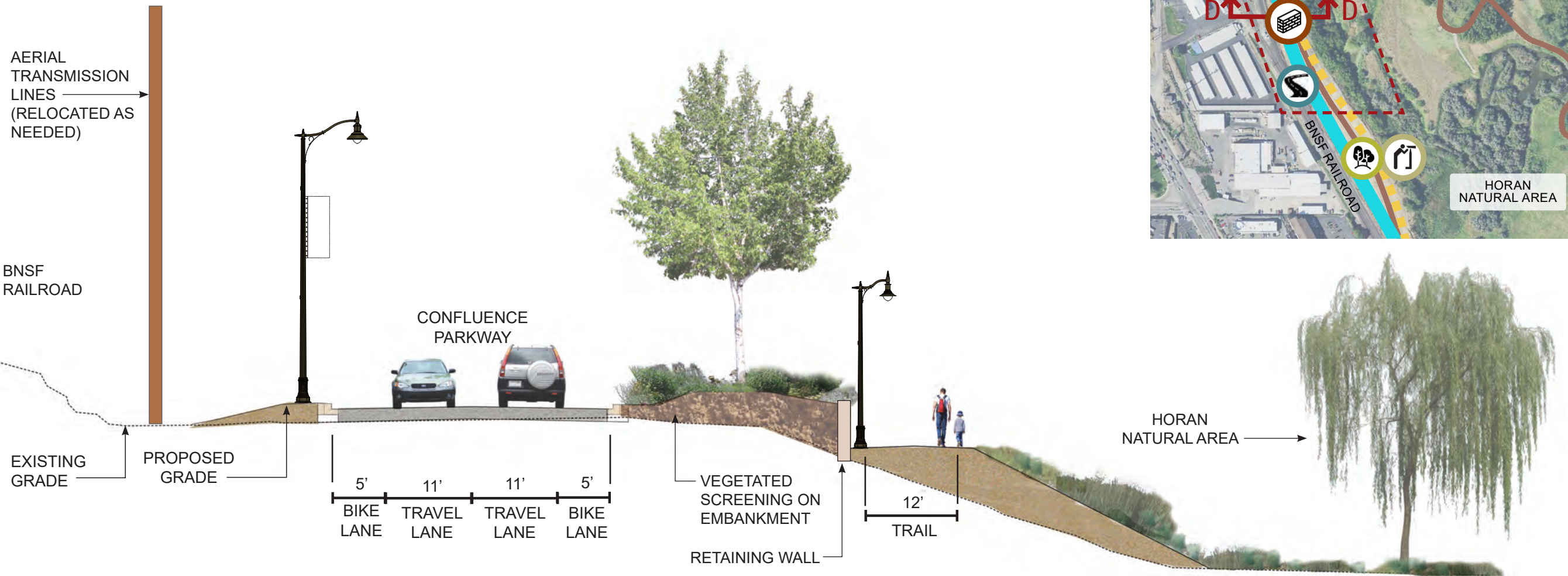
12' WIDE TRAIL AT EXISTING GRADE

HORAN NATURAL AREA



SEGMENT D - CROSS SECTION

Retaining Wall and Loop Trail at STA 39+00

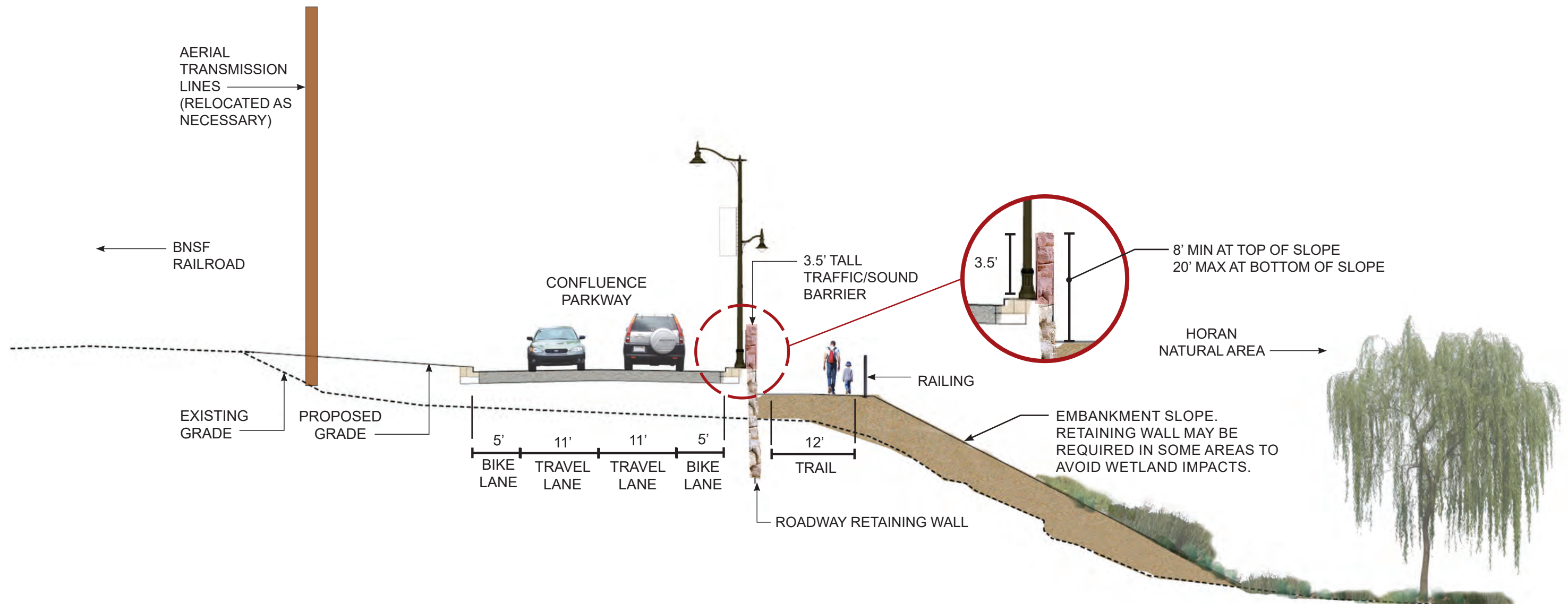


D – Transition from top of embankment to new trail bridge

- Trail descends from roadway grade in order to align with elevation of new pedestrian bridge below Confluence Parkway
- Retaining wall necessary in order to minimize impacts to natural area and wetlands
- Opportunities: decorative wall treatment to celebrate cultural heritage of the area

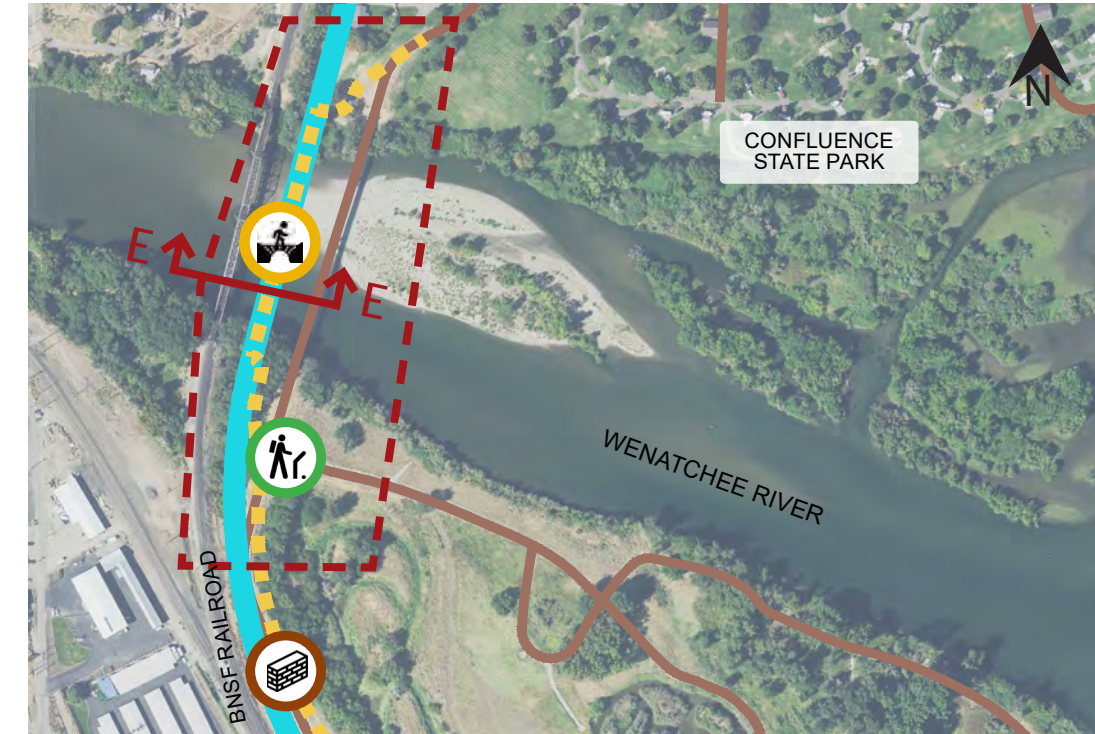
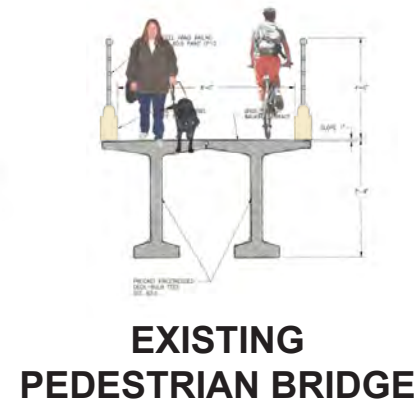
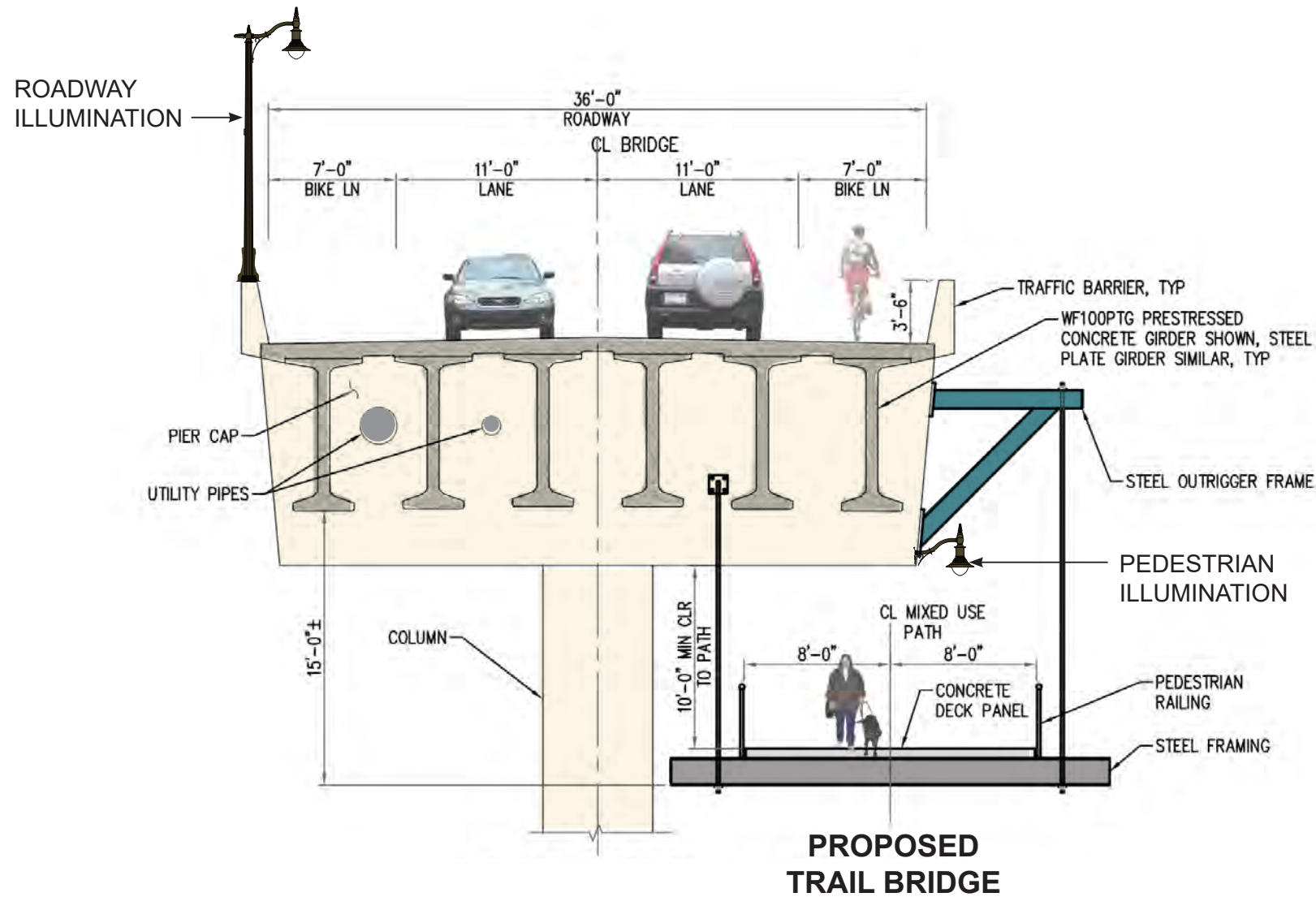
CROSS SECTION

Loop Trail at STA 42+00
(Northern Pinch Point)



SEGMENT E - CROSS SECTION

New Trail Bridge Crossing Beneath Confluence Parkway



E – New trail bridge crossing beneath Confluence Parkway

- Opportunities: increased trail width (16' vs current 8') and thematic placemaking elements
- Removal of existing bridge provides opportunity to provide additional usable park land by removing approach embankments

SEGMENT D & E - BIRD'S EYE SKETCH

Southwest Facing View Towards Retaining Wall, Loop Trail and New Trail Bridge Crossing

