Public Notice

U.S. Army Corps
of Engineers
Tulsa District

Reply To:

U.S. Army Corps of Engineers
ATTN: Regulatory Office
1645 South 101st East Avenue
Tulsa, Oklahoma 74128-4609

SWT-2014-292
Public Notice No.

October 23, 2014
Public Notice Date

November 21, 2014
Expiration Date

PURPOSE
The purpose of this public notice is to inform you of a proposal for work in which you might be interested and to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest.

SECTION 10
The U.S. Army Corps of Engineers is directed by Congress through Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) to regulate all work or structures in or affecting the course, condition, or capacity of navigable waters of the United States. The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

SECTION 404
The U.S. Army Corps of Engineers is directed by Congress through Section 404 of the Clean Water Act (33 U.S.C. 1344) to regulate the discharges of dredged and fill material into all waters of the United States. These waters include lakes, rivers, streams, mudflats, sandflats, sloughs, wet meadows, natural ponds, and wetlands adjacent to other waters. The intent of the law is to protect these waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical, and biological integrity.

NOTICE TO PUBLISHERS
This public notice has been provided as a public service and may be reprinted at your discretion. However, any cost incurred as a result of reprinting or further distribution shall not be a basis for claim against the Government.

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, TULSA DISTRICT
1645 SOUTH 101ST EAST AVENUE
TULSA, OKLAHOMA 74128-4609

Application Number SWT-2014-292

JOINT PUBLIC NOTICE
U.S. ARMY CORPS OF ENGINEERS
AND
OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY (ODEQ)
(30-DAY COMMENT PERIOD)

Interested parties are hereby notified that the District Engineer (DE) has received an application for a Department of the Army (DA) permit and water quality certification pursuant to Sections 404 and 401 of the Clean Water Act. The ODEQ hereby incorporates this public notice and procedure as its own public notice and procedure by reference thereto.

The application is for the expansion of the left descending bank into the Arkansas River to accommodate the construction of two land bridges over Riverside Drive and to provide riverfront recreational opportunities for the proposed park. The proposed public recreation park is known as “A Gathering Place” for Tulsa. The support features include long-term bank stability, ADA compliant pedestrian access to the river, access to the existing River Parks trail system, lake viewing lawn, nature walk, skateboard park, and would provide safe public access across Riverside Drive.

Name of Applicant:
Mr. Matt Meyer
River Parks Authority (RPA)
2424 East 21st Street, Suite 300
Tulsa, OK 74114

Name of Agent:
Mr. W.B. Smith, P.E.
HISINC, LLC
28508 West 41st Street South
Mannford, OK 74044

Location: The proposed project is located in the Arkansas River in Sections 13 and 24, Township 19 North, Range 12 East, in Tulsa, Tulsa County, Oklahoma. The project site can be found on the Jenks, OK 7.5 Minute USGS Quadrangle map.

Latitude North: 36.1216 Longitude West: 95.98673 Decimal Degrees

Purpose:

The basic purpose of this work is to expand the left descending bank to facilitate a gentle slope from two land bridges over Riverside Drive.

A water dependency determination is not required since no special aquatic sites are located within the project site.

The overall purpose of this work is to provide a world class riverfront park for the citizens of Tulsa.

Description of Work: The applicant proposes the placement of 175,000 cubic yards (cys) of fill material into jurisdictional waters along the left descending bank of the Arkansas River for the construction of two (north and south) buildouts. The proposed project would be protected by a 4-foot high (maximum height) vertical retaining wall approximately 2,500 linear feet (lf) long using rock boulders. Approximately 9.44 acres of compacted earthen fill material that consists of approximately 102,250 cys of sand, 6,500 cys of rock, 37,500 cys of shale, 27,800 cys of rock boulders, and 950 cys of excavated rock from the Public Service Company of Oklahoma (PSO) weir in the Arkansas River would be placed below the ordinary high water mark behind the retaining wall to construct the buildouts.

TABLE OF IMPACTS:

Location (Arkansas River)	Sand	Rock	Total cys	Acres	lf
Bank Stabilization Project**					2,500
Excavation of Sand*	102,250		102,250		
Excavation of Rock		6,500	6,500		
Excavation of Shale		37,500	37,500		
10 to 47-inch rock boulders		27,800	27,800		
PSO Weir Removal		950	950		
Project Total	102,250	72,250	175,000	9.44	2,500
*131,000 cys of sand would be excavated. After the sand has been compacted and the water has dissipated, volume of sand would be reduced. ** 27,800 cys for rock boulders would be construction of bank stabilization project.					

The placement of fill material within the Arkansas River and the method of removing the accumulated sediment is a “discharge” of dredged material. This includes the addition, placement, or redistribution of dredged or excavated materials within waters of the United States. A total of approximately 175,000 cys of earthen material (after compaction) would be used to construct the buildouts. The riverbank would be re-formed using a combination of the adjacent river sand, select fill, topsoil and armoring comprised of rock boulders, and geotextile fabric for stabilization.

The applicant has also proposed to utilize reinforced concrete around stormwater outfall structures made of precast reinforced concrete pipes and box structures. There are two other projects that are concurrently being constructed: Riverside Drive Improvements and the City of Tulsa Stormwater Drainage Improvements (Swan Creek Drainage Area and Travis Park Drainage Area).

The fill material would be excavated from within the Arkansas River channel. The work would be completed using wheeled and tracked excavation equipment (backhoes, track hoes, dozers, dump trucks, and front-end loaders), drilling rigs, concrete trucks, concrete pumping equipment, compactors, and graders.

Avoidance and Minimization Information: The applicant provided the following statement with regard to how avoidance and minimization of impacts to aquatic resources was incorporated into the project plan:

> The applicant's original request was for the placement of 17.33 acres of fill in the Arkansas River to construct the buildouts for the riverfront park. The current proposal reduces the acres of fill required from 17.33 to 9.44 acres, thereby minimizing impact to the Arkansas River while still achieving the project goals. The current plan would avoid approximately 7.89 acres of the Arkansas River under the proposed revised project design.
>
> The applicant evaluated five off-site alternatives and three on-site configurations during the preliminary design of the project. The alternatives evaluation was multifaceted and included factors such as site constraints, environmental impacts, avoidance, public safety, economics, site and neighborhood aesthetics, public access, and hydraulic impacts.
>
> Alternative 1: No Action
>
> Alternative 2: This proposal requires no fill material into the Arkansas River. The estimated cost would be approximately $51.7 million for relocating Riverside Drive to create park space at the edge of the Arkansas River offering opportunities for direct water access. However, this alternative involves unsafe pedestrian crossings at Riverside Drive and the curve in Riverside Drive would present vehicular safety issues for commuting public. This proposal is not practicable due to projected cost and public safety.
>
> Alternative 3: This proposal requires no fill material into the Arkansas River. The estimated cost would be $47.5 million and is the same proposal as Alternative 2 with the exception of burying Riverside Drive. The resulting tunnel from burying Riverside Drive is in the 100-year floodplain and is unbuildable due to prohibitive long-term maintenance cost stemming from roadway flooding. This proposal is not practicable due to projected cost, floodplain issues, and public safety.
>
> Alternative 4A: This proposal would require 17.33 acres of fill material into the Arkansas River. This proposal would also require the construction of the buildouts and island feature and would establish a safe public access to the river's edge. The upland habitat would be connected to riverine habitat by two land bridges that cross Riverside Drive. The proposed bank stabilization project would require hard and soft stabilization measures. This proposal includes the current proposal and the total cost would be $49.5 million. This proposal is not practicable due to proposed environmental impact and cost.
>
> Alternative 4B: This proposal would require 16.44 acres of fill material into the Arkansas River. This proposal is the same as Alternative 4A without the island

feature. The total cost would be $47.5 million. This proposal is not practicable due to proposed environmental impact and cost.

Alternative 4C: This proposal would require 9.44 acres of fill material into the Arkansas River. This proposal is the same as 4B but requires the minimal amount of fill material necessary to provide safe public access to the water edge from the top of the two land bridges that cross Riverside Drive. The total cost would be $40.0 million (Preferred).

Mitigation: The applicant has proposed compensatory mitigation for the unavoidable impacts to aquatic resources expected from the proposed project:

This compensatory mitigation plan includes: The restoration and enhancement of approximately 3.2 acres of existing scrub-shrub wetland habitat through hydrologic restoration, removal of invasive vegetation (tree of Heaven and Johnson grass), selective removal of trees, and planting of native riverine habitat shrubs, graminoids, and forbs.

The restoration of 2.01 acres of filled/blocked/abandoned side-channel adaptively managed with low-diversion control weirs. This includes excavation and removal of concrete rubble, fill, debris, log jams that prevent flow through the stream channel, and sediment buildup to restore natural landforms as well as low-flow channels. The stream channel would have riffle and pool complexes, and existing logs would be reused to reestablish habitat within the stream channel. Three low-diversion weirs would be installed to restore the side-channels.

The restoration and enhancement of 4.23 acres of riverine habitats, including removal of invasive vegetation, stabilization of eroding slopes, and planting and seeding of native vegetation; this includes the stabilization of 2,902 lf of existing unstable riverbank using coir logs and erosion control blanket.

The overall improvements from implementation of the mitigation plan include the planting of 148 trees (2.5-inch caliper) diameter at breast height (dbh) on the north and south buildouts that consist of 39 silver maple *(Acer saccharinum)*, 7 common hackberry *(Celtic occidentalis)*, 27 sweetgum *(Liquidambar styacilfiua)*, 29 American sycamore *(Platanus occidentalis)*, 31 eastern cottonwood *(Populus deltoids)*, 7 weeping willow *(Salix babylonica)*, 8 accolade elm *(Ulmus morton),* 2,625 shrubs (36-inch container), 14 pounds of short grass seed mix, 5,900 plugs, and 143,725 grass plugs being planted on the buildouts. The proposed project would restore and enhance existing riverine habitat to create 9.44-acre of high quality riverine habitat to provide sufficient acreage for new or expanded populations of native wildlife, including regionally uncommon species. The riverine island planting zone would have approximately 252 trees (1-inch caliper): 42 silver maple *(Acer saccharinum)*, 42 hazel alder *(Alnus serrulata)*, 42 river birch *(Betula nigra)*, 42 American sycamore *(Platanus occidentalis)*, 42 eastern cottonwood

(Populus deltois), 42 pin oak *(Quercus palustris)*, 1,800 shrubs, and 48 pounds of botanical seed mix. The scrub-shrub planting zone would have approximately 6,300 shrubs, 7,975 plugs, and 45 pounds of botanical seed. The mitigation sites would be protected by a deed restriction. The applicant has proposed a detailed maintenance and monitoring plan with ecological performance standards (75% survival rate after 5 years for trees and shrubs, 80% ground cover), site protection, adaptive management plan, and financial assurances.

The Corps has made no determination at this time with regard to the adequacy of the proposed mitigation relative to the federal mitigation rules and guidance, including Tulsa District's Mitigation and Monitoring Guidelines. The Corps is accepting comments on the need for and nature of the proposed mitigation, in addition to comments on the applicant's primary proposal. The Corps bears the final decision on the need for and extent of mitigation required, if the project proposed herein is authorized.

Project Setting: This project is located within the city limits of Tulsa, in the Oklahoma ecoregion of Osage Cuestas, which is part of the Central Irregular Plains geomorphic province. The transition is characterized by a series of tall grass prairie and oak-hickory forests that are native to eastern areas. The project is located within a sparse riparian corridor that provides shading for a perennial stream channel.

Existing Condition: The project area is on the left descending bank of the Arkansas River, which has eroded the river bottom primarily comprised of rock, sand, and silts; which is surrounded by the Tulsa metropolitan area.

Plans and Data: Plans showing the location of the proposed activity and other data are enclosed with this notice (Enclosures 1 through 10). If additional information is desired, it may be obtained from Mr. Marcus Ware, U.S. Army Corps of Engineers, Tulsa District, ATTN: Regulatory Office, 1645 South 101st East Avenue, Tulsa, OK 74128-4609, or telephone 918-669-7403.

Cultural Resources: The DE has consulted the National Register of Historic Places and has determined that there are no properties currently listed in the National Register which would be directly affected by the proposed work. The DE has also consulted the listing of Eligibility Determinations for Oklahoma and determined that the proposed project is not in the vicinity of properties eligible for listing. This public notice is also being sent to the State Historic Preservation Officer and to Native American Tribal governments to reveal if other known historic or archeological resources that might be eligible for listing in the National Register exist in the project area and which could be directly affected by the proposed work. This coordination is being done to fulfill our requirements under the National Historic Preservation Act of 1966 and associated historic preservation laws. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archeological or other historic properties which might be affected by the proposed work, the DE will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966 (Public Law 89-665), as amended, and 36

CFR Part 800, in accordance with implementing regulations 33 CFR Part 325, Appendix C.

Threatened and Endangered Species: The following federally listed species are known to occur in the vicinity or are listed for the county in which the proposed action is located: American burying beetle (*Nicrophorus americanus*), interior least tern (*Sterna antillarum*), and piping plover (*Charadrius melodus*). A copy of this notice is being furnished to the U.S. Fish and Wildlife Service and appropriate state agencies. This notice constitutes a request to those agencies for information on whether any other listed or proposed-to-be-listed endangered or threatened species may be present in the area which would be affected by the proposed activity.

Our preliminary determination is that the proposed activity will not affect listed threatened or endangered species or their critical habitat, if the work in the river is completed outside of the nesting season of the interior least tern. The IPAC Consultation Tracking Number is 02EKOK00-2015-SLI-0091. The proposed project would require Section 7 consultation if the work is performed during the nesting season of the interior least tern or would cause a negative effect to the existing least tern islands.

Environmental Considerations: The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impacts of the proposed activity and its intended use on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownerships, and, in general, the needs and welfare of the people. A permit will be denied if the discharge does not comply with the Environmental Protection Agency's 404(b)(1) guidelines. Subject to the 404(b)(1) guidelines and any other applicable guidelines or criteria, a permit will be granted unless the DE determines that it would be contrary to the public interest.

Comments: The Corps is soliciting comments from the public; federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Comments concerning the issuance of this permit should be received by the DE no later than 30 days from the date of this public notice. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an

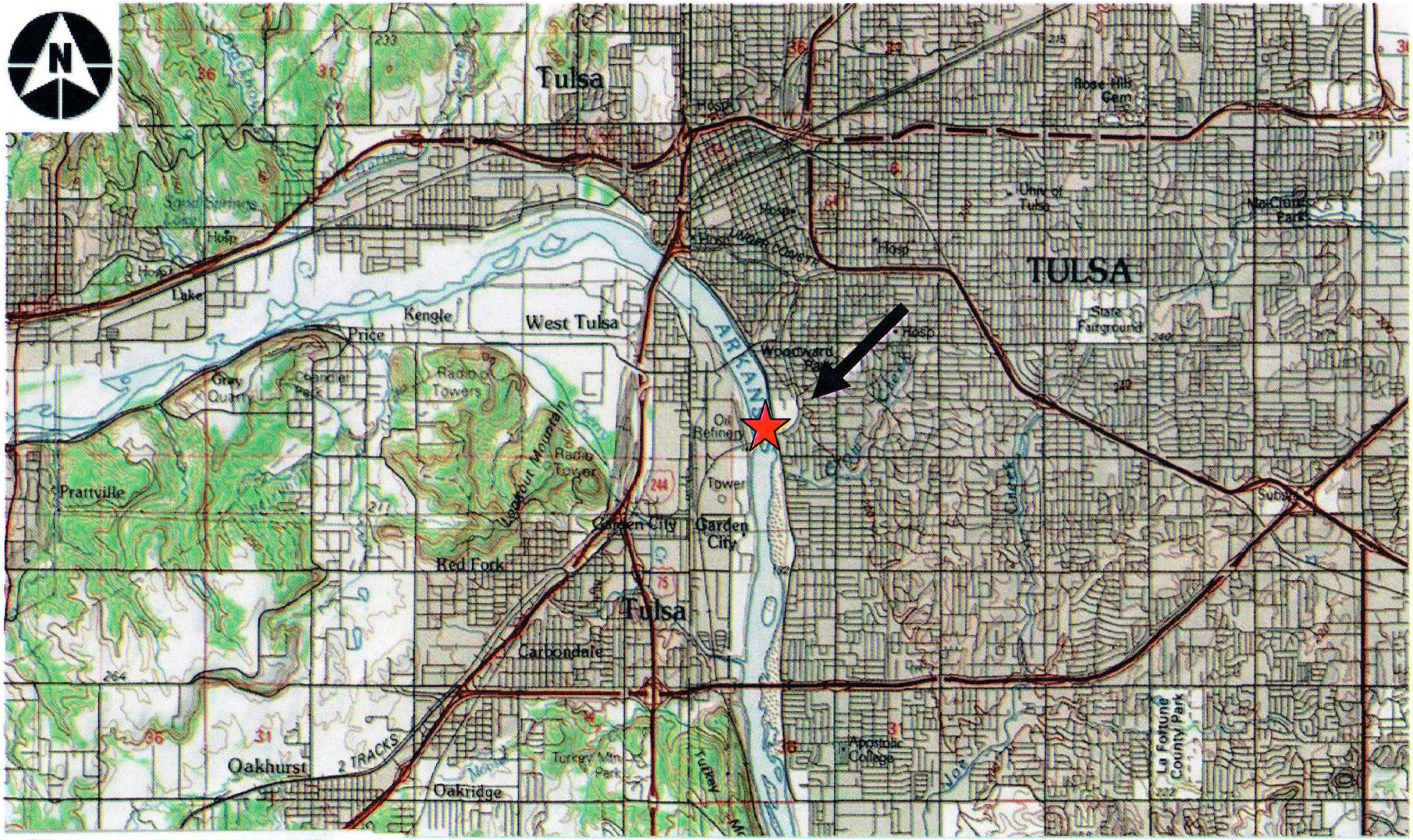
Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity. Any person may request in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

At the request of the Oklahoma Water Resources Board's National Flood Insurance Program State Coordinator, we are sending a copy of this notice to the local Floodplain Administrator to apprise the administrator of proposed development within their jurisdiction. In accordance with 44 CFR Part 60 (Flood Plain Management Regulations Criteria for Land Management and Use), participating communities are required to review all proposed development to determine if a floodplain development permit is required. The local Floodplain Administrator is required to perform this review for all proposed development and maintain records of such review.

Comments concerning water quality impacts will be forwarded to the Environmental Protection Agency for consideration in issuing a water quality Section 401 certification for the proposed project. Work may **not** commence until decisions have been made on both Sections 401 and 404.

Andrew R. Commer
Chief, Regulatory Office

Enclosures



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A Gathering Place For Tulsa
Arkansas River
Tulsa, Tulsa County, Oklahoma
Enclosure 1 of 10

APPENDIX E: A Gathering Place Park Program

PROJECT FEATURES

1. Adventure Play Garden
2. Blair Pond
3. Boathouse
4. Community Deck
5. Four Seasons Garden
6. Lakeview Lawn
7. Lodge
8. Midland Valley Trail Passage
9. Mist Mountain
10. Nature Walk
11. Skate Park
12. Stormwater Treatment Area
13. Sky Garden
14. Sports Courts
15. Swing Hill

MICHAEL VAN VALKENBURGH ASSOCIATES, INC. | SEPTEMBER 2014

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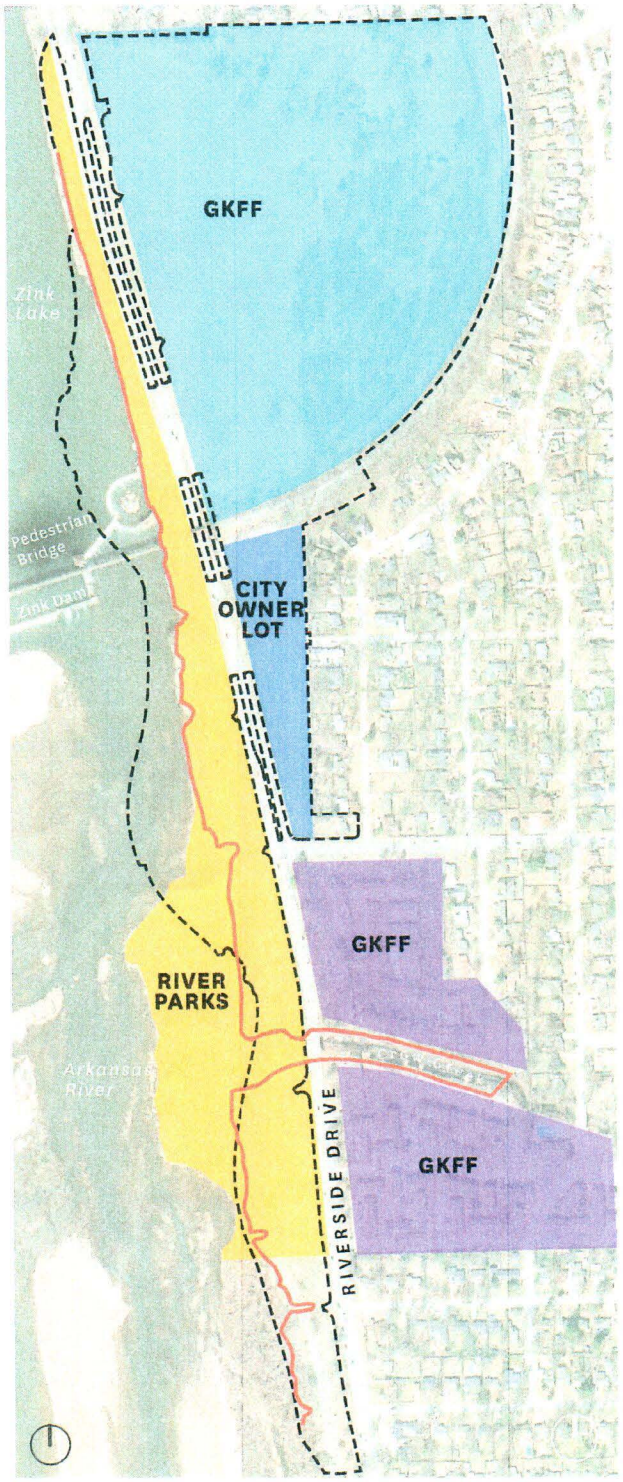
EXHIBIT 3: EXISTING AND PROPOSED SITE PLANS

EXISTING SITE



PROPOSED SITE

100-YR FEMA FLOODPLAIN/FLOODWAY EXIST.

PROJECT AREA

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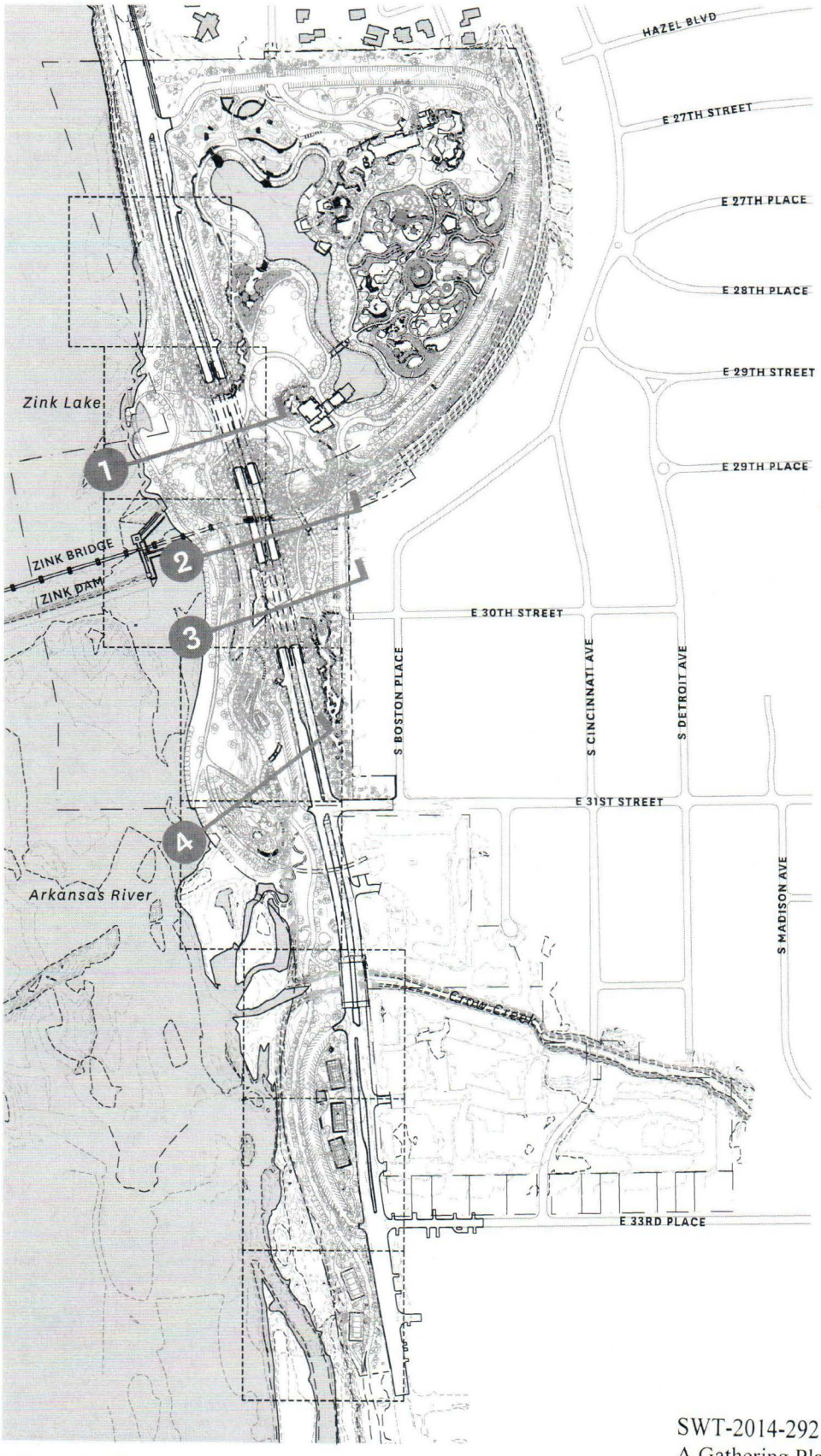
PUBLIC NOTICE EXHIBIT - 1



A Gathering Place
USACE SECTION 404 INDIVIDUAL PERMIT APPLICATION_PUBLIC NOTICE - PLANTING AREAS
APPLICANT: RIVER PARKS AUTHORITY | 23 SEPTEMBER 2014

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EXHIBIT 9: PROPOSED NORTH AND SOUTH BUILDOUT SECTIONS (N.T.S.) – SECTIONS 1 & 2

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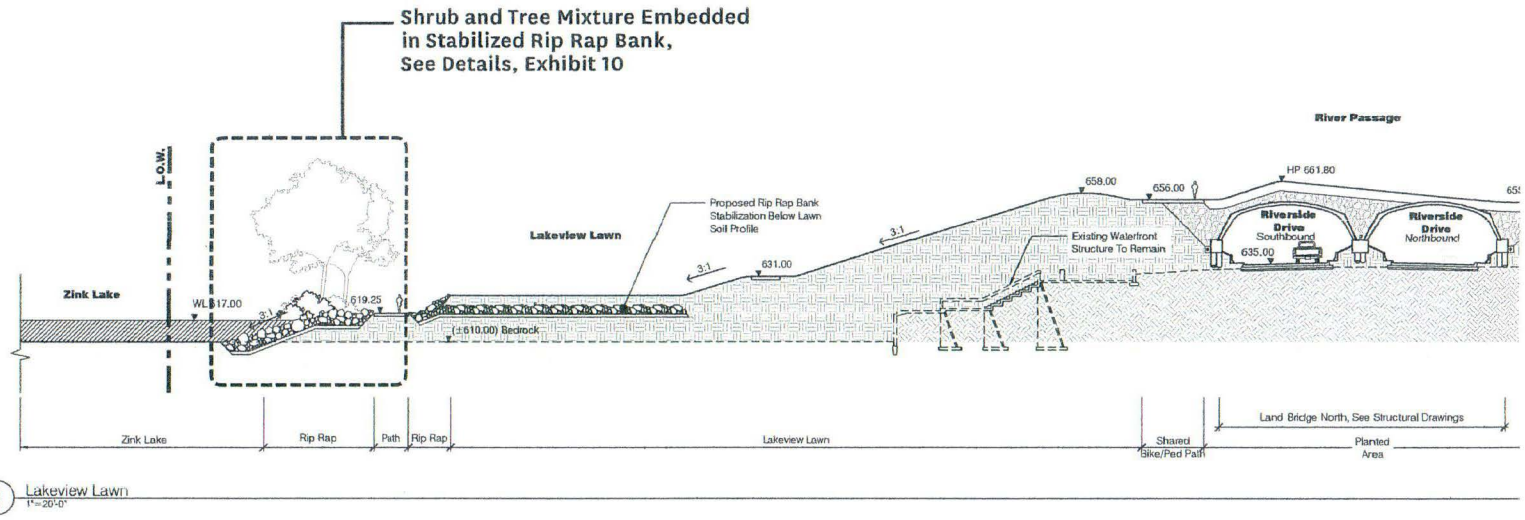
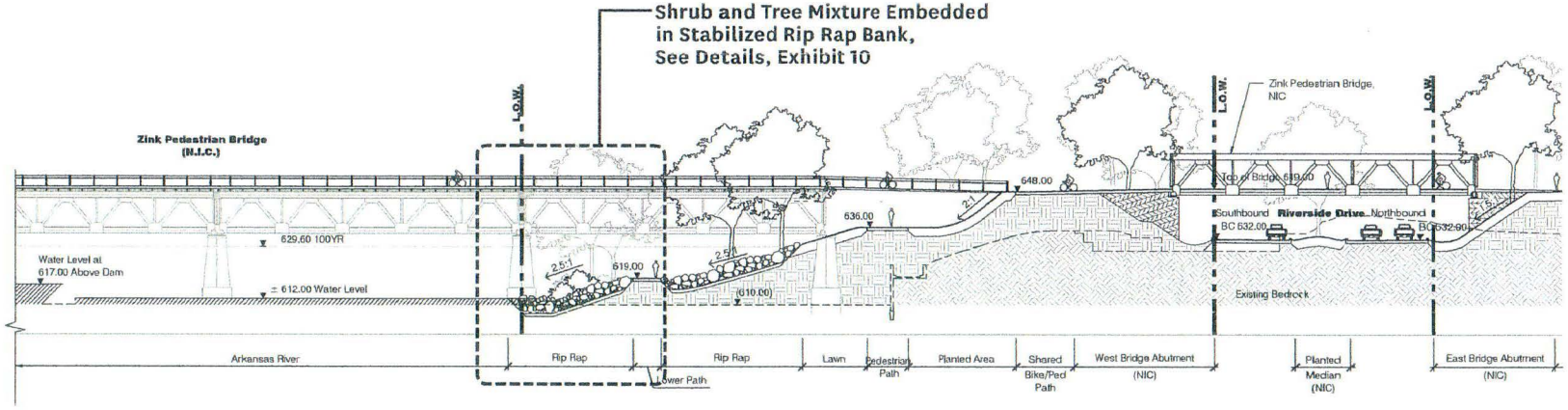


1 Lakeview Lawn
1"=20'-0"



2 Zink Bridge
1"=20'-0"

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EXHIBIT 9: PROPOSED NORTH AND SOUTH BUILDOUT SECTIONS (N.T.S.) – SECTIONS 3 & 4

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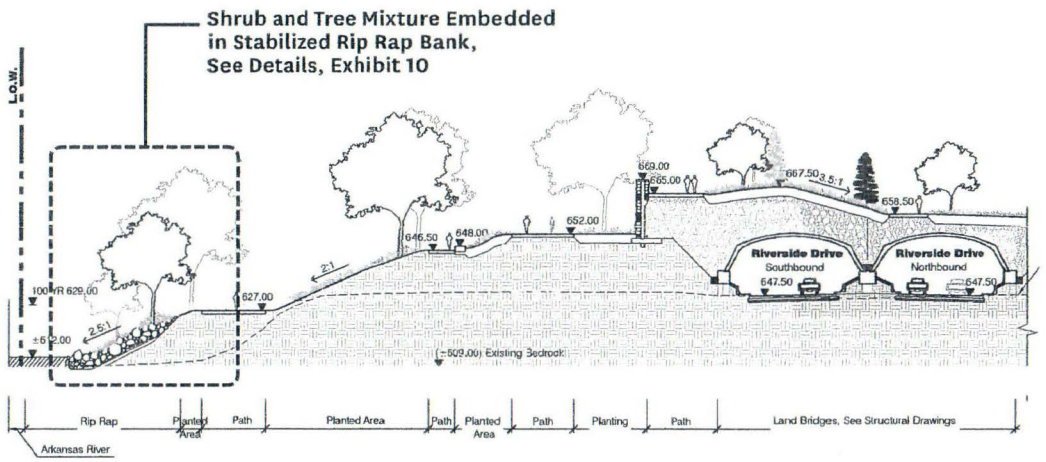
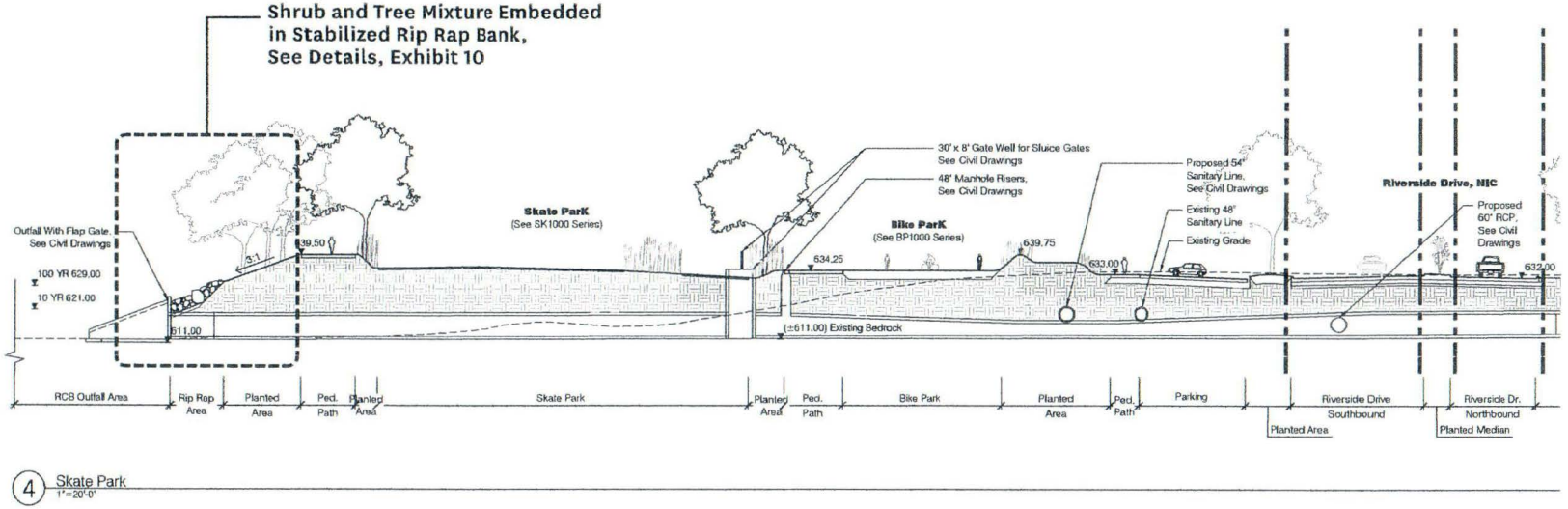


3 Sky Garden
1"=20'-0"



4 Skate Park
1"=20'-0"

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EXHIBIT 10: PROPOSED NORTH AND SOUTH BUILDOUT RIP RAP AND PLANTING DETAILS (N.T.S.)

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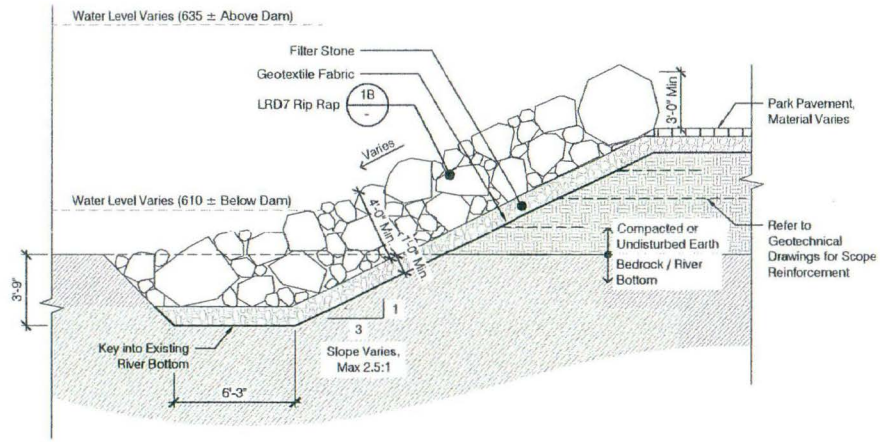
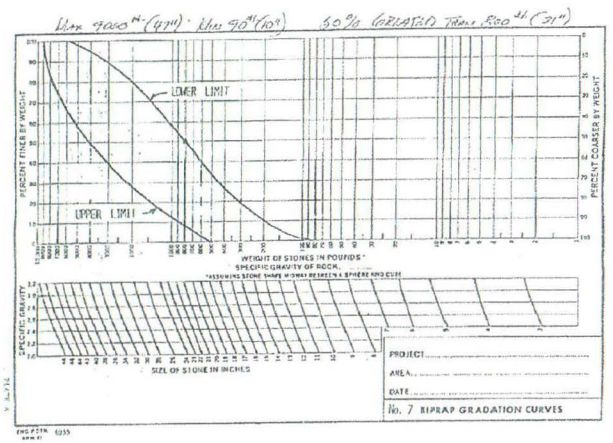
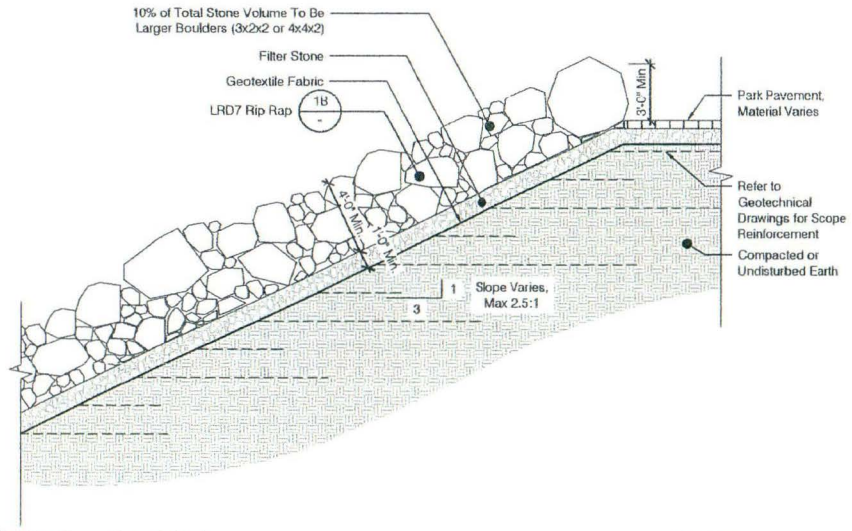


A Section



B Gradation for LR07 Rip Rap

1 Rip Rap - Type 1 (R1) Section
1/4"=1'-0"



2 Rip Rap - Type 2 (R2) Section
1/4"=1'-0"

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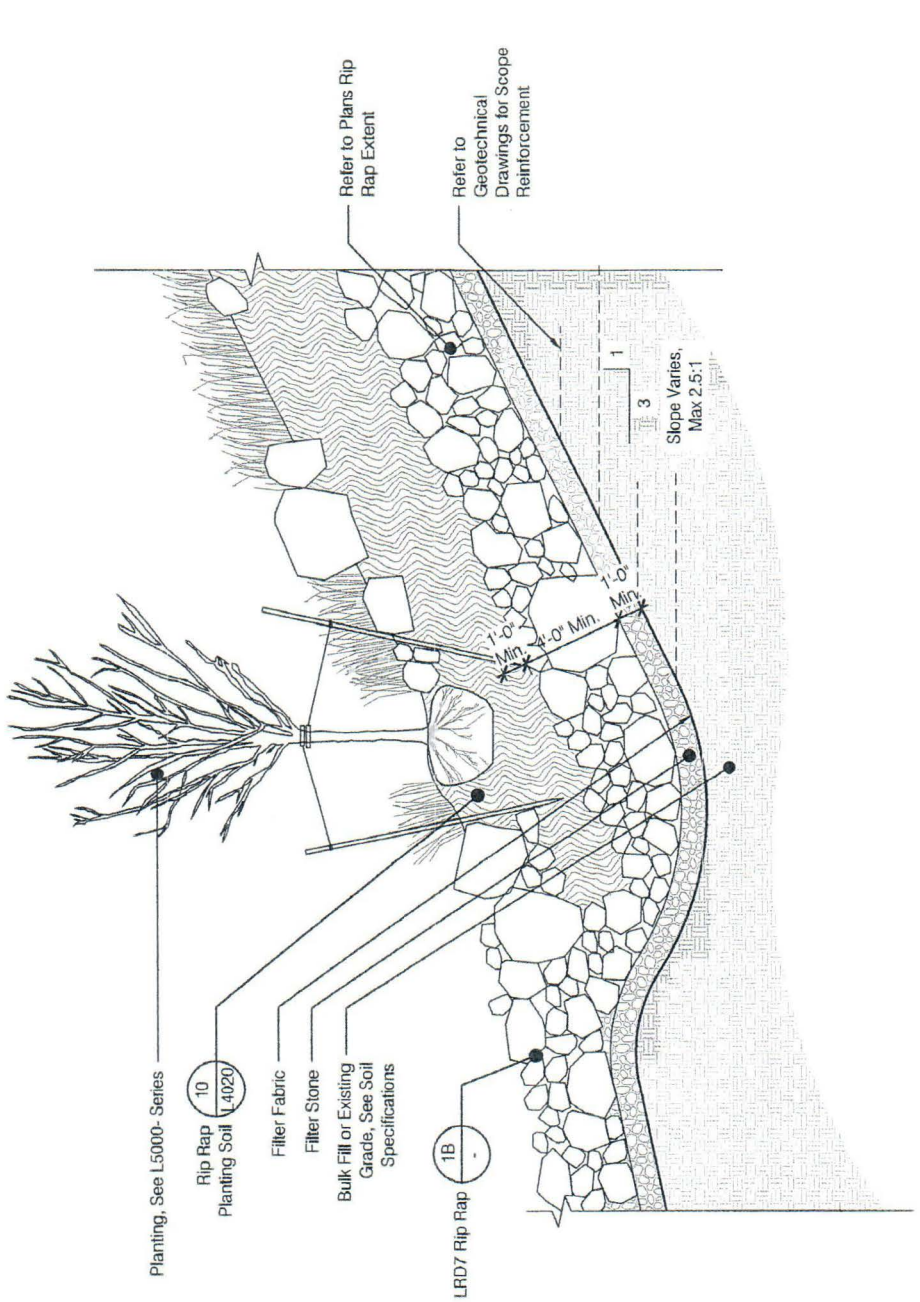
EXHIBIT 10: PROPOSED NORTH AND SOUTH BUILDOUT RIP RAP AND PLANTING DETAILS (N.T.S.)
PAGE 2 0F 4



3 Planting at Rip Rap (R3)
1/4" = 1'-0"

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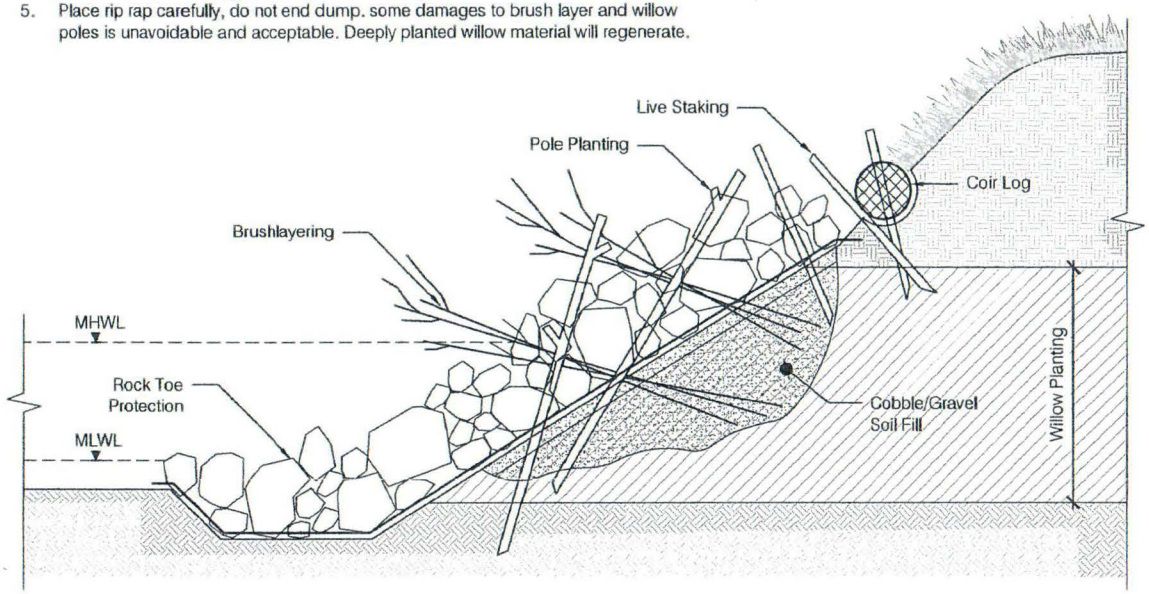
Notes:

1. Install willow pole planting and brushlayering during bank grading and rip rap placement to ensure good contact with "native ground" and /or soil fill.
2. Willow poles and brush layers should extend down into expected soil moisture zones.
3. Cut small holes or slits in filter fabric as necessary.
4. Place soil fill (cobbles, gravel, soil) around cuttings.
5. Place rip rap carefully, do not end dump. some damages to brush layer and willow poles is unavoidable and acceptable. Deeply planted willow material will regenerate.



4 Vegetated Rip Rap
3/8"=1'-0"

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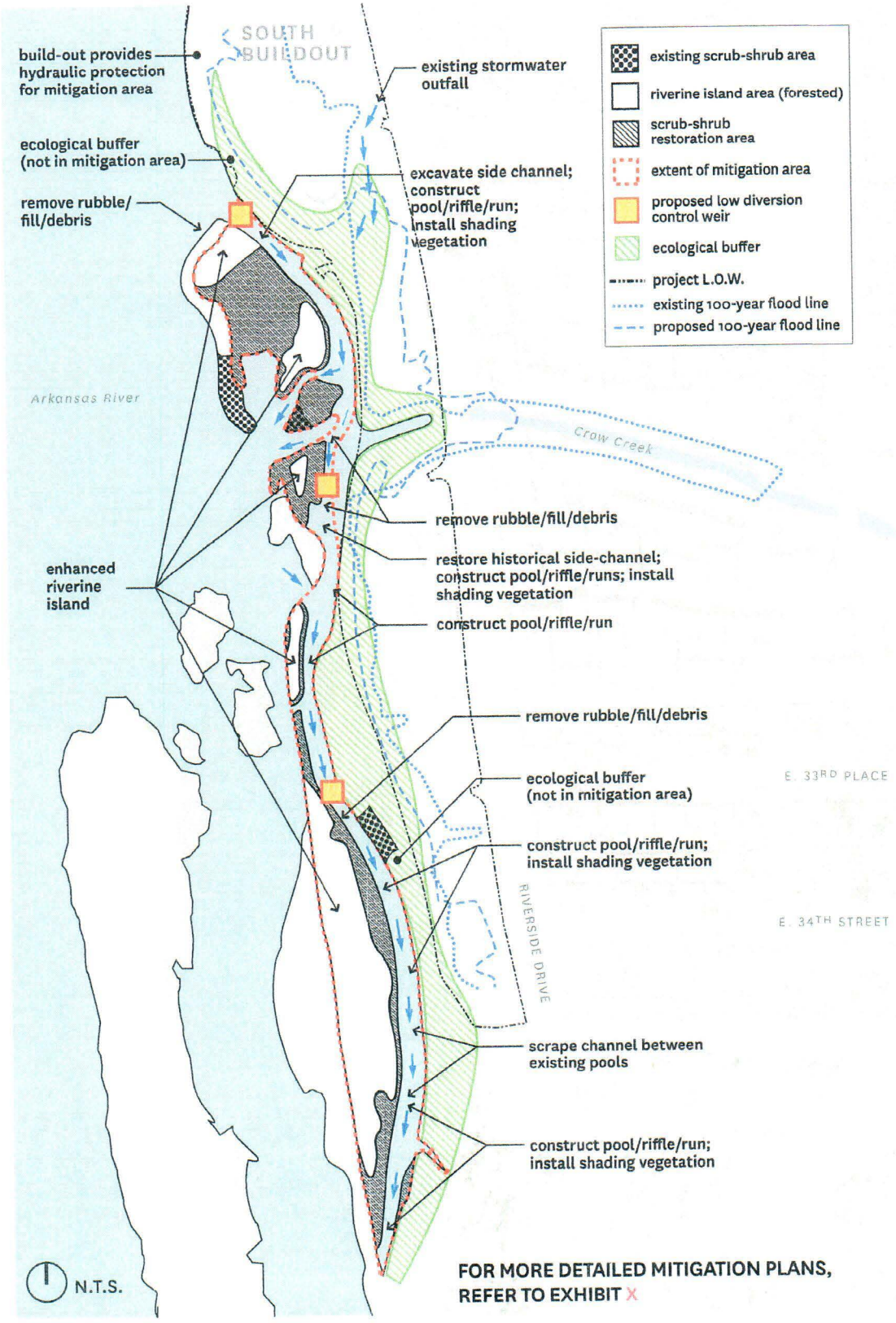
EXHIBIT 16. MITIGATION STRATEGY



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