



**DEPARTMENT OF THE ARMY**  
U.S. ARMY CORPS OF ENGINEERS, SEATTLE DISTRICT  
PO BOX 3755  
SEATTLE, WA 98124-3755

Planning, Environmental and Cultural Resources Branch

25 November 2020

Mr. Robert Woeck  
WSDOT, Environmental Services  
600 108<sup>th</sup> Avenue NE, Suite 405  
Bellevue, WA 98004

Dear Mr. Woeck,

The Seattle District, U.S. Army Corps of Engineers (the Corps) has completed its review of your request dated October 22, 2019 to alter the Project for Flood Protection and Related Purposes on the Sammamish River, Washington (Federal Project) as a result of construction work on the existing I-405 interstate bridges over the Sammamish River. The Corps performed this evaluation per Section 14 of the Rivers and Harbors Act of 1899 (33 USC 408) (Section 408) and in accordance with Engineering Circular 1165-2-220.

Based on this evaluation the Corps is granting you permission to alter the Federal Project as specified in your request, subject to compliance with the special terms and conditions below and the standard terms and conditions (Enclosure). The selected approach for project implementation is design-build, potentially resulting in a change or adverse impact to the design intent or functional operation of the Federal Project. Based upon review of the information provided by WSDOT, the likelihood and risk of adverse impact is low. To ensure consistency with the Section 408 permission decision, WSDOT will provide King County and the Corps updated design drawings and specifications at the 95% design phase for the portions of the project impacting the Federal Project for review and concurrence.

- Prior to construction, you must:

i. Submit to the Corps sufficient information to ascertain that the channel will be minimally affected by the project and that all Corps specifications are followed.

ii. Demonstrate the project meets the requirements outlined in EM 1110-2-1601, EM 1110-2-1902, and EM 1110-2-1913.

iii. Demonstrate the project will not impact the channel's ability to contain a 2.5% annual exceedance probability flood and final grading will meet minimum Corps slope stability requirements.

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iv. Submit updated soil property values used, riprap filter material selection, levee fill source, and material specification to the Corps at 95% design and receive notification from the Corps that they are acceptable.

Should you modify the proposed alteration after Corps review and prior to implementation, you must advise the Corps of such proposed changes to the alteration so the Corps can ensure your compliance with Section 408.

For any questions regarding this evaluation, please contact me at (206) 316-3970 or [dana.m.dysart@usace.army.mil](mailto:dana.m.dysart@usace.army.mil).

Sincerely,

Dana M. Dysart, P.E.  
Section 408 Program Manager  
U.S. Army Corps of Engineers,  
Seattle District

Enclosure

## Standard Terms and Conditions

## LIMITS OF THE AUTHORIZATION

1. This permission only authorizes you, the requester, to undertake the activity described herein under the authority provided in Section 14 of the Rivers and Harbors Act of 1899, as amended (33 USC 408). This permission does not obviate the need to obtain other federal, state, or local authorizations required by law. This permission does not grant any property rights or exclusive privileges, and you must have appropriate real estate instruments in place prior to construction and/or installation.
2. The time limit for completing the work authorized ends on December 31, 2025. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
3. Without prior written approval of the USACE, you must neither transfer nor assign this permission nor sublet the premises or any part thereof, nor grant any interest, privilege or license whatsoever in connection with this permission. Failure to comply with this condition will constitute noncompliance for which the permission may be revoked immediately by USACE.
4. The requester understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration of the work herein authorized, or if, in the opinion of the Secretary of the Army or an authorized representative, said work will cause unreasonable conditions and/or obstruction of USACE project authorized design, the requester will be required upon due notice from the USACE, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim can be made against the United States on account of any such removal or alteration.

## INDEMNIFICATION AND HOLD HARMLESS

5. The United States will in no case be liable for:
  - a. any damage or injury to the structures or work authorized by this permission that may be caused or result from future operations undertaken by the United States, and no claim or right to compensation will accrue from any damage; or
  - b. damage claims associated with any future modification, suspension, or revocation of this permission
6. The United States will not be responsible for damages or injuries which may arise from or be incident to the construction, maintenance, and use of the project requested by you, nor for damages to the property or injuries to your officers, agents, servants, or employees, or others who may be on your premises or project work areas or the federal project(s) rights-of-way. By accepting this permission, you hereby agree to fully defend, **indemnify**, and **hold harmless** the United States and USACE from any and all such claims, subject to any limitations in law.
7. Any damage to the water resources development project or other portions of any federal

project(s) resulting from your activities must be repaired at your expense.

#### REEVALUATION OF PERMISSION

8. The determination that the activity authorized by this permission would not impair the usefulness of the federal project and would not be injurious to the public interest was made in reliance on the information you provided.
9. This office, at its sole discretion, may reevaluate its decision to issue this permission at any time circumstances warrant, which may result in a determination that it is appropriate or necessary to modify or revoke this permission. Circumstances that could require a reevaluation include, but are not limited to, the following:
  - a. you fail to comply with the terms and conditions of this permission;
  - b. the information provided in support of your application for permission proves to have been inaccurate or incomplete; or
  - c. significant new information surfaces which this office did not consider in reaching the original decision that the activity would not impair the usefulness of the water resources development project and would not be injurious to the public interest.

#### CONDUCT OF WORK UNDER THIS PERMISSION

10. You are responsible for implementing any requirements for mitigation, reasonable and prudent alternatives, or other conditions or requirements imposed as a result of environmental compliance.
11. Work/usage allowed under this permission must proceed in a manner that avoids interference with the inspection, operation, and maintenance of the federal project.
12. In the event of any deficiency in the design or construction of the requested activity, you are solely responsible for taking remedial action to correct the deficiency.
13. The right is reserved to the USACE to enter upon the premises at any time and for any purpose necessary or convenient in connection with government purposes, to make inspections, to operate and/or to make any other use of the lands as may be necessary in connection with government purposes, and you will have no claim for damages on account thereof against the United States or any officer, agent or employee thereof.
14. You must provide copies of pertinent design, construction, and/or usage submittals/documents. USACE may request that survey and photographic documentation of the alteration work and the impacted project area be provided before, during, and after construction and/or installation.
15. You may be required to perform an inspection of the federal project with the USACE, prior to your use of the structure, to document existing conditions.
16. USACE shall not be responsible for the technical sufficiency of the alteration design nor for the construction and/or installation work.
17. Once permission is granted, you must notify the USACE District at least 15 days before work/usage is started so that post-permission oversight can be performed by USACE.
18. You must submit a copy of "as-built" drawings within 60 days of completion of work showing the new work as it relates to identifiable features of the federal project.