



DEPARTMENT OF THE ARMY
SAN FRANCISCO DISTRICT, U.S. ARMY CORPS OF ENGINEERS
1455 MARKET STREET
SAN FRANCISCO, CALIFORNIA 94103-1398

DEPARTMENT OF THE ARMY REGIONAL GENERAL PERMIT 25
FOR CITY OF LIVERMORE STREAM MAINTENANCE PROGRAM

PERMITTEE: Ms. Pamela Lung, City of Livermore

PERMIT NO.: 2012-00196S

ISSUING OFFICE: San Francisco District

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate District or Division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below:

PROJECT DESCRIPTION: This Regional General Permit (RGP) authorizes the City of Livermore Stream Maintenance Program (SMP). The SMP establishes programmatic guidance for the maintenance of engineered and modified flood control channels and non-modified natural creeks within the SMP Planning Area. The SMP includes three primary activities: sediment management, vegetation management, and bank stabilization. Sediment management is the removal of excess sediment from structures such as culverts to maintain water flow conveyance. Vegetation management is the trimming and removal of problematic vegetation in creeks and channels to maintain flow conveyance capacity, establish a canopy of riparian trees, and control invasive weeds. Bank stabilization is the repair and stabilization of eroded stream banks. Transportation and disposal of sediment and vegetation will also occur as part of the SMP. In addition, the SMP includes other smaller and infrequent maintenance activities, including bridge maintenance, culvert repair or replacement, access road and trail maintenance, and trash and debris removal. Activities not covered by the SMP include stream maintenance activities outside of the SMP Planning Area, new culverts, bridge replacements, capital improvement projects, emergency activities, and the Springtown Golf Course Water Diversion. Guiding policies and specific direction for the implementation of SMP activities are outlined in the document titled "Draft Manual – Livermore Stream Maintenance Program" (SMP Manual), dated April 2015.

PROJECT LOCATION: The SMP Planning Area encompasses the City of Livermore, Alameda County, California. Additionally, the Planning Area includes the areas the City owns near Doolan Canyon, the area between Portola Avenue and Interstate 580, and Sycamore Grove Park.

PERMIT CONDITIONS:

GENERAL CONDITIONS:

1. The time limit for completing the work authorized ends on July 5, 2022. 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.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the

area.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell a property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. You shall comply with all terms and conditions set forth by Order No. R2-2016-0036, titled "Waste Discharge Requirements and Water Quality Certification for: City of Livermore Stream Maintenance Program, Alameda County," issued by the San Francisco Bay Regional Water Quality Control Board on July 13, 2016 (enclosure 1). As a special condition of this permit, you must comply with the conditions specified in the water quality certification.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

SPECIAL CONDITIONS:

1. A Biological Assessment sufficient to initiate Section 7 consultation under the Endangered Species Act shall be provided with the annual work plan.
2. Projects authorized under this permit will be appended to the USFWS Programmatic Biological Opinion titled "Programmatic Biological Opinion for U.S. Army Corps of Engineers (Corps) Permitted Projects Utilizing the East Alameda County Conservation Strategy that May Affect Federally Listed Species in East Alameda County, California (Corps File Number 2011-00230S)" (EACCS PBO) and dated May 31, 2012 (USFWS File No. 08ESMF00-2012-F-0092-1, enclosure 2). Projects that are appended to the EACCS PBO will be provided individual incidental take authorization by USFWS. Project authorization under this permit is conditional upon compliance with the mandatory terms and conditions associated with incidental take. Failure to comply with the terms and conditions for incidental take, where a take of a federally-listed species occurs, would constitute an unauthorized take and non-compliance with the authorization for your project. The USFWS is, however, the authoritative federal agencies for determining compliance with the incidental take statement and for initiating appropriate enforcement actions or penalties under the Endangered Species Act.
3. A cultural resources inventory shall be provided with the annual work plan unless determined by the Corps to be unnecessary. If a potentially historic property is identified that may be affected by the proposed work, the cultural resource shall be evaluated for eligibility for listing in the National Register of Historic Places.
4. An annual work plan shall be submitted to the Corps by April 15 of each year. The work plan shall include all items outlined in Section 9.4 of the SMP Manual. Additionally, the work plan shall include a delineation of waters of the U.S. within each project area; a written statement describing how each activity has been designed to avoid and minimize temporary and permanent adverse effects to waters of the U.S.; the area (acres) and volume (cubic yards) of each proposed discharge of dredged or fill material subject to Corps regulation pursuant to Section 404 of the Clean Water Act; a description of anticipated direct and indirect adverse environmental effects that each activity would cause; and the area (acres) of any permanent adverse effects to aquatic resources. The City of Livermore shall not proceed with project activities until receiving the Corps' written notification to proceed.
5. The Corps may remove individual projects from the annual work plan if determined to be outside of the scope of the SMP RGP or if an individual activity would delay authorization of the annual work plan.
6. If required, an annual mitigation plan shall be submitted concurrently with the annual work plan. The mitigation

plan will include the topics described in Sections 8.6 of the SMP Manual. Additionally, the mitigation plan shall justify the proposed mitigation ratio in consideration of the special conditions 10 and 11. If compensatory mitigation is not proposed, the annual work plan shall include a statement explaining why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required.

7. The City of Livermore shall, to the maximum extent practicable, implement compensatory mitigation projects in advance of, or concurrent with, the activity causing the permitted impacts. Additional mitigation may be required due to delays in implementing compensatory mitigation projects.
8. The City of Livermore shall ensure that a conservation easement, restrictive covenant, deed restriction, or other appropriate land encumbrance is completed and registered with the County Recorder's Office, specifying the preservation of any compensatory mitigation area as stream, wetland, and/or riparian wildlife habitat in perpetuity. Copies of the recorded documents shall be provided to the Corps within six months of implementing the compensatory mitigation plan.
9. All compensatory mitigation shall occur within the Livermore Valley Subwatershed (Figure 3-2 of the SMP Manual) unless an alternative mitigation site is demonstrated to better serve the aquatic resource needs of the larger watershed/ecoregion.
10. For Tier 1 and Tier 2 mitigation proposals, a compensatory mitigation ratio of 1.1:1 (mitigation area: impact area) shall be applied when the following conditions are met: (a) permanent adverse effects to aquatic resources do not result in a reduction in the total area of waters of the U.S., meaning no waters of the U.S. are converted to uplands; (b) overall functional losses at the impact site are replaced by overall functional gains at the mitigation site; and (c) no net loss of regionally important functions and values will occur. If only conditions (b) and (c) are met, the mitigation ratio shall be increased to 2.1:1. If the Corps determines that conditions (b) or (c) are not met by any given mitigation proposal, an alternative mitigation ratio will be required as a special condition of the annual work plan verification under the RGP.
11. In addition to the Tier 1 and Tier 2 compensatory mitigation requirement (special condition 10), Tier 3 compensatory mitigation for temporal losses shall be implemented at a ratio that appropriately addresses the expected time-lag between functional losses at the impact site and functional gains at the mitigation site. If the mitigation site is fully functional by the time maintenance impacts occur, then no Tier 3 mitigation is required. If the mitigation site is constructed during the same year in which impacts occur, then the required Tier 3 mitigation ratio will range from 1:1 to 3:1 (mitigation area: impact area), depending upon the time required for the establishment of the mitigation resource type. The required Tier 3 mitigation ratio for any particular maintenance and mitigation proposal will be included as a special condition of the annual work plan verification under the RGP. At the City's discretion, the mitigation requirement for temporal losses may be fulfilled through the implementation of additional Tier 1 and/or Tier 2 mitigation.
12. In accordance with Section 9.8 of the SMP Manual, an annual post-maintenance report and mitigation and monitoring report shall be submitted to the Corps by January 31 of the year following the year in which maintenance and mitigation activities were completed. The report will include descriptions of channel maintenance activities conducted, descriptions of mitigation implemented, monitoring results for all active mitigation sites, and dated photographs of all active mitigation sites. The report will include any lessons learned and recommendations to update BMPs identified in the SMP Manual, if needed.
13. Mitigation performance criteria shall be adhered to as per Table 8.3 of the SMP Manual. If any of the mitigation sites are not developing in accordance with the performance criteria, the City of Livermore shall prepare and implement a revised mitigation plan addressing corrective actions, outlining additional monitoring, or proposing new mitigation. Revised mitigation plans shall be implemented within 12 months of receiving approval from the Corps.
14. Your responsibility to complete the required compensatory mitigation will not be considered fulfilled until you have demonstrated mitigation success and have received written verification from the Corps.

15. All activities covered under the proposed RGP will adhere to the avoidance and minimization measures and BMPs outlined in Chapters 4 and 7 of the SMP Manual.
16. The SMP Manual and associated attachments may be revised or updated to incorporate maintenance techniques and methods that are more protective of the environment or to improve the SMP. Proposed minor changes shall be submitted in the annual work plan or the annual post-maintenance and monitoring report for review and approval by the Corps. Substantive changes to the SMP Manual or the associated attachments must comply with special conditions of the RGP and be approved in writing by the Corps.
17. The City of Livermore shall comply with the specified project limits for each work activity as described in Chapter 5 of the SMP Manual.
18. All standard Best Management Practices shall be implemented to prevent the movement of sediment downstream. No debris, soil, silt, sand, bark, slash, sawdust, cement, concrete, washings, petroleum products, or other organic or earthen material shall be allowed to enter into or be placed where it may be washed by rainfall or runoff into waterways.
19. Any temporary discharges of fill used to dewater or access the stream channel shall consist of materials and be placed in a manner that will not be eroded by expected high flows. Following construction, temporary fills shall be entirely removed to an area that has no waters of the U.S., and the affected areas shall be restored to pre-construction elevations.
20. Downstream flows shall be maintained at all times during project construction.
21. The removal of sediment from non-modified natural creeks shall be limited to 200 feet in any direction from an existing structure (e.g., bridges, culverted road crossings, water intake structures, etc.). The 200-foot limit does not apply to maintenance dredging to remove accumulated sediments blocking or restricting outfall and intake structures. The quantity of sediment removed shall be limited to the minimum necessary to restore the waterway in the vicinity of the structure to the approximate dimensions that existed when the structure was built.
22. For engineered and modified flood control channels, the removal of sediment shall be limited to the maintenance baseline, as approved by the district engineer. The maintenance baseline is a description of the physical characteristics (e.g., depth, width, length, location, configuration, design flood capacity, etc.) of a flood control project. All removed sediment shall be deposited and retained in an area that has no waters of the U.S., unless an exception is granted by the district engineer.
23. For bank stabilization projects, no material shall be placed in excess of the minimum needed for erosion protection. The bank stabilization activity shall not exceed 300 feet in length or an average of one cubic yard per running foot along the bank unless the district engineer determines that the discharge will result in no more than minimal adverse environmental effects. Additionally, the discharge of dredged or fill material into a special aquatic site for bank stabilization shall not occur unless the district engineer determines that the discharge will result in no more than minimal adverse environmental effects. The use of hardscape materials shall be restricted to areas where bioengineering systems are demonstrated by the City to be infeasible. Stream channelization is not authorized by this RGP.
24. The restoration of any upland area damaged by a discrete event, including any bank stabilization to protect the damaged area, shall be limited to the ordinary high water mark and contours that existed prior to that discrete event. The restoration activity shall commence or be under contract to commence within two years of the date of the destruction or damage. This two-year limit may be waived by the district engineer, provided the permittee can demonstrate funding, contract, or other similar delays.
25. Culvert repair and replacement activities shall be in-kind, meaning that there would be no more than minor deviations in the structure's configuration or fill area. Where feasible, arched culverts, or culverts with buried

bottoms that allow natural substrate to be present along the length of the culvert, shall be incorporated into culvert replacement designs. Any sediment management or bank stabilization conducted in association with the culvert repair or replacement shall comply with the above limitations for these activities.

26. Any discharge of dredged or fill material associated with a linear transportation project shall not result in permanent adverse effects to greater than ½-acre of waters of the U.S.
27. Any discharge of dredged or fill material associated with the removal of woody vegetation shall not exceed 25 cubic yards and shall not cause permanent adverse effects to greater than 1/10-acre of waters of the U.S. These limits do not apply to vegetation removal in association with sediment removal.
28. All material and debris generated as a result of project construction shall be removed from the site and disposed of in an approved location outside of Corps jurisdiction. The City may temporarily stockpile excavated sediment prior to disposal, provided it implements appropriate BMPs to prevent sediment from entering creeks. Onsite stockpiled materials shall be fully contained to prevent any wind or water transport. Runoff, sediment, or decant water from excavated materials shall not contact waters of the U.S.
29. To the extent practicable, excavation equipment shall work from an upland site (e.g., from the top of the bank, the road bed of the bridge, or culverted road crossing) to minimize adding fill into waters of the U.S.
30. The applicant shall comply with any additional special conditions appended to the annual work plan verification under the Livermore SMP RGP.

FURTHER INFORMATION:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:
 - () Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. Section 403).
 - (X) Section 404 of the Clean Water Act (33 U.S.C. Section 1344).
 - () Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. Section 1413).
2. Limits of this authorization:
 - a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.
 - b. This permit does not grant any property rights or exclusive privileges.
 - c. This permit does not authorize any injury to the property or rights of others.
 - d. This permit does not authorize interference with any existing or proposed Federal project.
3. Limits of Federal Liability: In issuing this permit, the Federal Government does not assume any liability for the following:
 - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
 - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
 - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
 - d. Design or construction deficiencies associated with the permitted work.

- e. Damage claims associated with any future modification, suspension, or revocation of this permit.
- 4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.
- 5. Reevaluation of Permit Decision: This office may reevaluate its decision on this permit at any time the circumstances warrant. 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 permit.
 - b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate. (See Item 4 above.)
 - c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 C.F.R. § 325.7 or enforcement procedures such as those contained in 33 C.F.R. §§ 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 C.F.R. § 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

- 6. Extensions: General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.



 (PERMITTEE) 8/3/17
 CHERI SHEELS (DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.



 Travis J. Rayfield 7 August 2017
 Lieutenant Colonel, U.S. Army (DATE)
 District Commander

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign

and date below.

(TRANSFeree)

(DATE)