



EAST BAY REGIONAL PARK DISTRICT

ENCROACHMENT PERMIT

PERMIT NO.: 055E-16-429 **PERMIT FEE:** Waived

EBRPD FACILITY AFFECTED: Big Break Regional Shoreline Park

PERMITTEE: Contra Costa County Public Works
255 Glacier Drive
Martinez, CA 94553

CONTACT PERSON: Neil Leary

PHONE: 925-313-2278

FAX: 925-313-2333

E-MAIL: neil.leary@pw.cccounty.us

CONDITIONS:

1. No project work shall commence until all necessary permits and environmental clearances have been obtained. It shall be the sole responsibility of the Permittee to obtain all necessary permits.
2. This permit is valid through **December 30, 2016.**
3. The Permittee shall contact **Tammy Mueller, Park Supervisor, at 510 544-3095** to coordinate access. Work during wet, storm or elevated fire hazard conditions shall be at the discretion of the Park Supervisor.
4. Prior to the commencement of work the Permittee and Permittee's Contractor shall provide Insurance Certificates showing general liability insurance for coverage of at least \$1,000,000.00 and automobile liability coverage in the amount of \$1,000,000.00 per occurrence. East Bay Regional Park District shall be named on the Certificate as additional insured and an "additional insured endorsement" shall be provided. A letter confirming self-insurance will satisfy this condition.
5. Permittee and Permittee's Contractor agree to indemnify, hold harmless, defend and protect District, its officers, directors, agents, employees, invitees (each of which is an indemnitee) from and against any and all claims, losses, damages, demands, liabilities, suits, costs, expenses (including attorneys' fees), penalties, judgments, or obligations whatsoever for or in connection with injury (including death) or damage to any person or the loss or damage of property to whomsoever belonging or pecuniary or monetary loss resulting from, arising out of, or in any way related to activity conducted by or the omission of Permittee or Permittee's Contractor, including but not limited to Permittee's or Permittee's Contractor's development, construction, occupation, use, operation, maintenance and/or removal of the property, premises, or any facilities or operations thereon, including events occurring on or off the property, premises, or facilities, regardless of how the injury or damage was caused or suffered,

- unless the injury or damage resulted from the sole negligence or the intentional and willful misconduct of the District, its officers, directors, agents or employees.
6. Permittee agrees to restore any park facility disturbed to its pre-construction/project condition. If the permittee fails to do so the District may elect to make repairs and charge the Permittee the cost thereof. At the Permittee's sole expense, a pre-construction videotape record will be jointly made by the Permittee and the District to document the site conditions before the start of the work.
 7. Prior to any grading, trenching, digging, ditching, drilling, augering, tunneling, scraping or any other type of excavation, the Permittee shall provide the District with an initial inquiry identification number from Underground Service Alert.
 8. Survey monuments shall be protected. Any survey monuments or property corners removed or disturbed shall be replaced at the Permittee's sole expense using survey practices acceptable to the District.
 9. After both entering and exiting East Bay Regional Park District property, all gates must be closed and locked immediately.
 10. All work performed shall be consistent with the application and documents provided (see attached).
 11. No construction material shall be stored, nor equipment parked on District land overnight.
 12. **All vehicles traveling on District land shall be limited to speeds not to exceed 15 MPH. All vehicles shall yield right of way to park and trail users.**
 13. **Upon completion of the work all debris, scraps, material, etc., shall be removed from the parkland.**
 14. All work performed within the parkland shall conform to recognized standards of construction.
 15. The Permittee shall cease work in the vicinity of any archaeological resources that are revealed and notify the District immediately. A qualified archaeologist, retained by the Permittee, will evaluate the situation and make recommendations to the District concerning the continuation of the work. All resulting recommendations shall be incorporated in the work at no additional cost to District.
 16. The Permittee is responsible for meeting all requirements of California Public Resources Code, Sections 4427 and 4431.

SECTION 4427. During any time of the year when burning permits are required in an area pursuant to this article, no person shall use or operate any motor, engine, boiler, stationary equipment, welding equipment, cutting torches, tarpots, or grinding devices from which a spark, fire, or flame may originate, which is located on or near any forest-covered land, brush-covered land, or grass-covered land, without doing both of the following:

- (a) First clearing away all flammable material, including snags, from the area around such operation for a distance of 10 feet.
- (b) Maintain one serviceable round point shovel with an overall length of not less than forty-six (46) inches and one backpack pump water-type fire extinguisher fully equipped and ready for use at the immediate area during the operation.

This section does not apply to portable power saws and other portable tools powered by a gasoline-fueled internal combustion engine.

SECTION 4431. During any time of the year when burning permits are required in an area pursuant to this article, no person shall use or operate or cause to be operated in the area any portable saw, auger, drill, tamper, or other portable tool powered by a gasoline-fueled internal combustion engine on or near any forest-covered land, brush-covered land, or grass-covered land, within 25 feet of any

flammable material, without providing and maintaining at the immediate locations of use or operation of the saw or tool, for firefighting purposes one serviceable round point shovel, with an overall length of not less than 46 inches, or one serviceable fire extinguisher. The Director of Forestry and Fire Protection shall by administrative regulation specify the type and size of fire extinguisher necessary to provide at least minimum assurance of controlling fire caused by use of portable power tools under various climatic and fuel conditions.

The required fire tools shall at no time be farther from the point of operation of the power saw or tool than 25 feet with unrestricted access for the operator from the point of operation.

17. **This permit allows temporary trail or road closure only where allowed by Park Supervisor.**
18. **Permittee shall review conditions of this Permit with all employees and subcontractors prior to any work.**
19. **The work site shall be enclosed by suitable barricades, fencing, signs and lights, as approved by District Representative, to warn and protect public and traffic effectively.**
20. **Excavations made within the limits of the parklands shall be backfilled or securely covered before leaving the work for the night.**
21. **This Permit can be revoked at any time.**
22. **A copy of this fully executed Encroachment Permit must be on site and presented to East Bay Regional Park District personnel upon request.**

Subject to the above conditions, A PERMIT IS HEREBY ISSUED FOR:

Access to Big Break Regional Shoreline for the purpose of planting trees and installing irrigation in accordance with the Letter of Agreement dated August 25, 2016, between East Bay Regional Park District and Permittee, a copy of which is attached hereto.

ISSUED BY: _____ DATE: _____
Brian Brawner, Permit Supervisor

CONDITIONS ACCEPTED BY: _____ DATE: _____
Permittee



**EAST BAY REGIONAL PARK DISTRICT
ENCROACHMENT PERMIT APPLICATION**

DATE:

PERMIT NO.

EBRPD USE

PERMIT FEE

EBRPD USE

EBRPD FACILITY AFFECTED

DESCRIPTION

ATTACHMENTS/ENCLOSURES

INSURANCE CARRIER

ESTIMATED START DATE

ESTIMATED COMPLETION

OTHER AGENCY PERMITS REQUIRED

APPLICANT NAME

ADDRESS

CONTACT PERSON

PHONE

EMAIL

FAX

East Bay Regional Park District

2950 Peralta Oaks Court
PO Box 5381
Oakland, CA 94605
510 544-2562
510 569-1432, fax



Letter of Agreement

August 25, 2016

This "Letter of Agreement" is being prepared to memorialize the responsibilities of the parties involved in the planting of trees at the Big Break Property owned by East Bay Regional Park District in Oakley, California as mitigation for the Orwood Road Bridge Replacement project.

PARTIES:

Contra Costa County Public Works Department (PWD)
East Bay Regional Park District (EBRPD)

PROJECT:

PWD received federal funds to replace the Orwood Road Bridge in Brentwood area of Contra Costa County. The existing bridge is at the end of its design life and requires replacement. The project involved work, including tree removal, in areas under the jurisdiction of the California Department of Fish and Wildlife (CDFW). County signed a streambed alteration agreement with CDFW to perform the work in jurisdiction area that included a requirement to plant 11 trees in an offsite location (the EBRPD Big Break Property) as mitigation for the tree removal at the bridge site. The identification of the Big Break property in the CDFW permit was the result of coordination between EBRPD and PWD that occurred during the CDFW application process.

RESPONSIBILITIES:

PWD:

PWD will be responsible for:

- securing the funding for the project
- preparation of plans and specs for the planting
- securing a contractor to plant the trees and install necessary irrigation
- preparation of annual reports on tree health for 5 years
- acquiring an encroachment permit from EBRPD for the plantings
- providing replacement trees to meet the 80% survivability requirement in the CDFW permit

EBRPD:

EBRPD will be responsible for:

- issuing an encroachment to County for the plantings
- monitoring trees after installation to ensure that sufficient water is provided and providing general maintenance of the plants (weed removal and cage repair) during the first 5 years

Current Cost Estimate: (PWD's Costs except as noted)


1.	Install 11 trees	\$11,000
2.	Install initial irrigation	\$5,000
3.	Tree Maintenance (5 years)	as needed (provided by EBRPD)
4.	Prepare Annual Reports (5 years)	\$5,000
5.	County Admin/Coord. with EBRPD	\$5,000
	Total PWD Costs	\$26,000

PWD will seek reimbursement from the Federal Highway Bridge Program for project costs. If not successful, PWD will cover the costs with local Road Funds.

Upon Completion of the 5 year maintenance period, maintenance of the trees will be the responsibility of EBRPD.



Julia R. Bueren, Director
Public Works Department



Matthew Graul, Chief of Stewardship
East Bay Regional Park District

Date: 8/25/16

nesting birds, nests, trees, and shrubs designated for removal should be removed during the time period of July 31 to February 15. Nests or trees that need to be removed during the breeding season require notification to CDFW at the contact information below prior to removal. CDFW at that time may require additional measures to protect wildlife and mitigation measures for affected wildlife or habitat.

Plant Protection Measures

2.14 Plant Surveys and Avoidance. A field survey shall be conducted at the project site during the blooming period for Suisun Marsh aster, Delta tulle pea, Mason's lilaeopsis, and Delta mudwort by a biologist experienced in the identification and life history of those species. Permittee shall submit survey results to CDFW prior to project activities. If any of these plant species are found, stands shall be flagged and avoided. If the stands cannot be avoided, the Permittee shall consult with CDFW.

3. Compensatory Measures

To compensate for adverse impacts to fish and wildlife resources identified above that cannot be avoided or minimized, Permittee shall implement each measure listed below.

3.1 Tree Replacement. To compensate for the removal of seven riparian trees, the Permittee shall mitigate at a 1.5:1 ratio (replacement tree to removed trees). The 11 replacement trees shall be a riparian species and native to the region. The trees shall be planted at Big Break Regional Shoreline Park and shall be planted within 12 months after the initiation of work.

3.2 Replacement Tree Survivorship and Monitoring. To ensure a successful tree replanting effort, all trees shall be monitored and maintained as necessary for five years (see Reporting Measures 4.9 and 4.10). The following requirements shall apply:

1) All planted mitigation trees shall have a minimum of 80% survival at the end of five years.

2) Monitoring of the planted mitigation trees shall be conducted annually for a period of five years to determine whether these goals have been met. If the survival requirement is not projected to be met, based on annual monitoring, Permittee is responsible for replacement planting, additional watering, invasive exotic eradication, or any other practice(s) that would achieve required survival. All replacement trees shall be monitored for five years after planting.

days after project completion Permittee shall submit a copy of turbidity sampling logs to the CDFW via email.

- 4.5 Special Status Species Documentation. If any special status species are observed in project monitoring, the Permittee shall immediately contact the CDFW at the contact information below. Permittee shall also submit California Natural Diversity Database (CNDDDB) forms to the CNDDDB for all survey data within 60 working days of the sighting, and provide CDFW with copies of the CNDDDB forms and survey maps. See <http://www.dfg.ca.gov/biogeodata/cnddb> for more information.
- 4.6 Biological Pre-Construction Surveys. The results of all biological surveys shall be submitted to CDFW at the contact information below within five business days of each survey and prior to commencement of work. Permittee is encouraged to combine survey results for multiple sites and multiple species into a single document.
- 4.7 Fish Relocation Plan. A final fish relocation plan shall be submitted to CDFW for review and written approval at least 15 days prior to fish relocation operations. CDFW shall be notified at least 48 hours prior to commencing fish relocation activities.
- 4.8 Fish Relocation Report. Within 5 days following completion of any of the fish relocation activities, a report shall be prepared and submitted to CDFW. The report shall document the fish relocation and salvage operation and should include, but is not limited to, personnel conducting the fish relocation, gear type, the estimated number and species of fish salvaged, estimated size class, and estimated survival of fish released and any other pertinent environmental or biological observations of the salvage operation.
- 4.9 Replacement Tree Mitigation. At least thirty (30) days prior to the commencement of replacing removed trees, the Permittee shall submit written details on tree mitigation to CDFW for review and written approval. The tree mitigation shall include the species of trees to be planted, planting locations, the distances between re-planted trees, success criteria, monitoring and reporting, and corrective actions to be taken when mitigation measures do not meet the proposed success criteria. Send to Crystal.Spurr@wildlife.ca.gov and Ms. Crystal Spurr, Senior Environmental Scientist, 7329 Silverado Trail, Napa, CA 94558. Refer to 1600-2014-0450-R3.
- 4.10 Replacement Tree Information. No later than 45 days after completion of tree replacement, Permittee shall provide CDFW with a

written information. This information shall include, at a minimum: (1) beginning and ending dates of tree replacement activities; (2) location of all mitigation trees; (3) status of all mitigation trees; (4) any other pertinent information.

4.11 Replacement Reporting. The Permittee shall submit an annual status report on the monitoring of replacement trees to CDFW by December 31st of each year for five years following completion of project activities. This report shall include the number and height of all replacement trees, an overview of the replacement tree effort, and the method used to assess these parameters shall also be included. The report shall also include an evaluation of whether or not the project is meeting the success criteria and any corrective actions recommended or taken. Photographs of the replacement trees shall be included. This report may be submitted via email to CDFW at the contact information below.

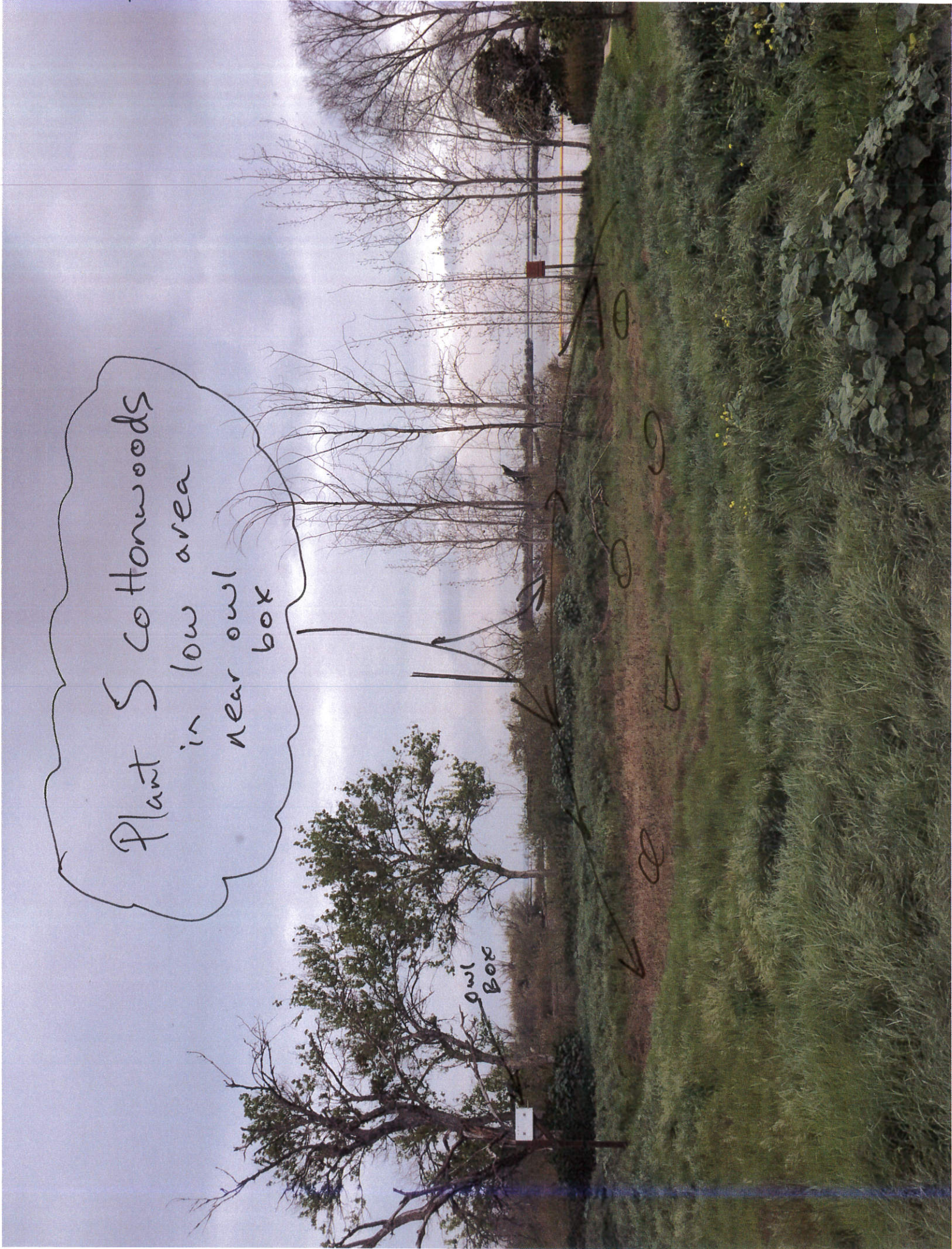
4.12 Final Compliance and Project Report. No later than 45 days after completion of all Project Activities, Permittee shall provide CDFW with a Final Compliance and Mitigation Report that summarizes surveys, inspections, and impacts to special status species. The report at a minimum shall contain (1) available information about Project-related effects to special status species; (2) beginning and ending dates of Project Activities; (3) any recommendations on how mitigation measures might be changed to more effectively mitigate the impacts on future projects on the special status species; and (4) any other pertinent information. The Final Compliance and Mitigation Report shall be submitted to CDFW at the contact information below.

Plant line w/ other trees
in sycamores / oak trees



Plant S Cottonwoods
in low area
near owl
box

Owl
Box





1
Cottonwood
were
here



Plant 2
Cottonwoods
this area