

**SPECIAL MEETING
OF THE
CACHUMA OPERATION AND MAINTENANCE BOARD**
held at
**3301 Laurel Canyon Road
Santa Barbara, California 93105**

Thursday, August 8, 2013

Start Time
3:00 P.M.

AGENDA

Note: This is a special meeting of the Governing Board called in accordance with Government Code Section 54956. Other than the listed agenda items, no other business will be conducted by the Governing Board.

1. **COMB CALL TO ORDER, ROLL CALL** (COMB Board of Directors.)
2. **PUBLIC COMMENT** (In accordance with Government Code Section 54954.3, every notice for a special meeting shall provide an opportunity for members of the public to directly address the legislative body concerning any item that has been described in the notice for the meeting before or during consideration of that item.)
3. **FISH PASSAGE IMPROVEMENT ON QUIOTA CREEK, CROSSING 1 PROJECT**
 - a. Acceptance of Executed Grant Agreement from California Wildlife Conservation Board
Action: Recommend approval by motion and vote of the board
 - b. Consider Approval for Purchase from Contech Engineered Solutions, LLC of a Bottomless Arched Culvert
Action: Recommend approval by motion and vote of the Board
 - c. Consider Approval of Payment of Fees to the County of Santa Barbara for the Encroachment Permit
Action: Recommend approval by motion and vote of the Board
4. **COMB ADJOURNMENT**

NOTICE TO PUBLIC

Posting of Agenda: This agenda was posted at COMB's offices, located at 3301 Laurel Canyon Road, Santa Barbara, California, 93105 and on COMB's website, in accordance with Government Code Section 54954.2. The agenda contains a brief general description of each item to be considered by the Governing Board. The Board reserves the right to modify the order in which agenda items are heard. Copies of staff reports or other written documents relating to each item of business are on file at the COMB offices and are available for public inspection during normal business hours. A person with a question concerning any of the agenda items may call COMB's General Manager at (805) 687-4011.

Written materials: In accordance with Government Code Section 54957.5, written materials relating to an item on this agenda which are distributed to the Governing Board less than 72 hours (for a regular meeting) or 24 hours (for a special meeting) will be made available for public inspection at the COMB offices during normal business hours. The written materials may also be posted on COMB's website subject to staff's ability to post the documents before the scheduled meeting.

Public Comment: Any member of the public may address the Board on any subject within the jurisdiction of the Board that is not scheduled for as an agenda item before the Board. The total time for this item will be limited by the President of the Board. The Board is not responsible for the content or accuracy of statements made by members of the public. No action will be taken by the Board on any Public Comment item.

Americans with Disabilities Act: in compliance with the Americans with Disabilities Act, if you need special assistance to review agenda materials or participate in this meeting, please contact the Cachuma Operation and Maintenance Board office at (805) 687-4011 at least 48 hours prior to the meeting to enable the Board to make reasonable arrangements.

Note: If you challenge in court any of the Board's decisions related to the listed agenda items you may be limited to raising only those issues you or someone else raised at any public hearing described in this notice or in written correspondence to the Governing Board prior to the public hearing.

CACHUMA OPERATION & MAINTENANCE BOARD

BOARD MEMORANDUM

Date:	August 8, 2013
Submitted by:	Tim Robinson
Approved by:	Randy Ward

SUBJECT: Quiota Creek Crossing 1 Fish Passage Improvement Project

SUMMARY:

A 60-foot prefabricated bottomless arched culvert with four wing walls and one rock riffle for grade-control are planned to replace the current concrete low flow crossing at Quiota Creek Crossing 1. Pending final design approval by the National Marine Fisheries Service (NMFS) and Santa Barbara County (County), the project will begin in September and be completed in December of 2013. All funding for this project has been secured from a California Department of Fish and Wildlife (CDFW) grant (\$521,141), a grant from the California Wildlife Conservation Board (WCB) (\$150,000), and a COMB construction match (\$50,000). The Notice to Proceed (NTP) from WCB has been received and the NTP from CDFW is anticipated upon design approval by NMFS. Final drawings have been submitted to NMFS and the County. With design approval and payment of their Encroachment Permit Fee, the final County Encroachment Permit will be issued. COMB's resident engineer has been approved by the County to be the project's resident engineer. The temporary construction Right of Entry agreement from the landowner within the project boundary has been received.

The WCB grant proposal was put on the consent agenda and approved at their June 4, 2013 Board meeting (Exhibit 1); the agreement was signed by COMB and SB County so that it could be fully executed by the end of their Board meeting. The construction bid document has been reviewed and approved by COMB's legal counsel and project engineer (Mike Garelo, HDR). A contractor will be selected through a competitive bidding process and a recommendation for a contractor will be brought to the August 26, 2013 COMB Board meeting. The quote for the Contech prefabricated bottomless arched culvert (arch) system plus delivery and tax is \$179,978 which falls within budget (Exhibit 2). Justification for sole sourcing the arch system purchase to ConTech is provided (Exhibit 3). The County Encroachment Permit fee of \$25,245 (Exhibit 4) needs to be paid prior to issuance of that permit; an initial payment of \$5,800 has already been submitted leaving \$19,445 outstanding.

FINANCIAL IMPACT:

COMB is obligated to a \$50,000 construction match, staff time and operating expenses (independent design review and all permit fees). The COMB budget provided \$770,000 for the project. A summary of the revenues (grant funding and COMB match) are as follows.

	Amount
Revenues:	
CDFW grant	\$521,141
WCB grant	\$150,000
COMB construction match operating expenses	\$98,859
Total:	\$770,000

Revenues will cover the costs to purchase the ConTech arch system, construction of the project, and operating expenses. A summary of the financials for the project will be presented at the August 26, 2013 COMB Board meeting in association with the recommended contractor proposal from the bidding process.

LEGAL CONCURRENCE:

All documents have been reviewed by COMB legal counsel.

ENVIRONMENTAL COMPLIANCE:

All conditions outlined in the permits for the project will be followed.

COMMITTEE STATUS:

N/A

RECOMMENDATION:

Action Item 3a: Accept the WCB executed grant agreement (Exhibit 1) for \$150,000 as written and approved by WCB for the construction of the Quiota Creek Crossing 1 project in the fall of 2013.

Action Item 3b: Authorizing the General Manager to execute a purchase order for the prefabricated ConTech Engineered Solutions bottomless arched culvert product (Exhibits 2 and 3) as proposed.

Action Item 3c: Authorizing the General Manager to pay the Santa Barbara County Encroachment Permit fee (Exhibit 4) as quoted.

LIST OF EXHIBITS:

1. WCB grant agreement between COMB and WCB
2. Purchase Order with Quotation, Conditions of Sale, and Addendum for the ConTech bottomless arched culvert.
3. Non-Competitively Bid Contract justification for the purchase of the ConTech product as proposed.
4. Invoice of the assessed Santa Barbara County Encroachment Permit fee for the project.

CALIFORNIA WILDLIFE CONSERVATION BOARD

GRANT AGREEMENT

Between

STATE OF CALIFORNIA, WILDLIFE CONSERVATION BOARD

and

CACHUMA OPERATION AND MAINTENANCE BOARD

and

COUNTY OF SANTA BARBARA

for

QUIOTA CREEK FISH PASSAGE PHASE 2

SANTA BARBARA COUNTY, CALIFORNIA

WC-1254TC

**State of California
Natural Resources Agency
Department of Fish and Wildlife
Wildlife Conservation Board**

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GRANTEE: Cachuma Operation and Maintenance Board
3304 Laurel Canyon Road, Santa Barbara, CA 93015
Attn.: Timothy H. Robinson, Ph.D.
(805) 697-4011 ext. 215
trobinson@cachuma-board.org

LANDOWNER: County of Santa Barbara, Public Works Department
123 E. Anapamu Street, Santa Barbara, CA 93101
Attn.: Chris Sneddon, Civil Engineer Manager
(805) 568-3047
csneddo@co.santa-barbara.ca.us

GRANTOR: Wildlife Conservation Board
1807 13th Street, Suite 103
Sacramento, California 95811
Attn.: Tony Chappelle, State Representative
(916) 324-7487
achappelle@wildlife.ca.gov

Grant Agreement No.: WC-1254TC

Board Approval Date: June 4, 2013
Projected Completion Date: December 31, 2013

Terms of Agreement:

Capital Improvements: Notice to Proceed Date (JUL 09 2013) through
December 31, 2013


Management: Completion of Capital Improvements to December 31,
2038

Project Life: Twenty-five years

Project ID: 2013046

FUNDING CERTIFICATION

I hereby certify that (a) the following funds will be encumbered on behalf of Grantor; and
(b) Grant Funds shall not be disbursed unless and until sufficient proceeds from the
source identified below become available to Grantor to disburse.



Fiscal Officer

4/03/13

Date:

Grant Amount: \$150,000.00
Fund Source: Habitat Conservation Fund, Section 2786ef(1E)
Appropriation Item: Chapter 33, Statutes of 2011
Line Item: 3640-301-0262
Expenditure Code: 12-1000-841-51000

1. SCOPE OF AGREEMENT

Pursuant to the Wildlife Conservation Law of 1947, Chapter 4.0 of Division 2, (commencing with Section 1300 of the California Fish and Game Code, the Habitat Conservation Fund (Proposition 117), Fish and Game Code Section 2786(e/f) (Proposition 1E) and the approval granted by the Wildlife Conservation Board on June 4, 2013, the Wildlife Conservation Board (Grantor) hereby grants to Cachuma Operation and Maintenance Board (Grantee), a sum not to exceed One Hundred and Fifty Thousand Dollars (\$150,000.00) (Grant Funds), upon and subject to the terms and conditions of this Grant Agreement (Agreement).

2. PURPOSES OF GRANT

Grantor is entering into this Agreement, and the Grant Funds shall be used, only for the purpose of assisting Grantee with the project generally described as: replacement of an Arizona-type low flow crossing at Crossing #1 of Refugio Road with 60-foot bottomless arched culvert to improve steelhead passage on Quiota Creek in Santa Barbara County, California (Property). The Property is generally shown on the attached Exhibit A - LOCATION MAP. The County of Santa Barbara (Landowner) is the fee owner of the Property.

3. CONDITIONS OF GRANT

Grantor's obligation to disburse Grant Funds under this Agreement is conditioned upon and subject to the satisfactory completion of all of the following conditions:

- 3.1 Grantor shall have reviewed and approved all documents pertaining to the Project, including, without limitation, feasibility and planning studies, designs, plans, budgets, cost estimates, timelines and agreements. Such review and approval by Grantor will be for compliance with this Agreement as well as funding and other requirements applicable to Grantor, and shall not be unreasonably withheld.
- 3.2 Grantor shall have reviewed and approved a certified resolution or other appropriate action of the governing board or governing body of Grantee, authorizing the execution and performance of this Agreement and the carrying out of the Project by Grantee.
- 3.3 Grantee shall have disclosed all funding sources for the Project, including all amounts applied for or obtained from sources other than Grantor. These amounts shall be reflected in the attached Exhibit B - BUDGET by Budget category. As between Grantor and Grantee, Grantee shall be responsible for any and all Project costs that exceed the amount of the Grant Funds provided under this Agreement.
- 3.4 The grant proposal shall have been approved by the Wildlife Conservation

Board at a public meeting, this Agreement shall have been fully executed by Grantor and Grantee, and Grantee shall have received a written "Notice to Proceed" from Grantor. The approval of the grant proposal by the Wildlife Conservation Board, if such approval is given, shall not constitute authorization for the commencement of the Project or expenditure of Grant Funds. No expenditure made or activity initiated prior to Grantee's receipt of a written Notice to Proceed from Grantor will be eligible for reimbursement by Grantor.

4. DISBURSEMENTS

- 4.1 Upon satisfaction of all of the Conditions of Grant set forth in Section 3, above, and so long as Grantee is not in breach or default under this Agreement, Grantor agrees to disburse the Grant Funds to Grantee, in arrears, in installments as set forth in this Section 4. Disbursements shall be made not more frequently than monthly and disbursements of less than \$5000.00 should be made not more frequently than quarterly. All disbursements shall be subject to the availability of funds for purposes of the Project as provided in Section 4.8.
- 4.2 Grantee shall request disbursement of Grant Funds by submitting a disbursement request to Grantor in triplicate for approved budgeted work performed on the Project in accordance with Section 4.3. Disbursement shall be contingent upon approval of the disbursement request by Grantor.
- 4.3 The disbursement request must be submitted on Grantee's letterhead, signed by an authorized representative of Grantee, and include a written description of the work completed during the period of the disbursement request. Requests for disbursement must be itemized using the same categories included in the attached Exhibit B - BUDGET. Exhibit C – DISBURSEMENT REQUEST TEMPLATE provides the format to use for submitting disbursement requests to Grantor. Each disbursement request shall contain supporting or back-up documentation for all amounts shown on the request, including receipts for all materials and supplies, all Grantee staff time shown by number of hours worked and hourly rate, and all contractor or sub-contractor services.
- 4.4 Grantor may withhold ten percent (10%) of the total approved amount from each disbursement (Retained Grant Funds) until Grantor has approved the completion of the Project, the final report required by Section 6.4, and the final request for disbursement.
- 4.5 Upon completion of Project activities, Grantee may request disbursement of the Retained Grant Funds. Grantee shall submit this request no later than thirty (30) days after the Projected Completion Date (as defined in Section 6.1).

4.6 Requests for disbursement should be sent to:

Wildlife Conservation Board
1807 13th Street, Suite 103
Sacramento, California 95811
Attn: Tony Chappelle

- 4.7 Grantee shall reimburse Grantor for any erroneous disbursement of Grant Funds under this Agreement. Reimbursement shall occur within 30 days of written demand by Grantor. Interest shall accrue at the highest rate allowed by law from the time that reimbursement becomes due and owing until received by Grantor.
- 4.8 Despite any contrary provision of this Agreement, Grantor shall not be obligated to disburse any remaining unpaid portion of the Grant Funds unless and until sufficient funds identified for allocation to the Project (as further specified in the Funding Certification attached to this Agreement) are released by the State Treasurer's Office to Grantor for expenditure for this grant. No request for disbursement submitted prior to the release of such funds to Grantor shall be effective.

5. BUDGET

The attached Exhibit B - BUDGET (Budget) is an estimate of the Grantee's anticipated costs for the Project and discloses all funding sources for the Project, including all amounts applied for or obtained from sources other than Grantor. Should the Budget not disclose all funding sources for the Project, Grantor may refer this grant to the Department of Finance for a Project audit. Grantee may seek additional funding from sources other than Grantor, with Grantor's approval, to cover cost increases or to reduce Grantor's cost share. Should Grantee obtain additional funds from sources other than Grantor, Grantee shall promptly notify Grantor of the amounts and sources of the additional funding and submit a proposed new budget reflecting any changes to Grantor for its approval.

When actual Project costs indicate that the costs of certain Budget categories payable by Grantor are higher than estimated, and these higher costs are offset by lower costs in other Budget categories payable by Grantor, the Grantee may submit a written request to Grantor to shift funds between such Budget categories. Contingencies shall be used only upon written approval by Grantor. Grantor shall approve or deny a requested Budget revision or use of contingencies in writing within 10 business days of receipt of Grantee's written request.

6. GRANTEE'S COVENANTS

In consideration of this Agreement, Grantee hereby covenants and agrees as follows:

- 6.1. Grantee will complete or cause to be completed all Project activities in accordance with Grantee's proposed design and specifications submitted to Grantor, a copy of which is attached as Exhibit D - WORK PLAN and incorporated herein by this reference, on or before December 31, 2013 (Projected Completion Date). The Project will be considered complete when all Project activities have been completed and Grantor has approved the completion of the Project, the final report required by Section 6.4, and the final request for disbursement.
- 6.2. Grantee is responsible for obtaining all necessary permits and approvals for the Project (including its construction, management, monitoring, operation, use and maintenance), and complying with all federal, state and local statutes, laws, regulations, ordinances, orders and other governmental and quasi-governmental requirements that apply to the Project (including its construction, management, monitoring, operation, use and maintenance).
- 6.3. Grantee shall recognize the cooperative nature of the Project and shall provide credit to the Grantor and the California Department of Fish and Wildlife on signs, demonstrations, promotional materials, advertisements, publications and exhibits prepared or approved by Grantee referencing the Project. Any sign installed on the Property referencing the Project shall be subject to the mutual agreement of Grantor, Grantee and Landowner regarding text, design and location and shall display the logo of Grantor.
- 6.4. Not later than 30 days following the completion of all Project activities Grantee will submit either five hard copies or one hard copy and one digital copy of a final report of accomplishments, including pre- and post-Project photographs and a final design or site plan of the Project, to Grantor.
- 6.5. Grantee shall ensure that the Property restored with funds provided by Grantor is operated, used and maintained throughout the Project Life consistent with the Purposes of Grant and in accordance with the long-term management plan for the Project attached as Exhibit E – MANAGEMENT PLAN.
- 6.6. The Grantee shall cause the Landowner to permit Grantor and the California Department of Fish and Wildlife and their respective members, officers, employees, agents and representatives, to access the Property at least once every twelve months from the date of Grantor's Notice to Proceed through the end of the Project Life for purposes of inspections

and monitoring. Such access shall be at times reasonably acceptable to the Landowner and the requester following written or verbal request to the Grantee.

7. BREACH AND REMEDIES

- 7.1 In the event of a breach of Grantee's obligations under this Agreement, Grantor shall give notice to Grantee describing the breach. If Grantee does not cure the breach described in the Grantor's notice within 90 days after the date of Grantor's notice (or, if the breach cannot reasonably be cured within 90 days, Grantee does not commence the cure within the 90-day period and diligently pursue it to completion), then Grantee shall be in default of this Agreement.
- 7.2 In the event of a default by Grantee *before* the Project is complete then, in addition to any and all other remedies available at law or in equity, Grantor may seek specific performance of this Agreement. Grantee agrees that specific performance is an appropriate remedy because the benefits to Grantor from Grantee's completion of the Project in accordance with this Agreement, as described in Section 2 (Purposes of Grant), are unique and damages would not adequately compensate Grantor for the loss of such benefits.
- 7.3 In the event of a default by Grantee, in addition to any and all other remedies available under this Agreement, at law or in equity, Grantor may require Grantee to reimburse the Grant Funds to Grantor in an amount determined by application of the following Reimbursement Formula:

"Reimbursement Formula"

Formula: Dollar amount of Grant Funds divided by Project Life, times the number of years remaining in the Project Life.

Example: Grantor grants \$50,000.00 to Grantee for the restoration and enhancement of wetland and riparian habitat, and the Project Life is 25 years. With 10.5 years remaining on the Project Life, the Grantee is in default under the Agreement. The reimbursement amount would be \$21,000, calculated as follows:

$$(\$50,000.00 \div 25 \text{ years}) \times 10.5 \text{ years} = \$21,000$$

Reimbursement shall be due from Grantee immediately upon written demand by Grantor. Interest shall accrue at the highest rate allowed by law from the time that the reimbursement becomes due until it is actually received by Grantor.

- 7.4 Any costs incurred by Grantor, where Grantor is the prevailing party, in enforcing the terms of this Agreement, including but not limited to costs of suit, attorneys' and experts' fees, at trial and on appeal, and costs of enforcing any judgment, shall be borne by Grantee.
- 7.5 Waiver of any breach or default by Grantee shall not be deemed to be a waiver of any subsequent breach or default, nor shall it constitute a modification of this Agreement.

8. ADDITIONAL TERMS AND CONDITIONS

8.1 Grantee Responsible for Project

While the Grantor undertakes to assist the Grantee with the Project by providing a grant pursuant to this Agreement, the Project itself remains the sole responsibility of the Grantee. Grantor undertakes no responsibilities to the Grantee, the Landowner, or any third party, other than as expressly set out in this Agreement. The responsibility for implementing the Project is solely that of the Grantee, as is the responsibility for any claim or suit of any nature by any third party related in any way to the Project.

8.2 Contracts

All agreements between Grantee and any third party related to the Project must be in writing and contain language that establishes the right of the auditors of the State of California to examine the records of the third party relative to the goods, services, equipment, materials, supplies or other assistance provided to Grantee for the Project. Grantee shall provide a complete copy of each agreement over \$10,000.00 to Grantor prior to commencing work.

8.3 Indemnification

To the fullest extent permitted by law, Grantee shall indemnify, protect, and hold harmless the Wildlife Conservation Board and the State of California, and their respective members, officers, agents, employees and representatives, from and against any and all claims, demands, damages, losses, costs (including attorneys' fees), expenses, and liability of any nature (Claims) arising out of or incident to the Project, Grantee's entry upon and use of the Property, and the performance of, or failure to observe or perform, any obligations of the Grantee under this Agreement. The obligations of Grantee under this Section 8.3 include, without limitation, Claims resulting from the generation, use, storage, disposal, release or threatened release of any hazardous or toxic substance, material or waste; petroleum or petroleum products and other substances that present a threat to human health or the environment.

8.4 Amendment; Severability

This Agreement may be modified only by a written amendment signed by Grantor, Grantee and Landowner. No oral or written understanding or agreement not incorporated in this document shall be binding on the parties.

If any provision of this Agreement or the application thereof to any person or circumstance is held to be invalid or unenforceable, that shall not affect any other provision of this Agreement or applications of the Agreement that can be given effect without the invalid provision or application. To this end the provisions of this Agreement are severable.

8.5 Independent Capacity of Grantee; Withholding and Payments

Grantee, its members, officers, directors, employees, agents and representatives, is each acting in an independent capacity in entering into and carrying out this Agreement, and not as a partner, member, officer, agent, employee or representative of Grantor. Grantee is responsible for withholding and paying employment taxes, insurance and deductions of any kind required by federal, state or local laws.

8.6 No Assignment or Transfer

This Agreement is not assignable or transferable by Grantee, either in whole or in part, without the prior written consent of Grantor which Grantor may grant or withhold in Grantor's discretion.

8.7 Accounting/Records/Audits

Grantee shall maintain complete and accurate records of its actual Project costs, in accordance with generally accepted accounting principles and practices, and shall retain said records for at least three years after final disbursement by Grantor. During such time, Grantee shall make said records available (or cause them to be made available) to the State of California for inspection and audit purposes during normal business hours. Expenditures not documented, and expenditures not allowed under this Agreement or otherwise authorized in writing by Grantor shall be borne by Grantee. The audit shall be confined to those matters connected with this Agreement, including but not limited to administration and overhead costs.

8.8 Use of Grant Funds to Secure Additional Funding

Grantee agrees that the funding provided under this Agreement shall not be used as matching funds for other grants, or to secure loans or other monetary awards without written approval from the Executive Director, Wildlife Conservation

Board. Such approval shall not be unreasonably withheld as long as the purposes for which the grant was awarded are maintained.

8.9 Termination or Suspension of Agreement

At any time before Grantee has broken ground on the Project Grantor may terminate this Agreement for any reason by providing Grantee not less than 30 days written notice of termination. In addition, Grantor may suspend this Agreement at any time upon written notice to Grantee. In either case, Grantee shall immediately stop work under this Agreement and take all reasonable measures to prevent further costs to Grantor. The Grantor shall be responsible for reasonable and non-refundable obligations or expenses incurred by the Grantee under this Agreement prior to the date of the notice to terminate or suspend, but only up to the undisbursed balance of funding authorized in this Agreement. Any notice suspending work under this Agreement shall remain in effect until Grantor authorizes work to resume by giving further written notice to Grantee.

8.10 Resolution of Disputes

The State Project Representative is identified on Page 1 of this Agreement. The State Project Representative has initial jurisdiction over each controversy arising under or in connection with the interpretation or performance of this Agreement or disbursement of Grant Funds. The Grantee will diligently pursue with the State Project Representative a mutually agreeable settlement of any such controversy.

If the controversy cannot be resolved between Grantee and the State Project Representative, the Grantee must direct the grievance together with any evidence, in writing, to the Executive Director of the Wildlife Conservation Board. The grievance must state the issues in the dispute, the legal authority or other basis for the Grantee's position and the relief sought.

The Executive Director or designee shall meet with a representative of the Grantee to review the issues. A written decision signed by the Executive Director or designee shall be returned to the Grantee within twenty (20) working days of the conclusion of this meeting.

8.11 Drug-Free Workplace Certification

By signing this Agreement, Grantee hereby certifies under penalty of perjury under the laws of the State of California that Grantee will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug-free workplace by taking the following actions:

- 8.11.1 Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a).
- 8.11.2 Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b) to inform employees about all of the following:
- a) the dangers of drug abuse in the workplace;
 - b) the person's or organization's policy of maintaining a drug-free workplace;
 - c) any available counseling, rehabilitation and employee assistance programs; and,
 - d) penalties that may be imposed upon employees for drug abuse violations.
- 8.11.3 Provide, as required by Government Code Section 8355(c), that every employee who works on the proposed contract:
- a) will receive a copy of the company's drug-free policy statement; and,
 - b) will agree to abide by the terms of the company's statement as a condition of employment on the contract.

Failure to comply with these requirements may result in suspension of disbursements under this Agreement or termination of the Agreement or both and Grantee may be ineligible for award of any future state contracts if the Grantor determines that any of the following has occurred: (1) Grantee has made false certification, or (2) Grantee violates the certification by failing to carry out the requirements as noted above.

8.12 Union Organizing

By signing this Agreement the Grantee hereby acknowledges the applicability to this Agreement of Government Code Sections 16645 through 16649, and certifies that:

- 8.12.1 No state funds disbursed by this grant will be used to assist, promote or deter union organizing;
- 8.12.2 Grantee shall account for state funds disbursed for a specific expenditure by this grant, to show those funds were allocated to that expenditure;
- 8.12.3 Grantee shall, where state funds are not designated as described in 8.12.2 above, allocate, on a pro-rata basis, all disbursements that support the grant program; and

8.12.4 If Grantee makes expenditures to assist, promote or deter union organizing, Grantee will maintain records sufficient to show that no state funds were used for those expenditures, and that Grantee shall provide those records to the Attorney General upon request.

8.13 Labor Code Requirements; Prevailing Wage

State grants may be subject to California Labor Code requirements, which include prevailing wage provisions. Certain State grants administered by the California Wildlife Conservation Board and the California Department of Fish and Wildlife are not subject to Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code. For more details, please refer to California Fish and Game Code Section 1501.5 and to the Department of Industrial Relations (DIR) website at <http://www.dir.ca.gov>. Grantee shall pay prevailing wage to all persons employed in the performance of any part of the Project if required by law to do so.

8.14 Informational Products

All informational products (e.g. data, studies, findings, management plans, manuals, photos etc.) relating to California's natural environment and produced with the use of public funds shall be cataloged in the California Environmental Information Catalog (<http://gis.ca.gov/catalog>) maintained by the CERES Program (www.ceres.ca.gov).

8.15 Non-Discrimination

During the performance of this Agreement, Grantee shall not unlawfully discriminate against, harass, or allow harassment against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical disability (including HIV and AIDS), mental disability, medical condition, marital status, age (over 40), sex, sexual orientation, or use of family-care leave, medical-care leave, or pregnancy-disability leave. Grantee shall take affirmative action to ensure that the evaluation and treatment of its employees and applicants for employment are free of such discrimination and harassment. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Grantee shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900 (a-f) *et seq.*), and applicable regulations (California Code of Regulations, Title 2, Section 7285 *et seq.*). The regulations of the Fair Employment and Housing Commission regarding Contractor Nondiscrimination and Compliance (Chapter 5 of Division 4 of Title 2 of the California Code of Regulations) are incorporated by reference into this Agreement. Grantee shall give written notice of its obligations under this

non-discrimination clause to labor organizations with which Grantee has a collective bargaining or other agreement, and shall post in conspicuous places available to employees and applicants for employment, notice setting forth the provisions of this section. Grantee shall also include the nondiscrimination and compliance provisions of this Agreement in all contracts related to the Project.

9. NOTICE OF AGREEMENT

The terms, conditions and restrictions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their personal representatives, heirs, successors, and assigns and shall continue as a servitude running with the Property for the Project Life.

10. AUTHORIZATION

The signature of the Executive Director certifies that at the meeting of the Wildlife Conservation Board held on June 4, 2013, the Board authorized the award of a grant of up to \$150,000.00 to Grantee for the Project.

11. EFFECTIVENESS OF AGREEMENT

This Agreement shall be deemed executed and effective when fully signed by authorized representatives of each of Grantor, Grantee and Landowner. Each party shall sign three original counterparts of this Agreement. Each fully executed counterpart shall be deemed an original. Grantee and Landowners shall each receive one fully executed original and Grantor shall receive one fully executed original.

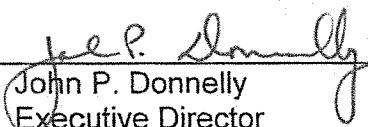
12. EXHIBITS

Each of the Exhibits referenced in this Agreement is incorporated by reference as though set forth in full herein. The following Exhibits are attached to this Agreement:

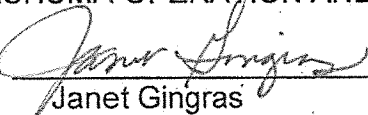
- Exhibit A** – Location Map
- Exhibit B** – Budget
- Exhibit C** – Disbursement Request Template
- Exhibit D** – Work Plan
- Exhibit E** – Management Plan

IN WITNESS WHEREOF, the undersigned parties have executed this Agreement.

GRANTOR
STATE OF CALIFORNIA
WILDLIFE CONSERVATION BOARD

By:  Date: 7/7/13
John P. Donnelly
Executive Director

GRANTEE
CACHUMA OPERATION AND MAINTENANCE BOARD

By:  Date: 4/15/2013
Janet Gingras
Interim General Manager

By signing below, Landowner approves the Project and authorizes Grantee, its agents, employees, representatives, invitees, contractors, and subcontractors to enter on and use the Property for all purposes necessary or appropriate to carry out the Project and the obligations of Grantee under this Agreement. Landowner agrees to ensure that any activity on or use of the Property is consistent with the Purposes of Grant and the long-term management plan for the Project attached as Exhibit E - MANAGEMENT PLAN.

LANDOWNER
COUNTY OF SANTA BARBARA

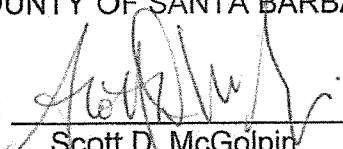
By:  Date: 4/17/13
Scott D. McGolpin
Public Works Director

Exhibit A –
LOCATION MAP

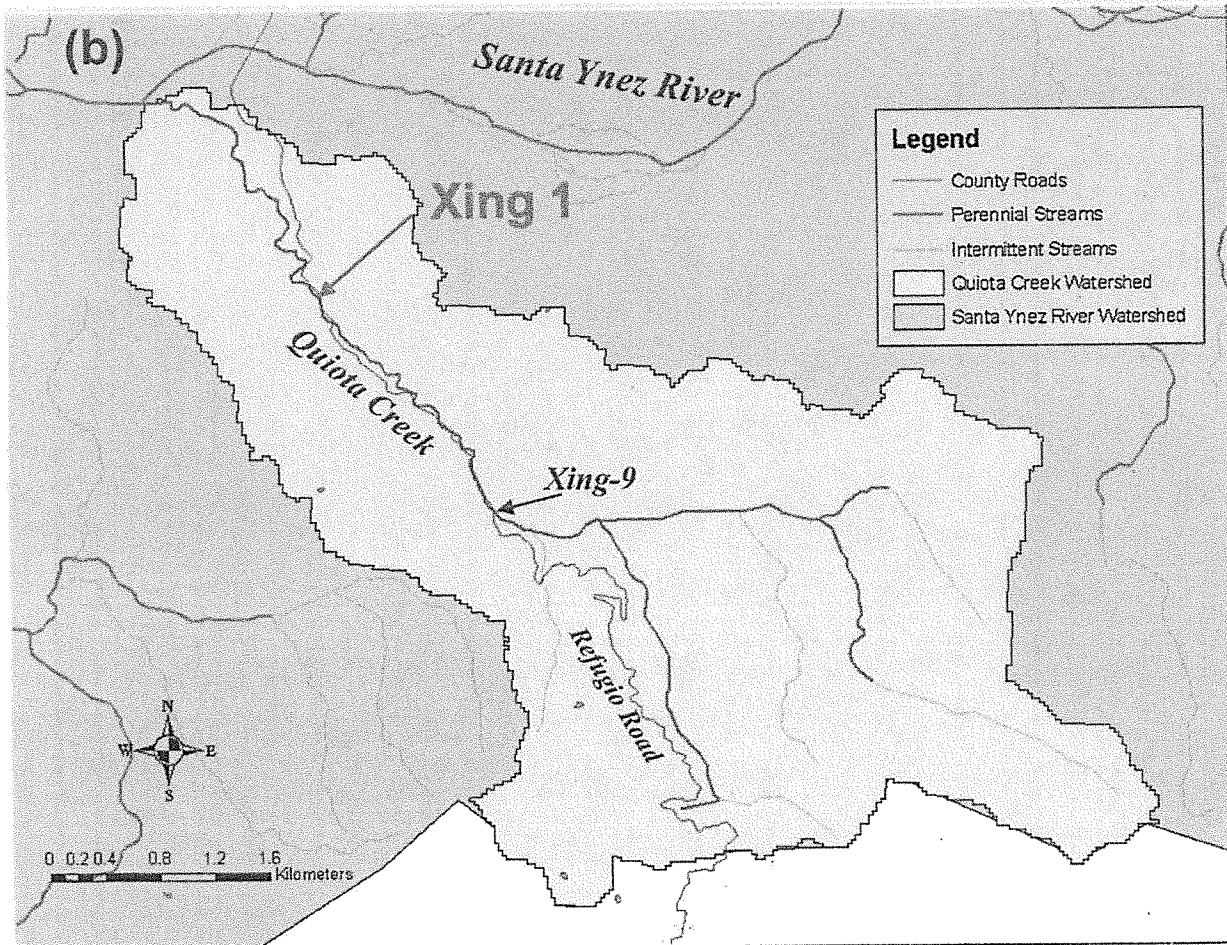
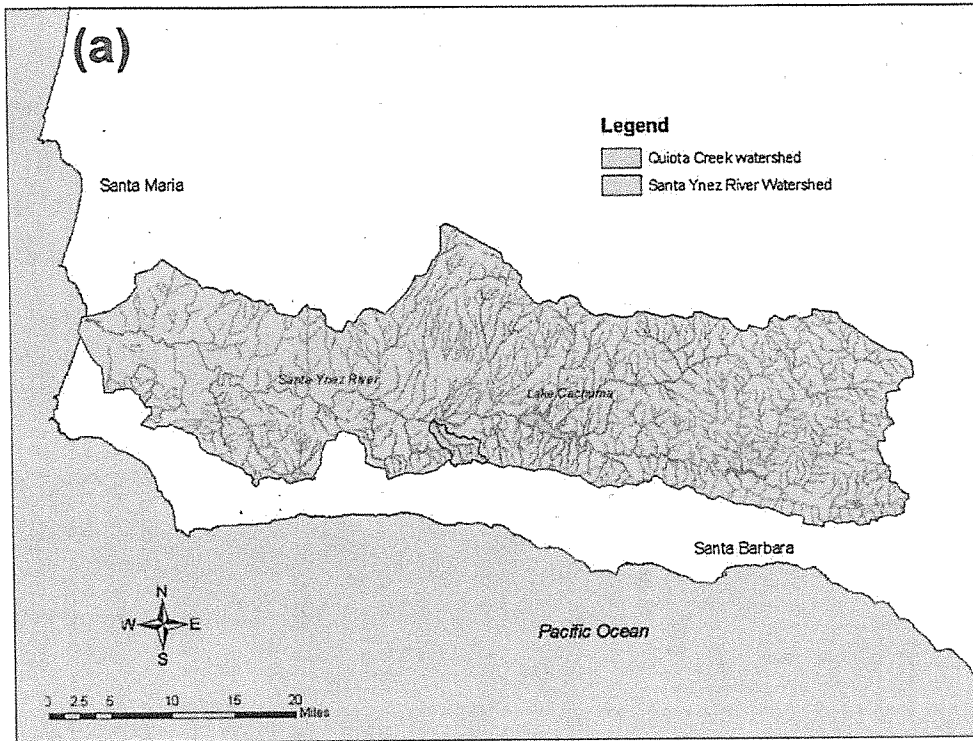


Figure 1: Quiota Creek Crossing 1 project location: (a) within the Santa Ynez River Watershed and (b) the Quiota Creek Watershed.

Exhibit B - BUDGET - Quiota Creek Fish Passage Improvement at Refugio Road Crossing 1

Description	Amount Requested		Amount of Cost Share		Project Total
	(WCB)	(CDFG)	(COMB)	(COMB)	
COMB Services (Project Mgmt., Admin., Monitoring)	\$0	\$0	\$68,474	\$68,474	\$68,474
Design, Permitting, Testing and Oversight	\$0	\$49,625	\$28,998	\$78,623	\$78,623
Construction	\$150,000	\$471,516	\$50,000	\$671,516	\$671,516
Administrative Overhead	\$0	\$0	\$14,621	\$14,621	\$14,621
TOTAL:	\$150,000	\$521,141	\$162,093	\$833,234	\$833,234

DISBURSEMENT REQUEST TEMPLATE

Letterhead (include Name, address, telephone, contact person name)

Invoice Date: _____
Invoice No: _____

Project Name: Name on Grant Document
Agreement Number: WCB Grant Agreement No.
Term of Project: Beginning and End dates
Invoice Period Covered: Beginning and End Date
Amendments: describe if any, along with date
WCB Project Manager:

PROJECT TASK	TOTAL COST	TOTAL NON-WCB INVOICES	WCB ALLOCATION	WCB PRIOR INVOICED AMOUNT	CURRENT WCB INVOICE	Remaining Balance of WCB allocation available for expenditure on this task
Describe in a separate row each project task in the Budget approved by the WCB. Must be identical to those shown in the approved budget unless amended.	Show the total cost for each task. Must be identical to those shown in the approved budget unless amended.	Total of all other invoices or charges for the task item, attributed to another funding source; e.g. non-WCB invoices/charges in this task.	Show the total WCB allocated costs for each task. Must be identical to those shown in the approved budget unless amended.	Sum all invoices already submitted to the WCB for payment on this task (includes amounts retained by WCB).	Amount of current invoice applied to this task.	Remaining Balance of WCB allocation available for expenditure on this task.
Task 1 (describe)						
Task 2 (describe)						
Task 3 (describe)						
Task 4 (describe)						
Task 5 (describe)						
...						
...						
TOTAL	Sum of all items	Sum of all items	Sum of all items	Sum of all items	Sum of all items	Sum of all items

Total Current Invoice: \$ _____
Less Retention*: \$ () _____
TOTAL PAYMENT DUE: \$ _____

Approved for Payment
By: _____ Date: _____
Printed Name _____

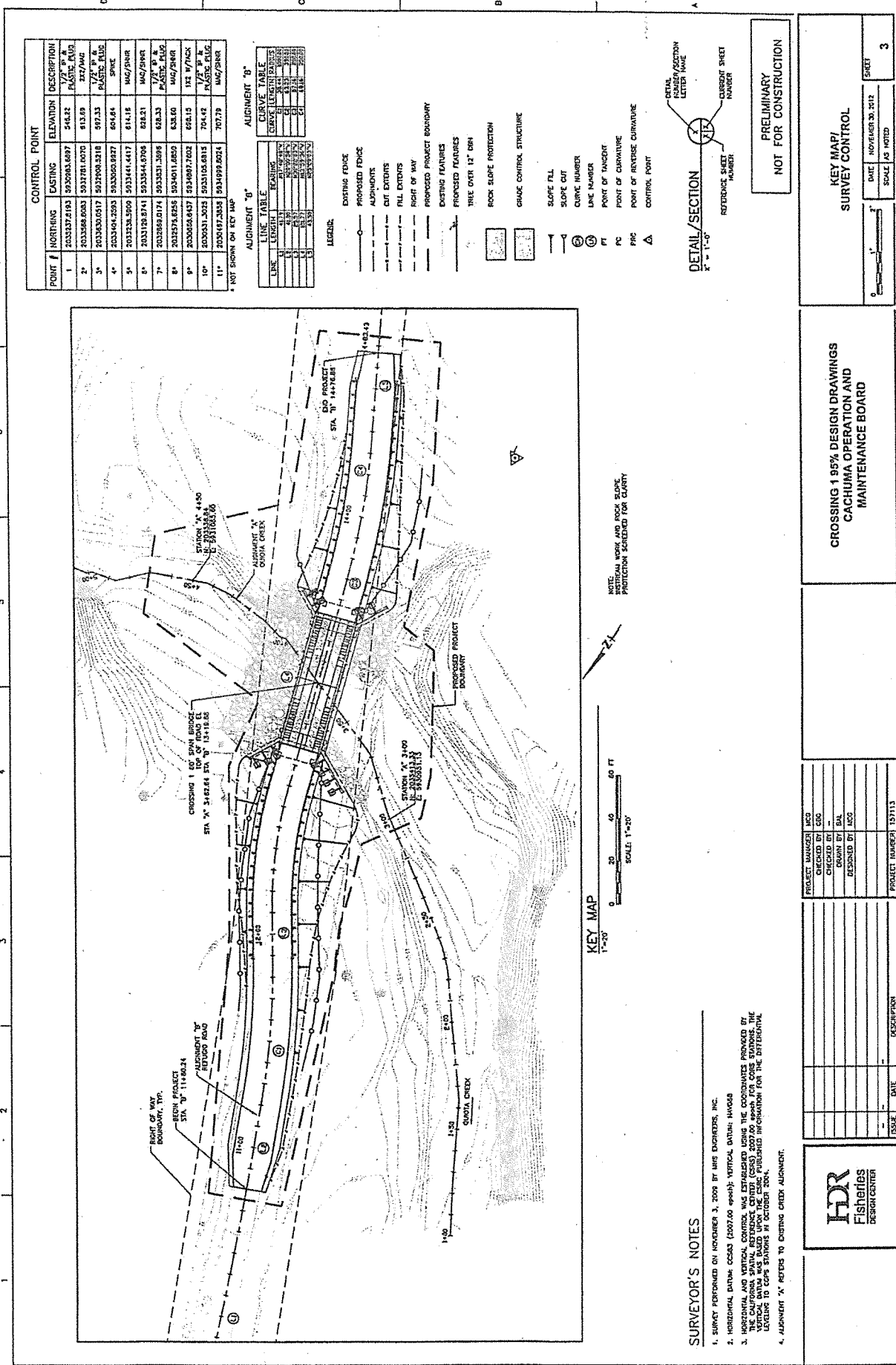
*Retention: Unless otherwise approved in advance by WCB, 10% of total current invoice will be retained by WCB until the end of the project. Each invoice should be accompanied by the following:

1. A detailed statement of services for the period covered by the invoice (photos may also be included if appropriate).
2. Supporting or back-up documentation for all charges on the invoice, including receipts for all materials and supplies, all Grantee staff time shown by number of hours worked and hourly rate, and all sub-contractor services.
3. Clearly reconcile all supporting documents and identify them with the charges reflected in the invoice. If the attached supporting document includes a charge that will be reimbursed in part by the WCB and another funding source, clearly indicate the portion being paid by the WCB, and reconcile this amount with the invoice.

The objective of this project is to improve steelhead passage at Crossing 1 of Refugio Road over Quiota Creek, a tributary of the Lower Santa Ynez River (LSYR) below Lake Cachuma. Refugio Road, a County road, currently crosses Quiota Creek nine times in the form of Arizona-type (low-flow) crossings (Crossings 1, 3, 4, 5, 7, and 9), one temporary bridge on top of a damaged low-flow crossing (Crossing 8), and two new bottomless-arched culverts (Crossings 2 and 6). The project proposes to remove the passage impediment at Crossing 1 along Quiota Creek and replace it with a 60-foot bottomless-arched culvert (Attachments 1-4). One in-stream riffle will be installed below the culvert for grade control and protection of an upstream riparian oak tree (Attachment 5). The bottomless-arched culvert and riffle are designed to enable the full range of determined fish passage flows (1-148 cfs) for juvenile and adult steelhead and resident rainbow trout as well as meet Santa Barbara County road safety standards and flood conveyance criteria. The bottomless-arched culvert is designed to convey the 50-year flood event under the structure with at least one foot of freeboard and sustain the 100-year flood event over the structure. The stream length affected by the project will be approximately 100 feet with a project area of less than 0.2 acres. The project will create a natural channel bottom and an arch that spans well beyond the bank full width. The project area will be re-vegetated with native plants and seeds that have been approved by the California Department of Fish and Game (CDFG). Specific de-watering, fish relocation, erosion control, road access, maintenance and monitoring, and re-vegetation plans have been approved by CDFG and National Marine Fisheries Service (NMFS). The project will be reviewed and approved by both CDFG and NMFS fish passage engineers, and will use well established and proven construction practices throughout all phases of the project. The project will be very similar to restoration efforts done at Crossings 2, 6 and 7.

The mobilization, demolition of the Arizona-crossing, and construction of a 60-foot bottomless-arched culvert and downstream riffle on Crossing 1 will begin in September and finish in November 2013. All in-stream work will be completed by November 1 with all re-vegetation and site cleanup finalized shortly thereafter. Any trees removed during construction will be replanted at the mitigation ratio specified in the project CDFG 1600 Permit and will be watered every other week by Grantee staff as part of their ongoing vegetation maintenance plan. Costs will be budgeted into the general Grantee budget.

Exhibit D - WORK PLAN
Attachment 1

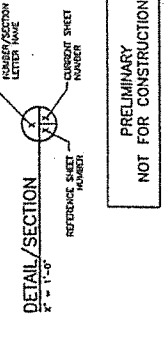


POINT #	NORTHING	EASTING	ELEVATION	DESCRIPTION	1/2" P.C. #
1	203327.2140	203204.6097	544.82	PLASTIC PIVOT	237/002
2	203326.6043	203178.1070	513.09	PLASTIC PIVOT	237/002
3	203326.0517	203200.2218	517.33	PLASTIC PIVOT	237/002
4	203319.4293	203200.9937	504.64	SPRINK	
5	203326.2650	203314.4117	511.18	400/5/8R	
6	203319.2741	203354.6708	518.21	400/5/8R	
7	203326.8174	203321.3898	528.33	400/5/8R	
8	203325.5235	203401.1860	535.60	400/5/8R	
9	200059.6457	203408.7602	625.19	12" 1/2" P.C.	
10	200051.2022	203310.6813	704.42	PLASTIC PIVOT	
11	200147.2835	203409.8214	707.79	400/5/8R	

ALIGNMENT "B" CURVE TABLE

LINE #	LENGTH	BEARING	CHORD BEARING	CHORD LENGTH	PC	PT	PIC	PTC	LC	EC	CL	CE
1	4.98	118° 52' 30"	118° 52' 30"	4.98	118° 52' 30"	118° 52' 30"	118° 52' 30"	118° 52' 30"	4.98	118° 52' 30"	118° 52' 30"	118° 52' 30"
2	4.98	118° 52' 30"	118° 52' 30"	4.98	118° 52' 30"	118° 52' 30"	118° 52' 30"	118° 52' 30"	4.98	118° 52' 30"	118° 52' 30"	118° 52' 30"
3	4.98	118° 52' 30"	118° 52' 30"	4.98	118° 52' 30"	118° 52' 30"	118° 52' 30"	118° 52' 30"	4.98	118° 52' 30"	118° 52' 30"	118° 52' 30"

- LEGEND:
- EXISTING FENCE
 - PROPOSED FENCE
 - ALIGNMENTS
 - CUT EXTENTS
 - FILL EXTENTS
 - RIGHT OF WAY
 - PROPOSED PROJECT BOUNDARY
 - EXISTING FEATURES
 - PROPOSED FEATURES
 - TREE OVER 12" DBH
 - ROCK SLOPE PROTECTION
 - GRADE CONTROL STRUCTURE
 - SLOPE FILL
 - SLOPE CUT
 - CURVE NUMBER
 - LINE NUMBER
 - POINT OF TANGENT
 - POINT OF CURVATURE
 - POINT OF REVERSE CURVATURE
 - CONTROL POINT



PRELIMINARY
NOT FOR CONSTRUCTION

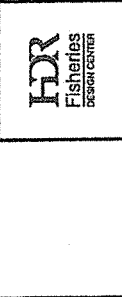
KEY MAP/
SURVEY CONTROL

DATE: NOVEMBER 30, 2012
SCALE: AS NOTED

SHEET 3

CROSSING 1 95% DESIGN DRAWINGS
CACHUMA OPERATION AND
MAINTENANCE BOARD

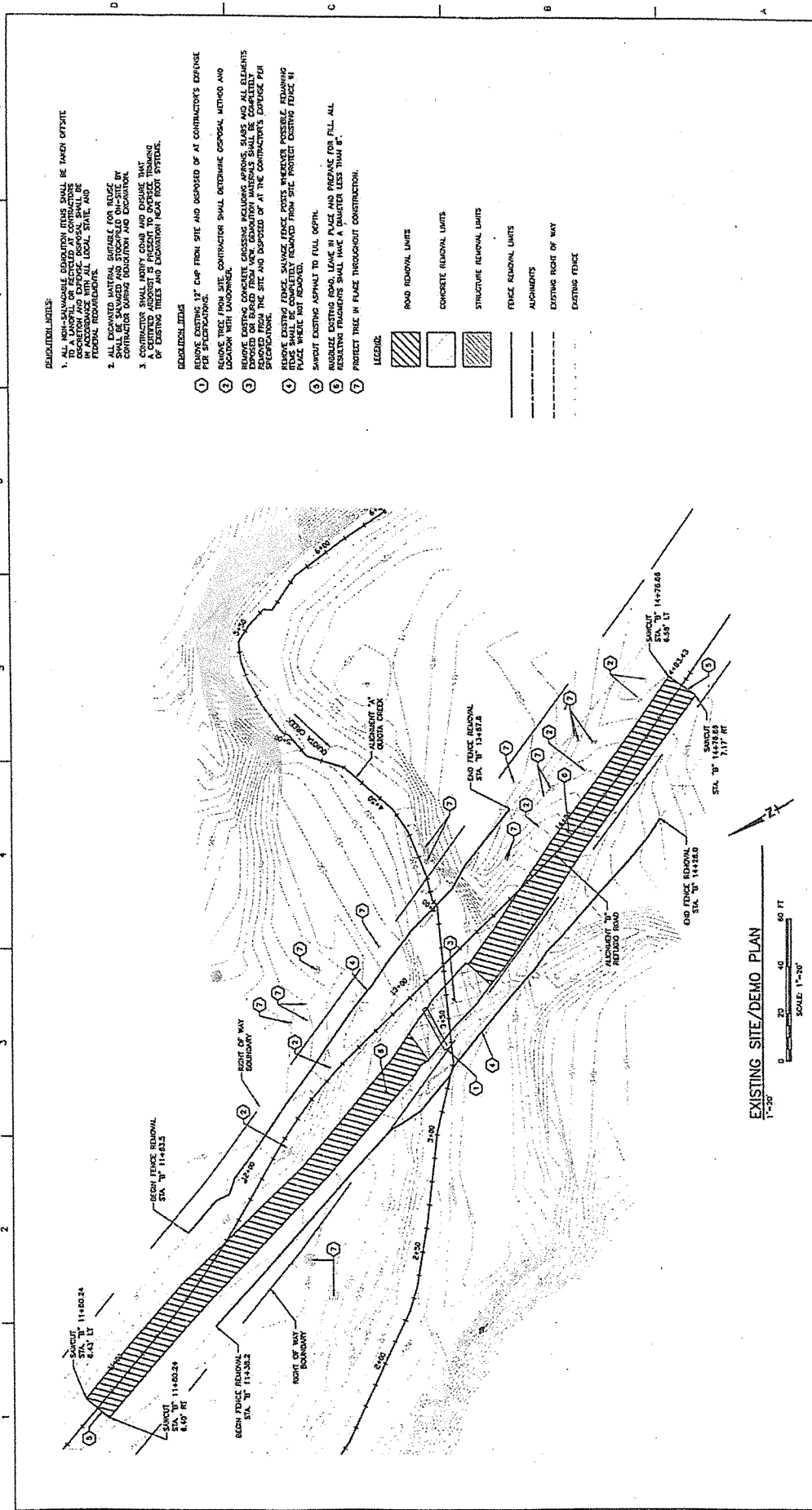
PROJECT NUMBER	ISSUE	DATE	DESCRIPTION
127113			



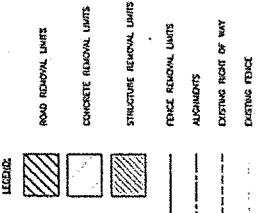
SURVEYOR'S NOTES

1. SURVEY PERFORMED ON NOVEMBER 3, 2009 BY HIS ENGINEERS, INC.
2. HORIZONTAL DATUM: CGCS (2007.00 epoch); VERTICAL DATUM: NAVD83
3. HORIZONTAL AND VERTICAL CONTROL WAS ESTABLISHED USING THE COORDINATES PROVIDED BY THE CALIFORNIA SPATIAL REFERENCE CENTER (CSRS) 2007.00 epoch FOR CONTROL STATIONS. THE DATUM TRANSFORMATION WAS APPLIED TO THE DATA AND THE RESULTS WERE CHECKED AGAINST THE DATUM TRANSFORMATION TO CGCS SATURDAY, 10 OCTOBER 2004.
4. ALIGNMENT "A" APPLIES TO CUSHING CREEK ALIGNMENT.

Exhibit D - WORK PLAN Attachment 2



- GENERAL NOTES:**
1. ALL EXISTING MATERIALS SHALL BE TAKEN OFF-SITE TO A LANDFILL OR RECYCLED AT CONTRACTOR'S OPTION AND DISPOSAL COSTS SHALL BE FEDERAL RESPONSIBILITY.
 2. ALL EXISTING MATERIALS AVAILABLE FOR REUSE SHALL BE SAUNDED AND STOCKPILED ON-SITE BY CONTRACTOR DURING ROAD WORK AND DEMO. A CERTIFIED AGENT IS PRESENT TO EXERCISE TRAINING OF EXISTING TREES AND EXCAVATION NEAR ROOT SYSTEMS.
 3. CONTRACTOR SHALL MAINTAIN AND PROTECT ALL EXISTING UTILITIES.
- GENERAL LIMITS:**
1. REMOVE EXISTING 12" CURB FROM SITE AND DISPOSAL OF AT CONTRACTOR'S EXPENSE FOR IMPROVEMENT.
 2. CONTRACTOR SHALL DETERMINE CORRECT METHOD AND LOCATION WITH LANDOWNER.
 3. REMOVE EXISTING CONCRETE CROSSINGS INCLUDING APPROX. SLABS AND ALL ELEMENTS EXPOSED OR BURIED FROM VIEW. DEMONSTRATION MATERIALS SHALL BE COMPLETELY REMOVED FROM THE SITE AND DISPOSAL OF AT THE CONTRACTOR'S EXPENSE FOR IMPROVEMENT.
 4. REMOVE EXISTING FENCE. SAUNCE FENCE POSTS IN EXCESS WHERE POSSIBLE. REMAINING FENCE SHALL BE COMPLETELY REMOVED FROM SITE. PROTECT EXISTING FENCE IN PLACE WHERE NOT REMOVED.
 5. SAWCUT EXISTING ASPHALT TO FULL DEPTH.
 6. RIGOROUSLY EXISTING ROAD, LEAVE IN PLACE AND PREPARE FOR FILL. ALL RESULTING FRAGMENT SHALL HAVE A DIAMETER LESS THAN 6".
 7. PROTECT TREES IN FENCE THROUGHOUT CONSTRUCTION.

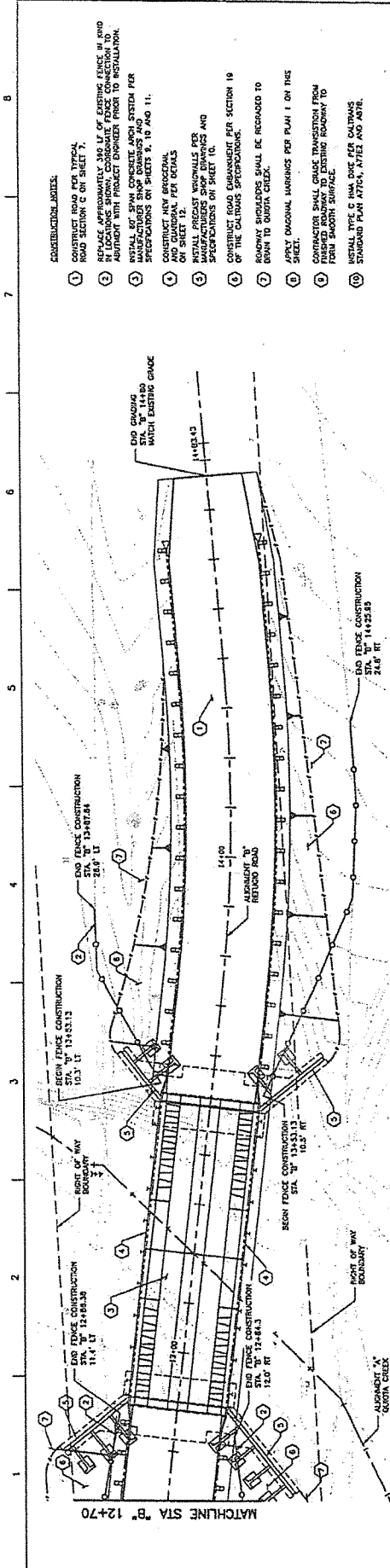


EXISTING SITE/DEMO PLAN
1"=20'
0 20 40 60 FT
SCALE 1"=20'

PRELIMINARY
NOT FOR CONSTRUCTION

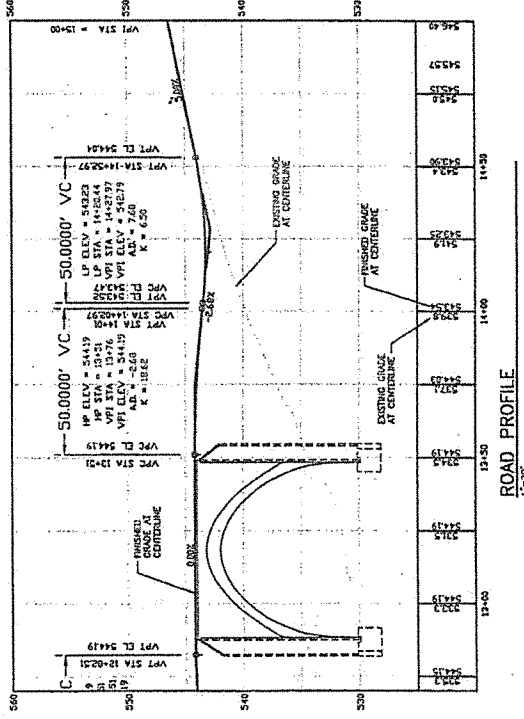
	CROSSING 195% DESIGN DRAWINGS CACHUMA OPERATION AND MAINTENANCE BOARD		EXISTING SITE/DEMO PLAN	
	PROJECT NUMBER	151113	DATE	NOVEMBER 20, 2012
PROJECT MANAGER	ACD	CHECKED BY	CRS	DESIGNED BY
DESIGNED BY	ACD	DATE	NOVEMBER 20, 2012	SHEET
SCALE	AS NOTED	4		

Exhibit D - WORK PLAN
Attachment 3



NOTE: CHECK DIMENSIONS NOT SHOWN FOR CLARITY.

ROAD PLAN
1"=10' SCALE: 1"=10'



ROAD PROFILE
1"=20'

CONSTRUCTION NOTES:

1. INSTALL FENCE PER SECTION ROAD SECTION C ON SHEET 7.
2. REPLACE APPROXIMATELY 180 LF OF EXISTING FENCE IN AND IN LOCATIONS SHOWN. CONTRACTOR FENCE CONNECTION TO ADJACENT WITH PROJECT ENGINEER PRIOR TO INSTALLATION.
3. INSTALL 60" SPAN CONCRETE ARCH BRIDGE PER SPECIFICATIONS ON SHEETS 9, 10 AND 11.
4. CONSTRUCT NEW BRIDGE AND QUADRANT PER DETAILS ON SHEET 12.
5. MANUFACTURERS SHOP DRAWINGS AND SPECIFICATIONS ON SHEET 10.
6. CONSTRUCT ROAD EMBANKMENT PER SECTION 19 OF THE CALTRANS SPECIFICATIONS.
7. ROADWAY SHOULDERS SHALL BE REGRADED TO BROWN TO QUOTA CHECK.
8. APPLY DIAGONAL HATCHES PER PLAN 1 ON THIS SHEET.
9. CONTRACTOR SHALL GRADE TRANSITION FROM PREPARED ROADWAY TO EXISTING ROADWAY TO FORM SMOOTH SURFACE.
10. INSTALL TYPE C INVA DOME PER CALTRANS STANDARD PLAN ATTC, ATTEZ AND ADR.

- LEGEND
- FALL LINE
 - CUT LINE
 - PROPOSED FENCE
 - EXISTING FENCE
 - EXISTING RIGHT OF WAY
 - SLOPE FILL
 - SLOPE CUT
 - PROPOSED INVA ROAD LIMITS
 - SURVEY CONTROL POINT

- GENERAL NOTES:
1. GRADE CONTROL AND RIP RUP NOT SHOWN FOR CLARITY.
 2. PURCHASE AND DELIVERY OF ALL MATERIALS TO BE PREPARED BY CONTRACTOR. MATERIALS TO BE SUPPLIED AND COMB PRIOR TO DELIVERY AND INSTALLATION.

PRELIMINARY
NOT FOR CONSTRUCTION

ROAD
PLAN AND PROFILE 2

DATE: NOVEMBER 30, 2012
SCALE: AS NOTED
SHEET: 7

CROSSING 1.95% DESIGN DRAWINGS
CACHUMA OPERATION AND
MAINTENANCE BOARD

PROJECT MANAGER	ISS
CHECKED BY	DOB
DRAWN BY	BAL
DESIGNED BY	BOC

PROJECT NUMBER: 137113

ISSUE	DATE	DESCRIPTION



Exhibit E – MANAGEMENT PLAN
WC-1254TC

The Grantee and Landowner are committed to maintaining and evaluating the structural and biological performance of this project into the future. The Landowner will maintain the arched culvert and all road elements and guardrails while the Grantee will monitor and maintain all instream elements. The Grantee has conducted a long-term steelhead/rainbow trout monitoring program in the watershed since 1993. This includes snorkel surveys, migrant trapping, water quality and flow monitoring. Hence, the Grantee is well positioned to track facility performance of the project over the short- and long-term at no cost to the grant. The Grantee will prepare an annual report that will summarize the performance of the project that will be available upon request.

Monitoring and maintenance plans have been created and approved by National Marine Fisheries Service and California Department of Fish and Wildlife. Grantee staff will perform all of the tasks outlined in those plans and will be responsible for annual performance evaluations. Snorkel surveys will be conducted three times a year at the end of the spring, summer and fall. Monthly redd surveys will be conducted below, within and above the project site during the steelhead spawning season (January-May). This is part of the Grantee's larger monitoring effort for the Lower Santa Ynez River basin. The Grantee's monitoring and maintenance tasks will be funded through its annual budget.

PURCHASE ORDER

CACHUMA OPERATION & MAINTENANCE BOARD

3301 Laurel Canyon Road
Santa Barbara, CA 93105-2017
Telephone (805) 687-4011 - FAX (805) 569-5825

Important terms of this **Purchase Order-Agreement** are printed on the following pages. For your protection, make sure that you read and understand all provisions before signing. The terms and conditions are incorporated in this document and will constitute a part of the contract between the parties when signed.

TO: CONTECH Engineered Solutions, LLC

3777 Long Beach Blvd. Ste 400

Long Beach CA 90807

PH (562) 335-9487

Email: ASakaev@conteches.com

Date: August 8, 2013

P.O. #: 13-14-03

The undersigned Supplier offers to provide the prefabricated bottomless-arched culvert for the Quiota Creek Crossing No. 1 project per the attached Quotation, Condition of Sales and Addendum and according to the delivery terms as stated below.

Contract price: \$179,977.99 (Price includes fabrication, material, sales tax & freight costs)

Delivery and Oversight Installation date: The week of October 11, 2013 (Deadline October 18, 2013)

Instructions: Please sign and return both originals along with the proper insurance documentation as outlined in this agreement. Upon acceptance by the Cachuma Operation and Maintenance Board, a copy will be signed and promptly returned to you. Insert below the names of your authorized on-site representatives.

**Accepted: Cachuma Operation &
Maintenance Board**

By: _____

Title: General Manager

Other authorized representatives:

Tim Robinson, Senior Resources Scientist

Consultant:

Contech Engineered Solutions, LLC.
(Business Name)

By: _____

Title: _____

On-site representatives:

COMB PURCHASE ORDER

AGREEMENT

Workers' Compensation Insurance - By his/her signature hereunder, Supplier certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing the performance of the work of this agreement.

Indemnification - Supplier agrees, to the fullest extent permitted by law, to indemnify and hold COMB, its directors, officers, employees, or authorized volunteers harmless from any direct damage (not including liquidated, punitive, incidental or consequential), liability, or cost (including attorney's fees and costs of defense) to the extent caused by Supplier's negligent acts, errors or omissions in the performance of services under this agreement including sub-suppliers or others for whom Supplier is legally liable.

COMB agrees, to the fullest extent permitted by law, to indemnify and hold Supplier, its directors, officers, employees, or authorized volunteers harmless from any direct damage (not including liquidated, punitive, incidental or consequential), liability, or cost (including attorney's fees and costs of defense) to the extent caused by COMB's negligent acts, errors, or omissions arising from work that is subject to this agreement provided, however, that this indemnity shall not apply to any acts, errors, or omissions attributable to Supplier or its sub-suppliers, or others for whom Supplier is legally liable.

Neither party's obligation to indemnify shall be restricted to any insurance proceeds.

GENERAL CONDITIONS

Laws, Regulations and Permits - The Supplier shall give all notices required by law and comply with all laws, ordinances, rules and regulations pertaining to the conduct of the work, including transportation and delivery of the equipment. The Supplier shall be liable for all violations of the law in connection with work furnished by the Supplier. If the Supplier observes that the drawings or specifications are at variance with any law or ordinance, rule or regulation, he/she shall promptly notify the COMB engineer in writing and any necessary changes shall be made by written instruction or change order. If the Supplier performs any work knowing it to be contrary to such laws, ordinances, rules or regulations and without giving notice to the COMB engineer, the Supplier shall bear all costs arising therefrom.

Safety - The Supplier shall execute and maintain his/her work so as to avoid injury or damage to any person or property. The Supplier shall comply with the requirements of the specifications relating to safety measures applicable in particular operations or kinds of work.

In carrying out his/her work, the Supplier shall at all times exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed, and be in compliance with all applicable federal, state and local statutory and regulatory requirements including California Department of Industrial Relations (Cal/OSHA) regulations; and the U.S. Department of Transportation Omnibus Transportation Employee Testing Act. Safety precautions, as applicable, shall include but shall not be limited to: adequate life protection and life saving equipment; adequate illumination; instructions in accident prevention for all employees, such as the use of machinery guards, safe walkways, scaffolds, fall protection, ladders, bridges, gang planks, confined space procedures, trenching and shoring, and other safety devices; equipment and wearing apparel as are necessary or lawfully required to prevent accidents, injuries, or illnesses; and adequate facilities for the proper inspection and maintenance of all safety measures.

Commercial General Liability and Automobile Liability Insurance - The Supplier at its cost shall provide and maintain at all times during the performance of this agreement, the following commercial general liability and automobile liability insurance:

Coverage - Coverage for commercial general liability and automobile liability insurance shall be at least as broad as the following:

1. Insurance Services Office (ISO) Commercial General Liability Coverage (Occurrence Form CG 0001)
2. Insurance Services Office (ISO) Business Automobile Liability Coverage (Form CA 0001), covering Symbol 1 (any auto)

Limits - The Supplier shall maintain limits no less than the following:

1. General Liability - One million dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit or products-completed operations aggregate limit is used, either the general aggregate limit shall apply separately to the project/location (with the ISO CG 2503, or ISO CG 2504, or insurer's equivalent endorsement provided to COMB) or the general aggregate limit and products-completed operations aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability – Five Hundred thousand dollars (\$500,000) for bodily injury and property damage each accident limit.

Required Provisions - The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. COMB, its directors, officers, employees or authorized volunteers, and the State of California Fish and Wildlife are to be given insured status (via ISO endorsement CG 2010, CG 2033, or insurer's equivalent for general liability coverage) as respects: liability arising out of the activities performed by or on behalf of the Supplier; products and completed operations of the Supplier; premises owned, occupied or used by the Supplier; and automobiles owned, leased, hired or borrowed by the Supplier. The coverage shall contain no special limitations on the scope of protection afforded to COMB, its directors, officers, employees, or authorized volunteers.
2. For any claims related to the project, the Supplier's insurance shall be primary insurance as respects to COMB, its directors, officers, employees, or authorized volunteers. Any insurance, self-insurance, or other insurance coverage maintained by COMB, its directors, officers, employees, or authorized volunteers shall not contribute to it.
3. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to COMB, its directors, officers, employees, or authorized volunteers.
4. The Supplier's insurance shall apply separately to each insured against whom claim

is made or suit is brought, except with respect to the limits of the insurer's liability.

5. Each insurance policy required by this agreement shall state, or be endorsed to state, that coverage shall not be canceled by the insurance carrier or the Supplier, except after thirty (30) days (10 days for non-payment of premium) prior written notice by U.S. mail has been given to COMB.

Such liability insurance shall indemnify the Supplier and his/her sub-suppliers against loss from liability imposed by law upon, or assumed under contract by, the Supplier or his/her sub-suppliers for damages on account of such bodily injury (including death), property damage, personal injury, completed operations, and products liability.

The general liability policy shall cover bodily injury and property damage liability, owned and non-owned equipment, blanket contractual liability, completed operations liability, explosion, collapse, underground excavation, and removal of lateral support.

The automobile liability policy shall cover all owned, non-owned, and hired automobiles.

All of the insurance shall be provided on policy forms and through companies satisfactory to COMB.

Acceptability of Insurers - Insurance is to be placed with insurers having met current A.M. Best rating of no less than A-:VII or equivalent or as otherwise approved by COMB.

Workers' Compensation and Employer's Liability Insurance - The Supplier and all sub-suppliers shall insure (or be a qualified self-insured) under the applicable laws relating to workers' compensation insurance, all of their employees working on or about the construction site, in accordance with the "*Workers' Compensation and Insurance Act*," Division IV of the Labor Code of the State of California and any Acts amendatory thereof. The Supplier shall provide employer's liability insurance in the amount of, at least, \$1,000,000 per accident for bodily injury and disease.

Responsibility for Work – Until the completion and delivery of product under and implied by this agreement, the work shall be under the Supplier's responsible care and charge. The Supplier shall rebuild, repair, restore and make good all injuries, damages, re-erectments, and repairs occasioned or rendered necessary by causes of any nature, except those beyond the Supplier's control.

The Supplier shall waive all rights of subrogation against COMB, its directors, officers, employees, or authorized volunteers.

Evidences of Insurance - Prior to execution of the agreement, the Supplier shall file with COMB a certificate of insurance (Acord Form 25-S or equivalent) signed by the insurer's representative evidencing the coverage required by this agreement. Such evidence shall include an additional insured endorsement signed by the insurer's representative and evidence of waiver of rights of subrogation against COMB (if builder's risk insurance is applicable). Such evidence shall also include confirmation that coverage includes or has been modified to include Required Provisions 1-5.

The Supplier shall, upon demand of COMB, deliver to COMB such policy or policies of insurance and the receipts for payment of premiums thereon.

Continuation of Coverage – If any of the required coverages expire during the term of this agreement, the Supplier shall deliver the renewal certificate(s) including the general liability additional insured endorsement and evidence of waiver of rights of subrogation against COMB (if builder's risk insurance is applicable) to COMB at least ten (10) days prior to the expiration date.

Sub-Suppliers - In the event that the Supplier employs other consultants (sub-consultants) as part of the services covered by this Agreement, it shall be the Supplier's responsibility to require and confirm that each sub-consultant meets the minimum insurance requirements specified above.

Authorized Representatives - Supplier shall not accept direction or orders from any person other than the General Manager or the person(s) whose name(s) is (are) inserted on the reverse as "other authorized representative(s)."

Payment Terms - Upon completion of work as listed in the COMB Purchase Order payment, unless otherwise specified in this agreement, is to be 30 days after delivery of material.

Guarantee - The Supplier hereby guarantees that the entire work constructed and/or performed by him under this Agreement will meet fully all requirements thereon as to quality of workmanship and of materials furnished by him.

Permits - All permits required by governmental authorities will be obtained at COMB's expense, and Supplier will comply with local, state and federal regulators and statutes including the Cal/OSHA requirements.

Changes to Work, Method, Cost, etc. - Any change in the scope of the work to be done, method of performance, nature of materials or price thereof, to any other matter materially affecting the performance of nature of the work will not be paid for or accepted unless such change, addition or deletion be approved in advance, in writing by a supplemental purchase order executed by COMB. Supplier's "on-site representatives" have the authority to execute such written change for Supplier.

Termination of or Default on Contract - If the Supplier abandons the work, or fails to proceed with the work as rapidly as required by this Agreement, COMB may declare him in default and relet the work in the manner set forth by law for letting the original Agreement, or it may complete the work by direct purchase of labor and materials.

This COMB Purchase Order/Agreement shall become a valid contract only when accepted by Supplier, and subsequently by COMB, and together with the Supplier's Quotation dated 7/30/2013 (3 pages) shall constitute the entire agreement between the parties. If any provision of the Supplier Quotation (including the quotation, conditions of sale and addendum thereto) conflict with this document, the provisions of this document shall prevail notwithstanding anything to the contrary in the Supplier Quotation.

Quote # QUO-159533-VG70FV					
Date	7/30/2013	Account Name	Cachuma Operation and Maintenance Board	Reply-To	
Quote #	QUO-159533-VG70FV	Contact Name	Tim Robinson	Contech Rep.	Arthur Sakaev
Revision #	2	Phone	(805) 687-4011	Address	Long Beach, CA, 90807
Project Name	Quiota Creek Crossing 1	Fax		Phone	562-335-9487
Project #	482632	Email	trobenson@cachuma-board.org	Fax	562-264-0733
Project City/State	Santa Barbara, CA			Email	ASakaev@conteches.com

Contech's offer to sell the products described in this quotation is expressly conditioned upon Buyer's assent to the Contech Conditions of Sale ("Contech COS") included herewith and/or viewable at www.conteches.com/cos. A valid tax exemption certificate must be issued to Contech or sales tax will be added.

Item #	Description	Places	Quantity	Extended Unit Price	Unit	Unit Total
	CON/SPAN Bridge - 20 linear ft. of 60 ft. Span x 12.5 ft. Rise HL-93 Loading, 1ft. Max Cover. (2) Detached Counterfort Precast Headwalls (4) Precast Wingwalls - (16.75 ft. long, 30.5 ft. long, 16.75 ft. long, 12.5 ft. long)	1.00	1.00	\$145,349.99	EA	\$145,349.99
	Estimated Sales Tax (8% to Santa Barbara)	1.00	1.00	\$11,628.00	EA	\$11,628.00
					Total	\$156,977.99
					Freight	\$23,000.00
					Net Total	\$179,977.99

Standard Notes

1. Allowable unloading time for delivery trucks is two (2) hours. Demurrage charges of \$75.00 per hour thereafter will be added.
2. In addition to any other procedures outlined or remedies provided, at the time of order, Contech will request a desired delivery date for the quoted materials from the purchasing customer. After drawing approval and prior to manufacturing Contech may again confirm the requested delivery date with the purchasing customer. If purchasing customer cannot take delivery of finished materials on requested date, and after Contech has manufactured the product(s), Contech will invoice for the total amount of the order with payment due within 30 days. Additionally, Contech may also assess fees in the amount of 10% of the total order for materials that are not shipped within 30 days after the requested delivery date for storage and handling.
3. PLEASE NOTE ADDENDUM TO OUR STANDARD CONTECH CONDITIONS OF SALE. THE ADDENDUM IS ATTACHED TO THE END OF THIS QUOTE AND INCORPORATED BY REFERENCE HEREIN
4. Prices are f.o.b. origin with freight allowed to the jobsite with unloading by others at a truck accessible location.
5. The estimated lead time for the submittal package is 4 weeks from the receipt of a signed purchase document and receipt of the required design documents and project information. Approval review process is in addition to stated timeframes. The estimated manufacturing lead time for this material is 8-12 weeks from the receipt of approved submittal documents.
6. The sale of these materials requires a preconstruction meeting be held that must include Contech and all parties directly involved in the construction process.
7. This quotation expires 30 days from the date shown. Prices are firm for shipment within 120 days of the date of quotation and are subject to a maximum escalation of 8% for each 30 days thereafter.

Scope Of Work

CON/SPAN

CON/SPAN pricing includes precast concrete units, associated parapet headwalls and wingwalls with mounting hardware (if applicable and specified), joint sealant material, masonite shims, filter fabric for vertical wingwall joints and perforated drain tile behind precast wall system. Contech will provide installation drawings, shop drawings, structural calculations upon request, and on-site consultation during installation.

Pricing does not include any site preparation, foundation work, or installation of any kind. As part of the construction process, the contractor is to perform the items listed below in accordance with the installation drawings:

1. Construct cast-in-place foundations
2. Unload and set structure utilizing crane
3. Grout the unit legs and wingwalls into the keyway
4. Apply all joint sealing material
5. Excavate for and backfill the structure

Quote # QUO-159533-VG70FV

PAYMENT TERMS ARE 1/2%-10, NET 30 DAYS FROM DATE OF INVOICE UNLESS MATERIAL IS OTHERWISE NOTED AS NON-STANDARD ABOVE. IF NON-STANDARD, PAYMENT TERMS ARE 1/3 AT ORDER ACCEPTANCE AND PRIOR TO START OF PRODUCTION, 2/3 NET 30 DAYS FROM DATE OF INVOICE. THIS OFFER IS SUBJECT TO CREDIT APPROVAL. PRICES QUOTED APPLY ONLY TO THE REFERENCED PROJECT AND ARE IN EFFECT FOR 30 DAYS FROM THE DATE OF QUOTATION. SELLER RESERVES THE RIGHT TO ADJUST PRICES AFTER 30 DAYS FROM THE DATE OF QUOTATION BUT THE CONTECH COS REMAIN APPLICABLE. PRICES ARE BASED ON ESTIMATED QUANTITIES SHOWN. IF A DIFFERENT QUANTITY IS PURCHASED, CONTECH RESERVES THE RIGHT TO ADJUST THE PRICES. THIS QUOTATION CONTAINS THE ENTIRE AGREEMENT WITH RESPECT TO PURCHASE AND SALE OF PRODUCTS DESCRIBED AND SUPERSEDES ALL PREVIOUS COMMUNICATIONS, BUYER'S SIGNATURE BELOW, DIRECTION TO MANUFACTURE, OR ACCEPTANCE OF DELIVERY OF GOODS DESCRIBED ABOVE, SHALL BE DEEMED AN ACCEPTANCE OF THE CONTECH COS. SELLER EXPRESSLY REJECTS ANY OTHER TERMS AND CONDITIONS. PRICES ARE F.O.B. ORIGIN WITH FREIGHT ALLOWED TO THE JOBSITE WITH UNLOADING BY OTHERS AT A TRUCK ACCESSIBLE LOCATION. THIS QUOTATION IS ISSUED BY CONTECH ENGINEERED SOLUTIONS LLC FOR ITSELF AND/OR ON BEHALF OF ONE OR MORE OF ITS SUBSIDIARIES, INCLUDING BUT NOT LIMITED TO KEYSTONE RETAINING WALL SYSTEMS LLC.

<u>Acceptance</u>		<u>Contech Engineered Solutions LLC.</u>	
WE HEREBY ORDER THE DESCRIBED MATERIAL SUBJECT TO ALL TERMS AND CONDITIONS OF THIS QUOTATION AND IN THE Contech COS INCLUDED HERewith AND VIEWABLE AT www.conteches.com/cos		By	Arthur Sakaev
Company		(O)	562-335-9487
By		(F)	562-264-0733
Title		(Cell)	
Date		Title	

Quote # QUO-159533-VG70FV

Contech - CONDITION OF SALES

1. ACCEPTANCE. This quotation is an offer to sell to potential customer(s). BUYER'S RIGHT TO ACCEPT THIS OFFER IS LIMITED TO BUYER'S ASSENT TO THE TERMS AND CONDITIONS PRINTED HEREON AND THE ATTACHED OR ACCOMPANYING QUOTE, AND NO TERMS ADDITIONAL TO OR DIFFERENT FROM THOSE IN THIS OFFER ARE BINDING ON SELLER. THERE ARE NO UNDERSTANDINGS, TERMS, CONDITIONS OF WARRANTIES NOT FULLY EXPRESSED HEREIN.

2. LIMITED WARRANTIES. Seller warrants that it can convey good title to the goods sold under this contract and that they are free of liens and encumbrances. Seller also warrants that the goods sold under this contract are free from defects in material and workmanship for a period of one year after the date of delivery. There are no warranties, express or implied with respect to products sold hereunder which are misused, abused, or used in conjunction with mechanical equipment improperly designed, used or maintained or which are used, supplied for use or made available for use in any nuclear application of which Seller has not been notified in writing by Buyer at the time of order for the products sold hereunder. SELLER MAKES NO OTHER WARRANTY WHATSOEVER, EXPRESS OR IMPLIED. ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND ALL IMPLIED WARRANTIES OF FITNESS FOR ANY PARTICULAR PURPOSE ARE DISCLAIMED BY SELLER AND EXCLUDED FROM THIS CONTRACT.

3. LIMITATION OF BUYER'S REMEDIES AND SELLER'S LIABILITY. Seller's liability hereunder shall be limited to the obligation to repair or replace only those products proven to have been defective in material or workmanship at the time of delivery, or allow credit, at its option. Seller's total cumulative liability in any way arising from or pertaining to any product sold or required to be sold under this contract shall NOT in any case exceed the purchase price paid by Buyer for such products. IN NO EVENT SHALL SELLER HAVE ANY LIABILITY FOR COMMERCIAL LOSS, LOST PROFITS, CLAIMS FOR LABOR, OR CONSEQUENTIAL OR INCIDENTAL DAMAGES OF ANY TYPE, WHETHER BUYER'S CLAIM BE BASED IN CONTRACT, TORT, WARRANTY, STRICT LIABILITY, NEGLIGENCE, OR OTHERWISE. IT IS EXPRESSLY AGREED THAT BUYER'S REMEDIES EXPRESSED IN THIS PARAGRAPH ARE BUYER'S SOLE AND EXCLUSIVE REMEDIES.

4. LIMITATION OF BUYER'S REMEDIES AND SELLER'S LIABILITY FOR FAILURE OR DELAY IN DELIVERY. NO DELIVERY DATES ARE GUARANTEED. BUYER'S SOLE AND EXCLUSIVE REMEDIES AND SELLER'S ONLY LIABILITY FOR ANY DELAY IN DELIVERY SHALL BE LIMITED AS SET FORTH IN PARAGRAPH 3 OF THIS CONTRACT.

5. FORCE MAJEURE. In any event and in addition to all other limitations stated herein, Seller shall not be liable for any act, omission, result or consequence, including but not limited to any delay in delivery or performance, which is (i) due to any act of God, the performance of any government order, any order bearing priority rating or order placed under any allocation program (mandatory or voluntary) established pursuant to law, local labor shortage, fire, flood or other casualty, governmental regulation or requirement, shortage or failure of raw material, supply, fuel, power or transportation, breakdown of equipment, or any cause beyond Seller's reasonable control whether of similar or dissimilar nature to those above enumerated, or (ii) due to any strike, labor dispute, or difference with workers, regardless of whether or not Seller's is capable of settling any such labor problem.

6. BUYER'S OBLIGATION TO PASS ON LIMITATION OR WARRANTIES AND REMEDIES. In order to protect Seller against claims by Buyer's buyer, if Buyer resells any of the goods purchased under this agreement, Buyer shall include the language contained in paragraphs 2 and 3 of this agreement, dealing with Seller's limitations of warranties and remedies, in an enforceable agreement with Buyer's buyer, or otherwise include language in an enforceable agreement with its buyer that makes Seller's limitation of warranties and remedies binding on its buyer. Buyer shall also include a provision in its agreement with its buyer applying Ohio law to any claims its buyer might assert against Seller with respect to goods manufactured by Seller, and requiring its buyer to bring any such action against Seller either in federal district court in Cincinnati, Ohio or the common pleas court for Butler County, Ohio. Buyer shall defend, indemnify and hold Seller harmless from any and all claims, causes of action, damages, losses or expenses (including reasonable attorneys' fees) that Seller incurs by reason of Buyer's failure to comply with this paragraph. paragraph.

7. PASSAGE OF TITLE. Title to the products sold hereunder shall pass upon delivery to the carrier at the point of shipment. Neither

Buyer nor the consignee shall have the right to divert or reconsign such shipment to any destination other than specified in the bill of lading without permission of the Seller. Unless otherwise agreed Seller reserves the right to select the mode of transportation.

8. PAYMENTS AND LATE CHARGES ON PAST DUE ACCOUNTS. Buyer represents that Buyer is solvent and can and will pay for the products sold to Buyer in accordance with the terms hereof. If Buyer shall fail to comply with any provision or to make payments in accordance with the terms of this contract or any other contract between Buyer and Seller, Seller may at its option defer shipments or, without waiving any other rights it may have, terminate this contract. All deliveries shall be subject to the approval of Seller's Credit Department. Seller reserves the right, before making any delivery, to require payment in cash or security for payment, and if Buyer fails to comply with such requirement, Seller may terminate this contract. A late charge of 1-1/2% monthly (18% annual rate) or the maximum allowed by state law, if less, will be imposed on all past due accounts.

9. TRANSPORTATION CHARGES. Delivered prices or prices involving competitive transportation adjustments shall be subject to appropriate adjustment to reflect changes in transportation charges.

10. CLAIMS BY BUYER. Buyer shall thoroughly inspect products sold under this contract immediately upon receipt to verify for itself that they conform to the specifications of the contract. Buyer must notify Seller of claims for failure or delay in delivery within 30 days after the scheduled delivery date. Buyer must notify Seller of any claims for nonconforming or defective goods within 30 days after the nonconformity or defect was or should have been discovered. In addition, Seller must be given an opportunity to investigate the claim before Buyer disposes of the material, or else Buyer's claim will be barred. Seller shall incur no liability for damage, shortages, or other cause alleged to have occurred or existed at or prior to delivery to the carrier unless the Buyer shall have entered full details thereof on its receipt to the carrier.

11. MECHANICAL PROPERTIES; CHEMICAL ANALYSES. Data referring to mechanical properties or chemical analysis are the result of tests performed on specimens obtained from specific locations of the product(s) in accordance with prescribed sampling procedures; any warranty thereof is limited to the values obtained at such locations and by such procedures. There is no warranty with respect to values of the materials at other locations.

12. PATENTS. Seller shall indemnify Buyer against attorneys' fees and any damages or costs awarded against Buyer in the event any legal proceeding is brought against Buyer by a third person claiming the material delivered hereunder in itself constitutes an infringement of any U.S. patent, provided Buyer gives Seller prompt notice of any such suit being brought, gives Seller the opportunity to defend any such suit, and cooperates with Seller with respect to any such defense; unless the material is made in accordance with material designs, or specifications required by Buyer, in which case Buyer shall similarly indemnify Seller.

13. PERMISSIBLE VARIATIONS. The products sold hereunder shall be subject to Seller's standard manufacturing variations, tolerances and classifications.

14. TECHNICAL ADVICE. Buyer represents that it has made its own independent determination that the products it is purchasing under this contract meet the design requirements of Buyer's project and are suitable for Buyer's intended application. Buyer further represents that it has not relied in any respect on any written or oral statements or advice from Seller, other than the standard product specifications set forth in the most recent addition of Seller's published product brochures, in making that determination.

15. TAXES. If this proposal includes furnishing labor to install products, applicable use taxes have been included in the prices quoted. However, no other tax imposed in respect of the sale of the products sold hereunder is included in any quotation by Seller. Any tax shall be added and paid by Buyer as part of the purchase price.

16. BUYER'S RIGHT OF TERMINATION. Buyer may terminate this contract in whole or in part upon notice in writing to Seller. Seller shall thereupon cease work and transfer to Buyer title to all completed and partially completed products and to any raw materials or supplies acquired by Seller especially for the purpose of performing this contract, and Buyer shall pay Seller the sum of the following:
(1) the contract price for all products which have been completed prior to termination;
(2) the cost to Seller of the material or work in process as shown on the books of Seller in accordance with the accounting practice

consistently maintained by Seller plus a reasonable profit thereon, but in no event more than the contract price;
(3) the cost f.o.b. Seller's plant of materials and supplies acquired especially for the purpose of performing this contract; and
(4) reasonable cancellation charges, if any, paid by Seller on account of any commitment(s) made hereunder.

17. SELLER'S RIGHT OF TERMINATION. In addition to the other rights of termination provided for in this contract, and if this contract is made pursuant to any governmental rule or regulation, plan, order or other directive, upon the directive, effected or impaired, termination thereof, Seller shall have the option of canceling this contract in whole or in part.

18. WAIVER. Failure or inability of either party to enforce any right hereunder shall not waive any right in respect to any other or future rights or occurrences.

19. DELIVERY. Unless otherwise agreed to in writing by the Seller, the Buyer hereby agrees to take delivery of the materials on this order within the later of thirty (30) days after the wanted date shown on the face of the order or within thirty (30) days after notification, oral or written, that the materials are ready for shipment. In the event that the Buyer does not arrange to take delivery of the materials in accordance with this Contract, Seller, at Seller's option, may:
(a) invoice the Buyer for the materials less freight if applicable; store the material in Seller's yard for a period not to exceed sixty (60) days from the date of invoice; charge a storage fee not to exceed 5% per month or fraction thereof of the selling price of the stored materials; add any applicable price increases listed on the face of the order; charge for any repair work to protective coatings harmed by weathering while such material is being stored; and charge applicable freight when shipment to the Buyer is made. Materials remaining in storage after sixty (60) days from the invoice date shall become the property of the Seller for disposition at the Seller's discretion. In that event, Buyer shall not be liable for the invoice price of the materials, but shall be liable for the storage fee and any repair work to protective coatings; or
(b) cancel the order and invoice the Buyer for cancellation charges, which shall be 25% of the selling price of the materials if the materials are standard, in-stock material, or the full selling price if the materials are special or nonstandard in nature and were especially fabricated for the Buyer.

20. PERIOD OF LIMITATIONS. Buyer and Seller agree that any action by Buyer against Seller for a breach of this contract, including any action for breach of warranty, or otherwise in connection with the goods sold under this contract, must be commenced by Buyer against Seller within one year after the cause of action therefore accrues.

21. CONFLICTING PROVISIONS OFFERED BY BUYER. Any terms and conditions of any purchase order or other instrument issued by the Buyer, in connection with the subject matter of this document, which are in addition to or inconsistent with the terms and conditions expressed herein, will not be binding on Seller in any matter whatsoever unless accepted by Seller in writing.

22. SEVERABILITY. In case any provision of this contract shall be declared invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

23. APPLICABLE LAW. This contract shall be governed by, and construed and enforced in accordance with, the laws of Ohio. Buyer and Seller specifically agree that any legal action brought relating to this contract will be brought and tried in the federal district court in Cincinnati, Ohio, or, in the absence of jurisdiction, the Butler County Court of Common Pleas in Hamilton, Ohio.

REV. 06/08

Addendum to Contech Conditions of Sale

The Conditions of Sale (“COS”) attached to the quotation for Cachuma Operation and Maintenance Board dated July 30, 2013 are hereby modified as follows:

¶ 1 – Strike in its entirety

¶ 2 – Strike “period of one year” and insert “period of two years”

¶ 3 – Strike “, or allow credit, at its option”

¶ 4 – Add the following language to the end of the ¶, “Notwithstanding the foregoing, Buyer may recover up to \$65,000.00 in documented damages and Seller shall store the material for up to 1 year at Seller’s expense if Seller fails to deliver the material to the jobsite the week of October 11, 2013 (deadline October 18, 2013).”

¶ 7 – Add the following language to the end of the ¶, “Seller shall identify to Buyer the carrier to be used for delivery and have Buyer named as a Loss Payee on carrier’s insurance of not less than \$1,000,000. Buyer shall decide if it desires to pay any increased premium to have the carrier increase insurance levels to \$2,000,000.”

¶ 10 – Add the following language after “any claims for nonconforming or defective goods” in the 6th line of the ¶, “(which are evident from a visual inspection)”.

¶ 12 – Add the following language after “shall indemnify” in the 1st line of the ¶, “and defend”.

¶ 16 – Add the following language to the end of the ¶. “In no event shall the sum of (1) through (4) above exceed the contract price.”

¶ 21 – Strike in its entirety

¶ 23 – Strike “Ohio” in the 2nd line of the ¶ and insert “California” and strike “the federal district court in Cincinnati, Ohio, or in the absence of jurisdiction, the Butler County Court of Common Pleas in Hamilton, Ohio” and insert “Santa Barbara County, California.”

Quiota Creek Crossing 1 Project

Non-Competitively Bid (NCB) Contract Justification Corrective Action Plan

To: Cachuma Operation and Maintenance Board

From: Timothy H. Robinson (Project Manager, COMB) and Michael C. Garello (Design Engineer, HDR)

Contract: Procurement of a prefabricated ConTech bottomless arch culvert bridge system for the Quiota Creek Crossing 1 Project as required by the project design.

Complete responses must be provided for all of the following questions:

A. Factors of Consideration

1. Why is the submission of a NCB necessary and what are the determining factors that caused the problem?

ConTech is the sole vendor for the required 60 foot bottomless arched culvert (arch) system that meets the design criteria for the Quiota Creek Crossing 1 project. In short, there are no other suppliers/vendors that provide the same product, design specifications, and price that are required for the project.

Factors determining that conclusion are as follows:

- California Department of Fish and Wildlife (CDFW), as the grantor, requires the use of qualified and experienced contractors and vendors to perform work and supply materials. The basis for that requirement is to ensure project design specifications and construction meets the obligation to prevent environmental degradation and enhance the steelhead fishery.
- Santa Barbara County (County) requires that the proposed bridge system meet and/or exceed Caltrans design standards for a public road. The specific ConTech arch system proposed for the project satisfies those requirements and was the only vendor that provided the necessary span length and load capacity. Caltrans and other national state Department of Transportations (DOT) recognize that ConTech arch systems are standardized to meet state DOT loading requirements.
- In 2010, COMB's design engineer at HDR with staff conducted a search for the most cost effective bridge or bottomless arched culvert system suitable for replacing low flow concrete stream crossings on Refugio Road where it crosses Quiota Creek. ConTech arch systems were the only product that met that engineering design criteria and esthetics requested by the landowners. The specific ConTech arch system selected was compared to other vendors of bridge or arch system specifically for span length, load capacity, flow conveyance, off-site fabrication, installation ease, cost, esthetics, and service provided by the vendor. The results of the study were presented to COMB Member Unit managers on 3/3/09, the COMB Board on 11/22/10, and

summarized in a design memo (4/22/10). ConTech was the sole vendor to meet the design criteria and requests of the landowners.

- Fabrication of the ConTech product in the Los Angeles and Bakersfield areas reduces shipping costs and oversight expenses incurred by the County and COMB engineers for fabrication oversight required by the County.
- The selected arch system is the initial and central component of the design process. Once the arch system is determined, the entire project is then designed around that structure. Three similar projects on Quiota Creek (48-foot arch for Quiota Creek Crossing 6 in 2008, a 60-foot arch for Quiota Creek Crossing 2 in 2010, and a 60-foot arch for Quiota Creek Crossing 7 in 2012) have successfully followed this design process, each with substantially reduced design and permit costs due to using the same vendor (ConTech) and arch system.
- The vendor is required to supply shop drawings and calculations to COMB and Santa Barbara County (County) that are provided to a third party for independent review. Therefore, the bridge structure has to be selected, reviewed by the County and an independent engineer, and approved by COMB's design engineer and the County prior to the issuance of the project County Encroachment Permit. ConTech has met this obligation in a timely manner at no cost to COMB.
- Other vendors supply fabricated bridge or arch systems but do not meet the design requirements listed above. Vendors considered and the reasons their product does not meet the obligation and unique design criteria for the current project as provided by HDR are as follows:
 - TechSpan – Height to span ratios are not favorable for Refugio Road applications. This system has a rounded arch that is too tall for the required span and flow conveyance of Quiota Creek along Refugio Road. In addition, foundations are larger and as a result more costly than the ConTech arch system.
 - SFC Bridge Systems – Their maximum span is 48 feet. The design for the Quiota Creek Crossing 1 project requires a 60 foot span.
 - TriCon Precast Limited – Has similar arch systems but their Redi-Arch product comes in spans of 12-42 feet which does not meet the span length requirement for this project. Also they are based and only fabricate in Texas, making for high shipping costs.
 - Oldcastle Precast – Has box and arch style bridge systems with spans 30 feet or less. Their arches are ConTech designed and this fabricator serves as middle man for ConTech.
 - Big-R – Sells steel parallel chord truss bridges. Although they are popular, footing and abutment design and construction costs for this style of bridge would exceed those of the ConTech arch system. Use of this system would require substantial redesign for a product that costs more than the selected and superior ConTech arch system. Also this system is not as esthetic in the eyes of the landowners.

Hence, the required flow conveyance, design, height, span length, minimum load capacity, cost, proximity of the fabricator, and esthetics make the

ConTech product unique for the required arch system on Quiota Creek, specifically at Crossing 1.

- The ConTech arch systems provide design flexibility with regard to meeting the combination of height, span, and flow conveyance requirements. The height and span are governed by the conveyance requirement which is 1 foot of freeboard under the bottom chord of the bridge at the 50-year flood event. Other road design and safety factors which govern the vertical curve of the road also support the use of the ConTech arch system. No other vendor is capable of providing this construction flexibility.

2. *What are the consequences of not having this NCB approved?*

- The project would not meet the requirements of the County set forth to ensure span length and load capacity.
- The project would have to be completely redesigned for an alternative bridge / arch system. This would require reconfiguring the foundations, re-analyzing the hydraulic design for flow conveyance under the structure, and determining the required scour protection for the foundations, rock slope protection, and associated embankment fill and revegetation.
- A redesign would result in further engineering costs both in design and review for the bridge/arch system, road, embankments, in-stream structures, and revegetation.
- The County Encroachment Permit fee would increase due to lack of familiarity with a different structure.
- Other bridge/arch system may increase the size of the project specifically if the County does not grant variances. Currently COMB has received five design variances for each of the Quiota Creek projects that cumulatively reduce the size and subsequently the cost of the project while maintaining road safety standards, fish passage, the rural esthetics of the area, and landowner cooperation. Without those variances, the project would cost significantly more and would not be of the same rural character or be acceptable to the landowners.

3. *How will your agency ensure adequate planning to prevent submittal of NCB's for goods or services that should have been competitively bid?*

- COMB's staff and design engineer at HDR continue to study the market, technologies, and availability of bridge/arch systems. If a better system comes onto the market at less cost, it will be evaluated in comparison with the current ConTech arch system.
- To date, alternative bridge/arch systems have failed to meet County design standards specifically for minimum load bearing and flood conveyance; for example a multiple recessed box culvert that was proposed for one of the Quiota Creek crossings. Staff will continue to work closely with the County on our designs so that we propose projects with products that are acceptable to the County standards and design criteria.
- The vendor product selection is determined by the unique setting of each project regarding geologic, hydrologic, and fluvial geomorphic characteristics.

Quiota Creek Crossings 1 through 9 have very similar characteristics and the ConTech arch system is particularly well suited for those conditions. Where other bridge options are appropriate in design and economically viable, and appropriate, they are being evaluated. The most recent example is Quiota Creek Crossing 0 near the confluence of the creek with the Santa Ynez River where replacing a low flow ranch road crossing is under design. Here, a railroad box-car bridge is being considered due to the height of the banks, ranch road standards, lack of trees within the project area, and lower cost. It is our understanding that multiple vendors are capable of producing this bridge structure.

B. Price Analysis

1. How was the price offered determined to be fair and reasonable?

- COMB's project engineering team evaluated and conducted a design and price comparison and found the ConTech arch system to meet design and price obligations.
- The required product is just not available from other vendors or prefabricators.

2. Describe any cost savings realized or costs avoided by acquiring the goods/services from this supplier.

- Due to the sign of the vendor and their volume of sales, the supplier is able to provide to COMB at no cost signed and sealed Shop Drawing and calculations required for project design evaluation; a benefit that other vendors cannot provide.
- COMB and HDR review costs are expedited by using nearly identical products for each of the Quiota Creek projects to date.
- Spread footings are much easier to design and construct than are typical footings and abutments required by other bridge/arch systems.

COUNTY OF SANTA BARBARA
DEPARTMENT OF PUBLIC WORKS
TRANSPORTATION DIVISION
123 E. Anapamu St.
Santa Barbara, CA 93101

INVOICE

Invoice : 740023-2

Invoice Date : 6/27/2013

*Please make checks payable to:
County of S.B. - P.W. Trans.*

Cachuma Operation & Maintenance Board

Attn.: Timothy H, Robinson, Ph.D

3301 Laurel Canyon Road

Santa Barbara, CA 93105

Re: COMB Refugio Rd Crossing #1
Permit N50140

Works - Transportation Division.

Description		Amount
Project : 740023 COMB Refugio Rd Xing #1 (Permit - N50140)		
Encroachment Permit Issuance	\$ 68.00	
Road Closure Permit	\$ 1,235.00	
Engineering Design Plan Check Review	\$ 5,800.00	
County Inspection Oversight & Admin (10% of CE plus Hrly), Estimate Deposit	\$ 18,142.00	
Total	\$ 25,245.00	
Received	\$ (5,800.00)	
Balance	\$ 19,445.00	
Total Amount Due		\$ 19,445.00

Please reference the invoice number on your check.
Please enclose REMIT copy with payment and mail to:
County of Santa Barbara - Public Works Dept.
Road Permits - Jemmi Irabon
4417 Cathedral Oaks Road
Santa Barbara, CA 93110

DUPLICATE INVOICE: ONE for REMITTANCE, ONE for CUSTOMER