CITY OF SARATOGA
SHORT FORM CONSTRUCTION AGREEMENT WITH BONDS
FOR PROJECTS WITH NO FEDERAL FUNDING

2011 Saratoga Pavement Maintenance Program

THIS AGREEMENT is made at Saratoga, California by and between the CITY OF SARATOGA, a municipal corporation ("City"), and _____ ("Contractor"), who agree as follows:

RECITALS

WHEREAS, City requires the services of a qualified contractor to perform the work described this Agreement; and

WHEREAS, City lacks the qualified personnel to provide the work; and

WHEREAS, in accordance with Article 3 of Chapter 2, Part 3, Division 2 (commencing with Section 22030) of the State Public Contract Code and Article 12-15 of the City of Saratoga Municipal Code the City has solicited informal bids and selected Contractor to perform the work; and

WHEREAS, Contractor is duly qualified to provide the work; and

WHEREAS, Contractor is agreeable to providing such work on the terms and conditions hereinafter set forth.

NOW THEREFORE, the parties hereto agree as follows:

1. RESULTS TO BE ACHIEVED. Contractor shall perform the work described in Exhibit A ("Work") in strict accordance with all plans, specifications, and other Contract Documents. Contractor is not authorized to undertake any efforts or incur any costs whatsoever under the terms of this Agreement until Contractor receives a fully executed Agreement from the Administrative Services Department of the City of Saratoga. The term “Contract Documents” means this Agreement, all documents attached to or otherwise made a part of this Agreement, including but not limited to those identified in Exhibit A, all certificates of insurance and bonds required by this Agreement, and Section 9 of the State of California, Department of Transportation Standard Specifications for Construction of Local Streets and Roads (2002) which includes procedures for determination of payments, compensation for extra work by force account, partial payments, and final payments. Where there is a conflict

between the requirements of the several Contract Documents, the more stringent requirements shall govern.

2. TERM. The term of this Agreement commences on November 1, 2011 and ends upon completion of the Work unless City terminates the Agreement as provided in Section 10.

3. PAYMENT. City shall pay Contractor for Work performed in accordance with this Agreement at the time and in the manner set forth in Exhibit B ("Payment"). The payments specified in Exhibit B shall be the only payments to be made to Contractor in connection with Contractor's performance of the Work pursuant to this Agreement. Contractor shall submit all billings to City in the manner specified in Exhibit B; or, if no manner is specified in Exhibit B, then according to the usual and customary procedures and practices which Contractor uses for billing clients similar to City.

4. CHANGES IN WORK.

A. Contractor shall make no changes in the Work without written direction from the City. Contractor shall not be compensated for any change made without any such written direction. No changes in the Work covered by this Agreement shall exonerate any surety or any bond given in connection with this Agreement.

B. If the City directs the Contractor in writing to make changes in the Work that materially affect the cost of performing the Work, the Contract Price will be adjusted based on one of the following:

i. Where the work involved is covered by unit prices contained in the Contract Documents, by application of unit prices to the quantities involved in the changed Work;
ii. By establishment of new unit prices and related quantities for the changed Work;
iii. By a combination of existing and new unit prices and related quantities for the changed Work; or
iv. By mutual acceptance of a lump sum.

C. If the City directs the Contractor in writing to make changes in the Work that Contractor demonstrates materially affect the time required to perform the work, the City will make a reasonable adjustment to the Contract Time.

5. LABOR.

A. The Contract is subject to the provisions of Part 7 of Division 2 of the California Labor Code (Sections 1720 and following), and Contractor and any subcontractor shall pay not less than the prevailing rates of wage to all workers employed in performance of the Work. Pursuant to the provisions of Section 1770 of the Labor Code of the State of California, the City has obtained the general

prevailing rate of wages and employer payments for health and welfare, vacation, pension and similar purposes in the vicinity of the Work, a copy of which is on file in the office of the City, and shall be made available for viewing to any interested party upon request.

B. As required by Labor Code Section 1773.8, the Contractor shall pay travel and subsistence payments to each worker needed to perform the Work, as such travel and subsistence payments are defined in the applicable collective bargaining agreements filed in accordance with Section 1773.8.

C. Contractor and any subcontractor shall keep accurate payroll records, in accordance with Section 1776 of the Labor Code, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the Work.

D. The Contractor or subcontractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit twenty-five dollars ($25) for each worker employed in the execution of the contract by the respective contractor or subcontractor for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of this article.

E. Contractor's attention is directed to the provisions in Section 1777.5 and 1777.6 of the Labor Code concerning the employment of apprentices by the Contractor or any subcontractor under the Contractor. It shall be the responsibility of the Contractor to effectuate compliance on the part of itself and any subcontractors with the requirements of said sections in the employment of apprentices. Information relative to apprenticeship standards, wage schedules, and other requirements may be obtained from the Director of Industrial Relations, ex-officio the Administrator of Apprenticeship, San Francisco, California, or from the Division of Apprenticeship Standards and its branch offices.

F. Pursuant to the requirements of Division 4 of the Labor Code, the Contractor will be required to secure the payment of worker's compensation to its employees in accordance with the provisions of Section 3700 of the Labor Code. Prior to commencement of work, the Contractor shall sign and file with the Administrator a certification in the following form:

> "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions before commencing the performance of the work of this contract."

6. <u>LICENSE REQUIREMENT.</u> Contractor's attention is directed to Business and Professions Code Sections 7000 et seq. concerning the licensing of contractors. At the time Contractor submits its bid to the City and all times Contractor is performing the Work, Contractor shall have a valid license issued by the Contractors State License Board in the classification stated in the Special Provisions. Contractor and all subcontractors shall be licensed in accordance with the laws of this State and any contractor or subcontractor not so licensed is subject to penalties imposed by such laws.

> **CONTRACTORS ARE REQUIRED BY LAW TO BE LICENSED AND REGULATED BY THE CONTRACTORS' STATE LICENSE BOARD WHICH HAS JURISDICTION TO INVESTIGATE COMPLAINTS AGAINST CONTRACTORS IF A COMPLAINT REGARDING A PATENT ACT OR OMISSION IS FILED WITHIN FOUR YEARS OF THE DATE OF THE ALLEGED VIOLATION. A COMPLAINT REGARDING A LATENT ACT OR OMISSION PERTAINING TO STRUCTURAL DEFECTS MUST BE FILED WITHIN 10 YEARS OF THE DATE OF THE ALLEGED VIOLATION. ANY QUESTIONS CONCERNING A CONTRACTOR MAY BE REFERRED TO THE REGISTRAR, CONTRACTORS' STATE LICENSE BOARD, P.O. BOX 26000, SACRAMENTO, CALIFORNIA 95826.**

7. <u>TIME</u>. Time is of the essence of this Agreement. Contractor shall provide City with scheduling information in a form acceptable to City, including any changes made by City in the scheduling of work. Contractor shall coordinate its work with that of all other contractors, subcontractors and suppliers so as not to delay or damage their performance. It is further agreed that in case Contractor fails to complete the Work in all parts and requirements within the Contract Time set forth in Exhibit A, the City shall have the right to extend the Contract Time or not, as may seem best to serve the interest of the City; and if it decides to extend the Contract Time, City shall further have the right to charge to the Contractor, its heirs, assigns or sureties, and to deduct from the payment for the Work, all or any part, as it may deem proper, of the actual cost of engineering, inspection, superintendence, and other overhead expenses which are directly chargeable to the Contract, and which accrue during the period of such extension. In the event that Contractor's work is delayed for any reason, including acts of City, Contractor's sole remedy shall be an extension of time equal to the period of delay, provided Contractor has given City written notice of the commencement of delay within 48 hours of its occurrence. If the City accepts any work or makes any payment under this Agreement after a default by reason of delays, the payment or payments shall in no respect constitute a waiver or modification of any Agreement provisions regarding time of completion and liquidated damages.

8. NOTICES. All notices or communication concerning a party's compliance with the terms of this Agreement shall be in writing and may be given either personally, by certified mail, return receipt requested, or by overnight express carrier. The notice shall be deemed to have been given and received on the date delivered in person or the date upon which the postal authority or overnight express carrier indicates that the mailing was delivered to the address of the receiving Party. The Parties shall make good faith efforts to provide advance courtesy notice of any notices or communications hereunder via e-mail. However, under no circumstances shall such courtesy notice satisfy the notice requirements set forth above; nor shall lack of such courtesy notice affect the validity of service pursuant to the notice requirement set forth above. Any Party hereto, by giving ten (10) days written notice to the other, may designate any other address as substitution of the address to which the notice or communication shall be given. Notices or communications shall be given to the Parties at the addresses set forth in Exhibit A until specified otherwise in writing.

9. ASSIGNMENT AND SUBCONTRACTING.

A. Contractor shall give personal attention to the performance of the Contract and shall keep the Work under its control.

B. For the purposes of administering this agreement no subcontractors will be recognized by the City as such, and all persons engaged in the work of construction will be considered by the City as employees of the Contractor, who will be held responsible for their work which shall be subject to the provisions of the Contract and specifications.

C. No subcontractor who is ineligible to bid work on, or be awarded, a public works project under Labor Code Sections 1771.1 or 1777.7 can bid on, be awarded or perform work as a subcontractor on the Project. The Contractor is prohibited from performing work on the Project with a subcontractor who is ineligible to perform work on a public works project under these sections of the Labor Code.

D. When a portion of the work which has been subcontracted by the Contractor is not being prosecuted in a manner satisfactory to the City, the subcontractor shall be removed immediately on the request of the City and shall not again be employed on the work.

E. Contractor may not assign performance of the Contract except upon written consent of the City.

10. TERMINATION.

A. Should Contractor fail within five (5) working days from receipt of City's written notice to correct any contractual deficiencies, including but not limited to failure to perform the Work in accordance with the Contract Documents, failure to

comply with the directions of City, or failure to pay its creditors, City may terminate this Agreement for default. Following a termination for default, City shall have the right to take whatever steps it deems necessary to correct and complete the work and charge the cost thereof to Contractor, who shall be liable for the full cost of City's corrective action, including reasonable overhead, administrative costs, and attorneys' fees.

B. City may at any time terminate the Contract at City's convenience upon five days written notice to Contractor; in the event of termination for convenience, Contractor shall recover only the amount due under the contract for Work completed to the date of termination in accordance with the Contract Documents, less amounts paid to date. Contractor shall not be entitled to any claim or lien against City for any additional compensation or damages in the event of such termination.

C. If City terminates Contractor for cause, and if it is later determined that the termination was wrongful, such default termination shall automatically be converted to and treated as a termination for convenience. In such event, Contractor shall be entitled to receive only the amounts payable under this section, and Contractor specifically waives any claim for any other amounts or damages, including, but not limited to, any claim for consequential damages or lost profits.

11. <u>HOLD HARMLESS AND INDEMNIFICATION.</u>

A. The City of Saratoga and all officers, employees, and agents thereof connected with the Work, shall not be answerable or accountable in any manner: for any loss or damage that may happen to the Work or any part thereof; for any loss or damage to any of the materials or other things used or employed in performing the Work; for injury to or death of any person; or for damage to property from any cause except losses due to sole or active negligence of the City's officers or employees.

B. To the fullest extent allowed by law, Contractor shall defend, indemnify and hold harmless the City, its elected and appointed officials, employees and agents, from all liability, penalties, costs, losses, damages, expenses, causes of action, claims or judgments, including attorney's fees and other defense costs, resulting from injury to or death sustained by any person (including Contractor's employees and subcontractors), or damage to property of any kind, or any other injury or damage whatsoever, which injury, death or damage arises out of or is in any way connected with the performance of the Work, regardless of the Contractor’s fault or negligence, including any of the same resulting from City’s alleged or actual negligent act or omission, or its agents, contractors or employees; except that said indemnity shall not be applicable to injury, death or damage to property arising from the sole or active negligence or willful misconduct of City, its constituent entities, its and their officers, agents, or servants who are directly responsible to City. This

indemnification shall extend to claims asserted after termination of this Contract for whatever reason.

C. In addition to any remedy authorized by law, as much of the money due the Contractor under and by virtue of the contract as shall be considered necessary by the City, may be retained by the City until disposition has been made of such suits or claims for damage.

12. CLAIMS. If any dispute shall arise between City and Contractor regarding performance of the work, or any alleged change in the work, Contractor shall timely perform the disputed work and shall give written notice of a claim for additional compensation for the work to City within ten (10) days after commencement of the disputed work. Contractor's failure to give written notice within the ten (10) day period constitutes an agreement by Contractor that it will receive no extra compensation for the disputed work. Disputes arising under this Agreement shall be resolved in accordance with the procedures set forth in Section 20104.50 of the Public Contract Code.

13. LAWS TO BE OBSERVED.

A. Contractor shall keep itself fully informed of all existing and future state and federal laws and county and municipal ordinances and regulations which in any manner affect those engaged or employed in the work, or the materials used in the work, or which in any way affect the conduct of work, and of all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same.

B. Contractor shall at all times observe and comply with, and shall cause all of its agents and employees to observe and comply with, all such existing and future laws, ordinances, regulations, orders, and decrees of bodies or tribunals having any jurisdiction or authority over the work; and shall protect and indemnify the City, and all officers and employees thereof connected with the Work, against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order, or decree, whether by the City's representative or their employees. If any discrepancy or inconsistency is discovered in the plans, drawings, specifications, or contract for the work in relation to any such law, ordinance, regulation, order or decree, Contractor shall forthwith report the same to the Administrator in writing.

14. RECORDS AND AUDITS.

A. Contractor and its subcontractors shall establish and maintain records pertaining to this contract. Contractor’s and subcontractors’ accounting systems shall conform to generally accepted accounting principles, and all records shall provide a breakdown of total costs charged under this contract, including properly executed payrolls, time records, invoices and vouchers.

B. Contractor shall permit City and its authorized representatives to inspect and examine Contractor’s books, records, accounts, and any and all data relevant to

this Contract at any reasonable time for the purpose of auditing and verifying statements, invoices, or bills submitted by Contractor pursuant to this contract and shall provide such assistance as may be reasonably required in the course of such inspection. City further reserves the right to examine and re-examine said books, records, accounts, and data during the three (3) year period following the termination of this Contract; and Contractor shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, and data in any manner whatever for three (3) years after the termination of this Contract.

C. Pursuant to California Government Code Section 10532, the parties to this Contract shall be subject to the examination and audit of representative of the Auditor General of the State of California for a period of three (3) years after final payment under the contract. The examination and audit shall be confined to those matters connected with the performance of this contract including, but not limited to, the cost of administering the contract

15. INSPECTION AND PROTECTION OF WORK.

A. Contractor shall make the Work accessible at all reasonable times for inspection by the City. Contractor shall, at the first opportunity, inspect all material and equipment delivered to the jobsite by others to be used or incorporated in the Contractor's work and give prompt notice of any defect therein. Contractor assumes full responsibility to protect the work done hereunder until final acceptance by the City.

B. When the Work is completed, Contractor shall request, in writing, a final inspection. Within ten (10) days of the receipt of such request, the City shall make a final inspection. The Contractor or its representatives may be present at the final inspection. The purpose of such final inspection shall be to determine whether the Work has been completed in accordance with the Contract Documents, including all change orders and all interpretations and instructions previously issued.

16. UTILITY FACILITIES.

A. The Contractor shall protect from damage any utility facilities that are to remain in place, be installed, relocated or otherwise rearranged.

B. If Contractor while performing the Work discovers utility facilities not identified in the Contract Documents, Contractor shall immediately notify the City and the utility provider. City shall arrange the removal, relocation, or protection of existing main or trunk line utility facilities located at the site of the Work but not identified in the Contract.

C. If the Contractor is required to locate, repair damage not due to the Contractor’s failure to exercise reasonable care, and remove or relocate existing

main or trunk line utility facilities, it shall be compensated under the Changes section of this Contract, including payment for equipment on the Project necessarily idled during such work.

D. Contractor will not be entitled to damages or additional payment for delays caused solely by the failure of City, or the utility provider, to provide for removal or relocation of existing main or trunk line utility facilities not identified in the Contract Documents, except for equipment necessarily idled during such work.

E. Contractor shall not be assessed liquidated damages for delay in completing the Work solely attributable to the failure of City, or the owner of the utility, to provide for removal or relocation of existing main or trunk line utility facilities not indicated in the Contract Documents with reasonable accuracy.

F. The right is reserved by the City and its authorized agents, to enter the job for the purpose of making such changes as are necessary for the rearrangement of its facilities or for making necessary connections or repairs to their properties. The Contractor shall cooperate with forces engaged in such work and shall conduct operations in such a manner as to avoid any delay or hindrance to the work being performed by such other forces.

G. Attention is directed to the possible existence of underground facilities not known to the City, or in a location different from that which is shown on the plans or in the Special Provisions. The Contractor shall take all steps reasonably necessary to ascertain the exact location of all underground facilities prior to doing work that may damage such facilities or interfere with their service, including but not limited to calling USA utility locator service to mark utilities.

17. DIFFERING SITE CONDITIONS.

A. The Contractor shall promptly, and before the following conditions are disturbed, notify the City in writing of any:

1) Material that the Contractor believes may be hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law;

2) Subsurface or latent physical conditions at the site differing materially from those indicated by information about the site made available to bidders prior to the deadline for submitting bids; or

3) Unknown physical conditions at the site of any unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Contract.

B. The City shall promptly investigate the conditions, and if it finds that such conditions do materially so differ, or do involve hazardous waste, and cause an increase or decrease in the Contractor's cost of, or the time required for, performance of any part of the Work, it shall issue a change order under the provisions described in the Contract Documents.

C. No claim of the Contractor under this clause shall be allowed unless the Contractor has given the notice required in the Contract Documents.

D. In the event a dispute arises between the City and the Contractor as to whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the Contractor's cost of, or time required for, performance of any part of the work, Contractor shall not be excused from completing the Work as provided in the Contract Documents. The Contractor shall proceed with all work to be performed under the Contract. The Contractor shall retain any and all rights provided either by this Contract or by law which pertain to the resolution of disputes and protests.

18. WAIVERS OF LIEN. Contractor shall submit a complete list of major suppliers and/or subcontractors who will be providing material and/or labor for the performance of the Work. Contractor shall submit with each payment request waivers of lien from each major supplier and/or subcontractor that meet the requirements of Civil Code Section 3262.

19. BONDS AND INSURANCE.

A. Bonds. For contracts in excess of $25,000 Contractor shall, within ten (10) days after being notified of the award of the contract, and before the City will execute the agreement for construction or issue a Notice to Proceed, furnish and file with the City Performance and Payment Surety bonds as set forth below. All bonds shall be issued and duly executed by a responsible corporate surety listed in the United States Department of the Treasury circular entitled “Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies,” authorized to do business in the State of California and acceptable to City.

1. Contractor shall submit a Performance bond on the form provided with the Contract Documents in Exhibit E, conditioned upon the faithful performance by the Contractor of all requirements of the Contract Documents. This bond shall be in a sum no less than one hundred percent (100%) of the total Contract Price.

2. Contractor shall also submit a Payment Surety bond on the form provided with the Contract Documents in Exhibit E that in all respects complies with Civil Code sections 3247-3252, inclusive. This bond shall be in a sum no less than one hundred percent (100%) of the Contract Price.

B. Insurance. Contractor shall obtain, at its sole cost and expense, all insurance required by Exhibit D to this Agreement. Certificates of such insurance and copies of the insurance policies and endorsements shall be delivered to City within ten (10) days after being notified of the award of the contract, and before execution of the agreement by the City.

20. GENERAL TERMS.

A. No party to this Agreement may assign any right or obligation pursuant to this Agreement. Any attempted or purported assignment of any right or obligation pursuant to this Agreement shall be void and of no effect. However, with the consent of the City given in writing, Contractor is entitled to subcontract such portions of the work to be performed under this Agreement as may be specified by City.

B. Contractor shall ensure that all employees of Contractor and any subcontractor retained by Contractor in connection with this Agreement have provided the necessary documentation to establish identity and employment eligibility as required by the Immigration Reform and Control Act of 1986. Failure to provide the necessary documentation will result in the termination of the Agreement as required by the Immigration Reform and Control Act of 1986.

C. Contractor represents and warrants that, to the best of the Contractor's knowledge and belief, there are no relevant facts or circumstances which could give rise to a conflict of interest on the part of Contractor, or that the Contractor has already disclosed all such relevant information.

D. Contractor assures and agrees that Contractor will comply with Title VII of the Civil Rights Act of 1964 and other laws prohibiting discrimination and that no person shall, on the grounds of race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era veteran's status, political affiliation, or any other non-merit factors be excluded from participating in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement.

E. Contractor shall prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.

F. Except as otherwise provided by law, if any arbitration or litigation is commenced between parties to this Agreement concerning any provision hereof or the rights and duties of any person in relation thereto, each party shall bear its own attorneys' fees and costs.

G. This Agreement shall be administered and interpreted under the laws of the State of California. Jurisdiction of litigation arising from this Agreement shall be in that state and venue shall be in Santa Clara County, California.

H. If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void insofar as it conflicts with said laws, but the remainder of this Agreement shall be in full force and effect.

I. Contractor understands and agrees that there is no representation, implication, or understanding that the City will request that Work performed by Contractor under this Agreement be supplemented or continued by Contractor under a new agreement following expiration or termination of this Agreement.

J. This Agreement is entered only for the benefit of the parties executing this Agreement and not for the benefit of any other individual, entity or person.

K. This Agreement incorporates the documents attached hereto as Exhibits and supersedes any and all agreements, either oral or written, between the parties hereto with respect to Contractor's completion of the Work on behalf of City and contains all of the covenants and agreements between the parties with respect to the rendering of such services in any manner whatsoever. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party,which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding. No amendment, alteration, or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto.

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

City of Saratoga

By:

_____
Dave Anderson,
City Manager

Date: _____

Contractor

By:

_____

Date: _____

Attest:

_____
Ann Sullivan, City Clerk

Date: _____

Approved as to Form:

_____
Richard Taylor, City Attorney

Date: _____

Attachments
Exhibit A – Work
Exhibit A-1 – Bid Schedule
Exhibit B – Payment
Exhibit C – Special Conditions
Exhibit D -- Insurance Requirements
Exhibit E – Bond Forms
Exhibit F – Notice Inviting Informal Bids
Exhibit G – Technical Specifications
Exhibit H – Limits of Work

Exhibit A
WORK

Summary of Work to be performed: As stated in the **NOTICE INVITING INFORMAL BIDS** dated October 11, 2011 attached as Exhibit F to this Agreement.

Contract Time: Contractor shall complete the Work no later than **45** calendar days.

Work to be Performed: The Work is described in the following documents which are incorporated into and hereby made a part of this Agreement:

- Notice Inviting Informal Bids, dated October 11, 2011, attached as Exhibit F to this Agreement
- Specifications as indicated below *(check appropriate box):*
  - o ☒ Technical Specifications, attached as Exhibit G to this Agreement
  - o ☒ Caltrans Standard Specifications for the Construction of Local Streets and Roads, 2010 Edition, English Units (1-9)
- Maps showing Limits of work., Attached as Exhibit H to this Agreement.

Contractor shall furnish all necessary management, supervision, labor, materials, tools, supplies, equipment, plant, services, engineering, testing and/or any other act or thing required to diligently and fully perform and complete the work.

Warranty: Contractor warrants to City that all materials and equipment furnished shall be new, free from faults and defects and of good quality. Contractor hereby warrants its work against all deficiencies and defects for 12 months or the longest period permitted by the law of this State, whichever is more, or as otherwise provided in the Contract Documents.

Contract Administration: This Agreement shall be administered on behalf of City by John Cherbone ("Administrator"). The Administrator has complete authority to receive information, interpret and define City's policies consistent with this Agreement, and communicate with Contractor concerning this Agreement. All correspondence and other communications shall be directed to or through the Administrator or Administrator's designee.

Notices to City pursuant to this Agreement shall be sent in accordance with Section 8 to:

John Cherbone,
Public Works Director
City of Saratoga
13777 Fruitvale Avenue
Saratoga, CA 95070

With a copy to:

Ann Sullivan
City Clerk
City of Saratoga
13777 Fruitvale Avenue
Saratoga, CA 95070

Notices to Contractor pursuant to this Agreement shall be sent in accordance with Section 8 to:

_____

_____

_____

_____

Additional Conditions: Without limiting the foregoing description of the Work, Contractor's Work includes, but is not limited to, the following:

- Submit all required samples, product data, certificates, operations and maintenance instructions, guarantees, and other submittals no later than five (5) days after the date the City issues a Notice to Proceed.

- Ensure all necessary permits and approvals for the Work have been obtained.

- Protect all materials to be used in the Work in accordance with the specifications.

- Protect existing facilities and personal property.

- Contractor will remove from the project site all debris resulting from performance of the Work no less often than daily. If Contractor fails to do so, City may, after twenty-four (24) hours' notice to Contractor, clean up the site and deduct the cost from the Contract Price.

- Prepare and submit a written daily activity report to City for each day on which work is performed, including weekends and holidays when worked, and submit the reports to the City no later than the next business day. The daily reports shall, at a minimum, include the following information: construction activities and locations, start or completion of activities, progress on construction activities (including units or portions of work completed), tests or inspections performed, deliveries of material or equipment, delays or potential delays, visitors to the site, weather conditions, construction equipment used, and personal injuries or damage to property.

- The Contractor shall be responsible for unloading, hoisting and otherwise handling its own materials, supplies and equipment.

- The Contractor is responsible for researching and complying with all local codes, agencies and jurisdictions that regulate and govern the Work.

- Contractor shall set up, identify, coordinate, provide safe access, and obtain all inspections for its work, as required by any authorized agency or applicable code, prior to covering up work.

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Exhibit A-1
Bid Schedule

The lowest bidder shall be determined on the basis of the total of the base bid items

Item	Approx. Quantity	Unit	Description	Unit Price	Total Cost
1	35141	Sq Yd.	Caltrans Type II Slurry Seal Grey Rock Specification		
2	1	LS	Crack Seal All Streets		
3	1100	LF	Det. 22, remove existing replace in Thermo Plastic		
4	825	LF	Det. 27B, remove existing replace in Thermo Plastic		
5	150	LF	12 inch limit line, remove existing replace in Thermo Plastic		
6	1020	LF	12" X-walk Yellow , remove existing replace inThermo Plastic		
7	505	LF	12" X-walk White, remove existing replace in Thermo Plastic		
8	8	Each	Caltrans "STOP" Legends remove and replace (thermo plastic)		
9	1	Each	Caltrans "AHEAD" Legends remove and replace (thermo plastic)		
10	2	Each	Caltrans "SLOW" Legends remove and replace(thermo plastic)		
11	2	Each	Caltrans "SCHOOL" Legends remove and replace(thermo plastic)		
12	2	Each	Caltrans "XING" Legends remove and replace(thermo plastic)		
13	1	Each	Caltrans "ONLY" Legend remove and replace(thermo plastic)		
14	4	Each	Caltrans "25" Legend remove and replace(thermo plastic)		
15	4	Each	Caltrans Type 4 Arrow remove and replace(thermo plastic)		
16	2	Each	Caltrans Type I arrow remove and replace(thermo plastic)		
17	1	LS	Clear & Grub		
18	1	LS	Traffic Control		

Company Name: _____

Company Representative:_____

Name and Title:_____

Phone:_____ Fax:_____ Email:_____

Exhibit B
PAYMENT

1. **TOTAL COMPENSATION.**
City agrees to pay, and Contractor agrees to accept for full performance of the Work, the unit prices set forth in Contractor's proposal dated _____ for the actual quantities of Work performed. The total amount paid to Contractor shall not exceed _____ ($_____) (the "Contract Price") subject to adjustments for changes in the Work as may be directed in writing by City.

2. **INVOICES.** Contractor shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for work performed prior to the invoice date. Invoices shall contain the following information:

a. Serial identifications of bills, i.e., Bill No. 1;
b. The beginning and ending dates of the billing period;
c. A summary containing the total contract amount, the amount of prior billings, the total due this period, and the remaining balance available for all remaining billing periods.

City shall make monthly payments, based on such invoices, for satisfactory progress in completion of the Work subject to retentions described in this Agreement.

3. **ADDITIONAL PAYMENT TERMS.**
A. Contractor shall submit a final payment application in the amount of the contract sum upon completion of the Work and satisfaction of all conditions of the Agreement. City shall make payment within 30 days of receipt of application, less ten percent retention. City shall release the retained funds no less than thirty five (35) days after the date the City accepts the Work.

B. Pursuant to Public Contract Code Section 22300, for monies earned by the Contractor and withheld by the City to ensure the performance of the Contract, the Contractor may, at its option, choose to substitute securities meeting the requirements of Public Contract Code Section 22300.

C. Contractor agrees to furnish, as a condition of payment, payroll affidavits, receipts, vouchers, and other documents, in form satisfactory to City, prior to receipt of any payment. Contractor shall submit Conditional and Unconditional waivers and release of lien (as provided in Civil Code Section 3262) on behalf of itself and suppliers that furnished labor, material, equipment or services to the Project.

D. Attention is directed to Section 9 of the State of California, Department of Transportation Standard Specifications for Construction of Local Streets and Roads (2002) which includes procedures for determination of payments, compensation for extra work by force account, partial payments, and final payments. These provisions are Contract Documents incorporated into this Agreement.

E. Charges from Contractor to City will not be honored or paid by City unless the charges are authorized and approved by City at the time the work is being performed.

Exhibit C
SPECIAL PROVISIONS

1. LICENSE CLASSIFICATION

In accordance with Section 3300 of the Public Contract Code, the City has determined that the Contractor shall have a Class A (General Engineering Contractor) or Class B (General Building Contractor) License at the time it submits its bid to the City and at all times it is performing the Work.

2. LIQUIDATED DAMAGES

If Contractor fails to complete the Work within the Contract Time, the City will sustain damage. The actual occurrence of damages and the actual amount of the damages which the City would suffer if the Work were not completed within the Contract Time would be impracticable and extremely difficult to determine. Damages the City would suffer in the event of delay include, but are not limited to, loss of the use of the Work, costs of administration, inspection, supervision and the loss suffered by the public within the City.

Accordingly, the parties agree that the amount herein set forth is a reasonable estimate of the damages which the City shall incur upon failure of the Contractor to complete the Work within the Contract Time: Three Hundred Dollars per day ($ 300/Day), for each calendar day by which completion of the Work is delayed beyond the Contract Time. Contractor agrees to pay such liquidated damages as herein provided, and in case the same are not paid, agrees that the City may deduct the amount thereof from any monies due or that may become due to the Contractor under the Contract.

Contractor will not be assessed with liquidated damages or the cost of engineering and inspection during the delay in the completion of the Work caused by acts of God or of the public enemy, fire, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather or delays of subcontractors due to such causes, provided that the Contractor shall within five (5) days from the beginning of any such delay notify the Administrator, in writing, of the causes of delay. The Administrator shall ascertain the facts and the extent of delay, and the Administrator's findings thereon shall be final and conclusive.

3. COOPERATION AND CARE

A. Should construction be under way by the City, other agencies or other contractors within or adjacent to the limits of the work specified or should work of any other nature be under way by other forces within or adjacent to said limits, the Contractor shall cooperate with all such other contractors or other forces to the end that any delay or hindrance to their work will be avoided. The City reserves the right to perform other or additional work at or near the site (including material sources) at any time, by the use of other forces.

B. Until the final acceptance of the contract, the Contractor shall have the charge and care of the Work and of the materials to be used therein, including materials for which partial payment has been received. The City shall not be held responsible for the care or protection of any material or parts of the Work prior to final acceptance, except as expressly provided in the Special Provisions.

4. PROGRESS OF THE WORK

A. Hours of work - Overtime and holidays. The Contractor shall perform all work during the hours of 7:00 a.m. to 3:30 p.m., Monday through Friday unless otherwise specified in the Special Provisions or authorized by the City in writing. If the Contractor wishes to work during any other hours or on weekends, written permission must be received from the City. The request must be received at least two (2) working days in advance of any work. No work will be allowed on legal holidays except in the case of an emergency. A listing of holidays observed by City is on file in the office of the City. If Contractor requests overtime work in which the City will incurs costs, Contractor shall be responsible for payment of the City's costs incurred in connection with the overtime work. The City will invoice the Contractor at time and one half to cover the costs incurred. If Contractor does not pay the invoice within ten days, the City may deduct the amount billed from other payments due or to become due to Contractor under the Contract.

B. The Administrator or Administrator's designee shall have the authority to suspend the Work, wholly or in part, for such a period as the Administrator may deem necessary.

Exhibit D
INSURANCE

Pursuant to Section 19 of this Agreement the following insurance requirements apply to Contractor and performance of the Work.

Contractor shall procure and maintain for the duration of the contract, and until the expiration of the warranty period following the final completion and acceptance by the City, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Contractor, his agents, representatives, employees or subcontractors.

Minimum Scope of Insurance

Coverage shall be *at least as broad as*:

1. Insurance Services Office Form CG 0001 covering Commercial General Liability on an "occurrence" basis.
2. Insurance Services Office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto).
3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

Minimum Limits of Insurance

Contractor shall maintain limits no less than:

1. **General Liability**: (Including operations, products and completed operations.)

$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 is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

2. **Automobile Liability**:

$1,000,000 per accident for bodily injury and property damage.

3. **Employer's Liability**:

$1,000,000 per accident for bodily injury or disease.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City. The City may require the Contractor to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

Other Insurance Provisions

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

1. **The City, its officers, officials, employees, and volunteers are to be covered as additional insureds** with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the contractor; and with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10, 11 85 or 07 04 revisions), or as a separate owner's policy, or on the City's own form.

2. For any claims related to this project, the **Contractor's insurance coverage shall be primary** insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

3. The Insurance Company agrees to **waive all rights of subrogation** against the City, its elected or appointed officers, officials, agents and employees for losses paid under the terms of any policy which arise from work performed by the Named Insured for the Agency. <u>This provision also applies to the Contractor's Workers' Compensation policy.</u>

4. Each insurance policy required by this clause shall be endorsed to state that coverage
shall not be canceled by either party, except after thirty (30) days' prior written notice (10 days for non-payment) has been given to the City.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the City.

Verification of Coverage

Contractor shall furnish the City with original certificates and amendatory endorsements effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the contractor's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications, at any time.

Waiver of Subrogation

Contractor hereby grants to City a waiver of any right to subrogation which any insurer of said Contractor may acquire against the City by virtue of the payment of any loss under such insurance. This provision applies regardless of whether or not the City has requested or received a waiver of subrogation endorsement from the insurer.

Claims Made Policies

If any of the required policies provide claims-made coverage, the City requires that coverage be maintained for a period of 5 years after completion of the contract.

Special Risks or Circumstances

City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Exhibit E
BOND FORMS

FAITHFUL PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS:

WHEREAS, the City of Saratoga, California (hereinafter referred to as "Owner") and_____, (hereinafter referred to as "Contractor"), have entered into a written contract for furnishing of all labor, materials, equipment, transportation and services for the construction of the 2011 Saratoga Pavement Maintenance Program (hereinafter referred to as the "Construction Contract"); and

WHEREAS, Contractor is required by the terms of the Construction Contract to furnish a bond for the faithful performance of all terms and conditions of the Construction Contract;

NOW, THEREFORE, Contractor, as principal, and _____ (hereinafter referred to as "Surety"), as surety, are held and firmly bound unto Owner in the penal sum of _____ Dollars ($_____), lawful money of the United States, for the payment of which sum well and truly to be made as provided in this Performance Bond.

1. Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to Owner for the performance of the Construction Contract, which is incorporated herein by reference.

2. If Contractor timely performs each and every obligation under the Construction Contract, Surety and Contractor shall have no obligation under this Bond, except to participate in conferences as provided in Subparagraph 3.1.

3. Surety's obligation under this Performance Bond shall arise after:

   1. Owner has declared a Contractor Default and has notified Contractor and Surety at its address described in Paragraph 10 below that Owner has declared a Contractor Default and has requested and attempted to arrange a conference with Contractor and Surety to be held not later than seven days after receipt of such notice to discuss methods of performing the Construction Contract; and

   2. Owner has agreed to pay the Balance of the Agreement Price, as calculated under the terms of the Construction Contract, to Surety in accordance with the terms of the Construction Contract or to a contractor

selected to perform the Construction Contract in accordance with the terms of the Construction Contract with Owner.

4. When Owner has satisfied the conditions of Paragraph 3, Surety shall promptly and at Surety's expense take one of the following actions:

1. Arrange for Contractor, with consent of Owner, to perform and complete the Construction Contract; or

2. Undertake to perform and complete the Construction Contract itself, through its agents or through independent contractors; or

3. Obtain bids or negotiated bids from qualified contractors acceptable to Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by Owner and the contractor selected with Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to Owner the amount of damages as described in Paragraph 6 in excess of the Balance of the Agreement Price, as calculated under the terms of the Construction Contract, incurred by Owner resulting from Contractor's Default; or

4. Waive its right to perform and complete, arrange for completion, or obtain a new Contractor and with reasonable promptness under the circumstances:

A. After investigation, determine the amount for which it may be liable to Owner and, as soon as practicable after the amount is determined, tender payment thereof to Owner; or

B. Deny liability in whole or in part and notify Owner citing specific reasons therefor.

5. If Surety does not proceed as provided in Paragraph 4 within twenty days from receipt of the notice described in paragraph 3.1 (whether or not a conference has been held pursuant to paragraph 3.1), or such longer period upon which Owner and Surety may agree in writing, Surety shall be deemed to be in default on this Bond. If the Surety proceeds as provided in Subparagraph 4.4, and Owner refuses the payment tendered or the Surety has denied liability, in whole or in part, without further notice Owner shall be entitled to enforce any remedy available to Owner.

6. After Owner has declared a Contractor Default, and if Surety elects to act under Subparagraph 4.1, 4.2, or 4.3 above, then the responsibilities of Surety to Owner shall not be greater than those of Contractor under the Construction Contract, and the responsibilities of Owner to Surety shall not be greater than those of the Owner under the Construction Contract. To the limit of the amount of this

Performance Bond, but subject to commitment by Owner of the Balance of the Agreement Price to mitigation of costs and damages on the Construction Contract, Surety is obligated without duplication for:

1. The responsibilities of Contractor for correction of defective work, materials and equipment and completion of the Construction Contract;

2. Additional legal, design professional, construction management and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 4; and

3. Liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of Contractor.

7. Surety shall not be liable to Owner or others for obligations of Contractor that are unrelated to the Construction Contract, and the Balance of the Agreement Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than Owner or its heirs, executors, administrators or successors.

8. Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

9. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction. The prevailing party in any such action shall be entitled to recover its attorneys' fees, to be taxed as an item of costs.

10. Notice to Surety, Owner or Contractor shall be mailed or delivered to the address, or sent via facsimile to the facsimile number, shown on the signature page.

11. DEFINITIONS

11.1 Balance of the Agreement Price: The total amount payable by Owner to Contractor under the Construction Contract after all proper adjustments have been made, including allowance to Contractor of any amounts received or to be received by Owner in settlement of insurance or other claims for damages to which Contractor is entitled, reduced by all valid and proper payments made to or on behalf of Contractor under the Construction Contract.

11.2 Construction Contract: The agreement between the Owner and the Contractor identified on the first page of this bond, including all Contract Documents and changes thereto.

11.3 Contractor Default: Failure of the Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Construction Contract.

CONTRACTOR, as Principal:	SURETY:
By: _____	By: _____
Its: _____	Its: _____
Address: _____	Address: _____
_____	_____
_____	_____
_____	_____
Fax: _____	Fax: _____

Note: Signatures of those executing for Surety must be properly acknowledged. The bond must be accompanied by a power of attorney from the Surety authorizing its agent to bind it to this bond.

LABOR AND MATERIALS PAYMENT BOND

KNOW ALL PERSONS BY THESE PRESENTS:

WHEREAS, the City of Saratoga, California (hereinafter referred to as "Owner") and _____ (hereinafter referred to as "Contractor"), have entered into a written contract for furnishing of all labor, materials, equipment, transportation and services for the construction of the _____(hereinafter referred to as the "Construction Contract"); and

WHEREAS, Contractor is required by the terms of the Construction Contract to furnish a bond to secure payment for all work, labor, materials, equipment or services furnished in connection with the Construction Contract;

NOW, THEREFORE, Contractor, as principal, and _____ (hereinafter referred to as "Surety"), as surety, are held and firmly bound unto Claimants, as defined herein, in the penal sum of _____ Dollars ($_____), lawful money of the United States, for the payment of which sum well and truly to be made as provided in this Payment Bond.

1. Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to Owner to pay for work, labor, materials, equipment, services, or other items furnished for use and actually used in the performance of the Construction Contract, which is incorporated herein by reference.

2. With respect to Owner, this obligation shall be null and void if Contractor:

   1. Promptly makes payment, directly or indirectly, for all sums due Claimants, and

   2. Defends, indemnifies and holds Owner harmless from claims, demands, liens or suits by any person or entity whose claim, demand, lien or suit is for the payment for work, labor, materials, equipment, services or other items furnished for use in the performance of the Construction Contract, provided Owner has promptly notified Contractor and Surety (at the address described

in Paragraph 12) of any claims, demands, liens or suits and tendered defense of such claims, demands, liens or suits to Contractor and Surety.

3. With respect to Claimants, this obligation shall be null and void if Contractor promptly makes payment, directly or indirectly, for all sums due.

4. Surety shall have no obligation to Claimants under this Bond until:

1. Claimants who are employed by or have a direct contract with Contractor have given notice to Surety (at the address described below) and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Payment Bond and, with substantial accuracy, the amount of the claim.

2. Claimants who do not have a direct contract with the Contractor:

A. Have furnished written notice to Contractor and sent a copy, or notice thereof, to Owner, as required by and conforming with Civil Code Sections 3252 and 3091; and

B. Not having been paid within thirty (30) days of sending the required notice, have sent a written notice to Surety (at the address described below) and sent a copy to the Owner, stating that a claim is being made under this Payment Bond and enclosing a copy of the previous written notice furnished to Contractor.

5. When the Claimant has satisfied the conditions of Paragraph 4, Surety shall promptly and at Surety's expense take the following actions:

1. Send an answer to the Claimant, with a copy to Owner, within 20 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.

2. Pay or arrange for payment of any undisputed amounts.

6. Surety's total obligation shall not exceed the amount of this Payment Bond, and the amount of this Payment Bond shall be credited for any payments made in good faith by Surety.

7. Amounts owed by Owner to Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if

any, under the Performance Bond. By Contractor furnishing and Owner accepting this Payment Bond, they agree that all funds earned by Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work or the satisfaction of Owner's claims, including liquidated damages, under the Construction Contract.

8. Surety shall not be liable to Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. Owner shall not be liable for payment of any costs or expenses of any Claimants under this Payment Bond, and shall have under this Payment Bond no obligation to make payments to, give notices on behalf of, or otherwise have any obligation to Claimants under this Payment Bond.

9. Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

10. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction. The prevailing party in any such action shall be entitled to recover its attorneys' fees, to be taxed as costs.

11. Notice to Surety, Owner or Contractor shall be mailed or delivered to the address shown on the signature page.

12. This Payment Bond has been furnished to comply with Civil Code Sections 3247 through 3252. Any provision in this Payment Bond conflicting with those statutory requirements shall be deemed deleted and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Payment Bond shall be construed as a statutory bond and not as a common law bond.

13. Upon request by any person or entity appearing to be a potential beneficiary of this Payment Bond, the Contractor shall promptly furnish a copy of this Payment Bond or shall permit a copy to be made.

14. DEFINITIONS

14.1 Claimant: An individual or entity identified in California Civil Code Sections 3181 or 3248.

14.2 Construction Contract: The agreement between Owner and Contractor identified above, including all Contract Documents and changes thereto.

CONTRACTOR, as Principal:	SURETY:
By: _____	By: _____
Its: _____	Its: _____
Address: _____	Address: _____
_____	_____
_____	_____
_____	_____
Fax: _____	Fax: _____

Note: Signatures of those executing for Surety must be properly acknowledged. The bond must be accompanied by a power of attorney from the Surety authorizing its agent to bind it to this bond.

Exhibit F

Notice Inviting Informal Bids

2011 Pavement Maintenance Program

SEALED BIDS will be received by the CITY OF SARATOGA (CITY) until **October 25th at 11:00 am** for the **2011 Saratoga Pavement Maintenance Program**. Sealed bids shall be submitted, addressed and noted as follows:

John Cherbone, Public Works Director
City of Saratoga
13777 Fruitvale Ave.
Saratoga, CA 95070

Sealed Bid for 2011 Saratoga Pavement Maintenance Program

Following the closure of the bid submittal period, bids will be publicly opened and read for performing work as follows:

Scope of Work

- Prepare streets for slurry seal, which include crack seal removal of striping, sweeping and clean as noted in specifications – Exhibit G to the Bid Documents
- Slurry seal list of streets below as noted in specifications
- Replace striping in thermo plastic unless other wise specified. Use Caltrans standard specifications 2010 Section 37; subsection 37-2: Slurry Seals
- See attached street maps for limits of work - Exhibit H to the Bid Documents

List of streets to be slurry sealed:

1. Dehavilland Dr from Cox Ave to Cox Ave
2. Dehavilland Ct from Dehavilland Dr to End
3. Anza Ct from Dehiavilland Dr to End
4. Ravenwood Dr From Quito Rd to End
5. Marilyn Lane from Ravenwood Dr to End (at school driveway)
6. Marshall Lane from Quito Rd to Marilyn Lane
7. Horseshoe Dr from Saratoga-Los Gatos Rd to Saratoga-Los Gatos Rd
8. Scotland Dr from Saratoga Ave to Glen Brae Drive

Furnishing all labor, equipment, and performing all work necessary and incidental to the construction of the project known as **2011 Saratoga Pavement Maintenance Program**, according to drawings and specifications as prepared by **City of Saratoga** and according to the Contract Documents. The work to be done consists of supplying all labor, methods or processes, implements, tools, machinery, and equipment to install slurry seals, scrub seals, cape seals, striping

and other work not specifically mentioned herein, but which may be required as directed by CITY or its designated representative.

CITY hereby notifies all Bidders that it will affirmatively ensure that in regard to any contract entered into pursuant to this Invitation for Bid, Disadvantaged Business Enterprises (DBE's) will be afforded full opportunity to submit Bids in response to this invitation and will not be discriminated against on the basis of race, color, sex, national origin, in consideration for an award.

Project is to be completed within 45 calendar days from the date specified in the Notice to Proceed. The Contractor shall pay to the City of Saratoga the sum of <u>three hundred dollars ($300.00)</u> for each and every calendar day's delay in finishing the work in excess of the calendar day completion time.

Bidders may obtain copies of the bidding documents at the Saratoga Public Works Department; Phone: (408) 868-1239. There is no charge for the bid documents for this project. Send requests for project drawings and specifications to City of Saratoga; 13777 Fruitvale Avenue; Saratoga, California 95070; Attn: Public Works Director**.**

All bids must be presented on the form appearing as Exhibit A-1 to the bidding documents.

Pursuant to California Labor Code Section 1771, the successful bidder and all subcontractors shall pay not less than the prevailing rate of per diem wages as determined by the Director of the California Department of Industrial Relations. Copies of such prevailing rate of per diem wages are available for view at the City of Saratoga Department of Public Works.

Pursuant to California Public Contract Code Section 22300, the Contractor may, at its option, choose to substitute securities for monies earned by the Contractor and retained by CITY to ensure the performance of the Contract.

Pursuant to California Public Contract Code Section 3300, City has determined that the Contractor shall possess a valid General Engineering Contractor License at the time that the bid is submitted. Failure to possess the specified license shall render the bid non-responsive.

The successful bidder will be required to furnish a payment bond in the amount equal to one hundred percent (100%) of the Contract Price, as well as a faithful performance bond, in the amount equal to one hundred percent (100%) of the Contract Price. The bonds shall be on the forms included in the Contract Documents.

The successful bidder shall insure that employees and applicants for employment are not discriminated against on the basis of age, color, race, national origin, ancestry, religion,

sex, sexual preference, or marital status, and shall comply with the Americans with Disabilities Act.

CITY reserves the right to reject any and all bids, or to waive any irregularities or informalities in any bid or in the bidding procedure, or to postpone the bid opening or award for good cause. No Bidder may withdraw its bid for a period of five calendar days after the date of opening of the bids. Each bidder will be notified of award of contract, if award is made. Contract Documents, Forms of Bid and any questions concerning this bid should be addressed to Public Works Director, City of Saratoga, (408) 868-1239.

CITY OF SARATOGA
Office of the Clerk
October 11th, 2011

Exhibit G
Technical Specifications

CALTRANS TYPE II SLURRY SEAL

1. Type II slurry seals in this document shall be per Section 37: Bituminous Seals, Subsection 37-2: Slurry Seals on page 383 of the Caltrans Standard Specifications for Construction of Local Streets and Roads, 2010 Edition.

TYPE II SLURRY SEAL

Slurry seal shall conform to the provisions of Section 37-2 "Slurry Seal", of the Standard Specifications, these Special Provisions and the directions of the Engineer.

Slurry seal aggregate shall be Type II and shall conform to the provisions of Section 37-2.02C of the Standard Specifications.

Aggregate shall consist of sound, durable, crushed gravel and approved mineral filler. The material shall be free from vegetable matter and other deleterious substances. Aggregates shall be 100% crushed with no round particles, granite type rock and grey in color. The percentage composition by weight of the aggregates shall conform to the following grading.

PERCENTAGE PASSING

Sieve size	% Passing Type II
No. 3/8"	100
No. 4	94-100
No. 8	65-90
No. 16	40-70
No. 30	25-50
No. 200	5-15
Theoretical asphalt content range, % dry aggregate	13-18
Approximate application rate (pounds per square yard)	11-16

The aggregate shall conform to the following additional quality requirements:

Test	California Test	Type II
Sand equivalent	217	60 minimum
Durability index	229	55 minimum

Asphaltic Emulsion used for slurry seal shall be Grade **PMCQS-1h cationic**, and shall conform to the following required specifications, or as directed by the Engineer.

SPECIFICATIONS FOR ASPHALTIC EMULSION PMCQS-1h

Tests on Emulsion	Test Method	Typical results	Specs Min/Max
Viscosity 77F, SFS	ASTM D244	22	15/90
Sieve test w%	ASTM D244	0.01	.30
Residue from distillation	ASTM D244	61.5	57.0
Particle charge test	ASTM D244		Positive
TESTS ON RESIDUE FROM DISTILLATION			
Penetration 77F,dmm	ASTM D15	52	40/90
Ductility 77F, dmm	ASTM D113	100+	40
Solubility in TCE, w%	ASTM D2042	99+	97

Torsional recovery at 18% minimum.

The percentage of polymer within the asphaltic emulsion shall be between 2 to 3% and must be Butonal NX1138 manufactured by BASF Corporation or approved equal.

The bidder must supply a notarized certification from the polymer supplier showing compliance with above to the Engineer.

Proportioning shall conform to the provisions of Section 37-2.04, "Proportioning", of the Standard Specifications. Asphaltic Emulsion shall be added at a rate from 15 percent (15%) by weight of the dry aggregate. The exact rate will be determined by the mix design and Project Engineer.

Placing shall conform to the provisions of Section 37-2.06, "Placing", of the Standard Specifications and these Special Provisions.

Slurry Seal shall be spread at a rate of 12 to 15 pounds of dry aggregate per square yard. The exact rate will be determined by the Enginner. **Weigh or gallonage tags shall be furnished to the Engineer by the Contractor for all materials delivered to the project including aggregate, and asphaltic emulsion for slurry.**

The Contractor's attention is directed to Section 7-10, "Water Pollution Control", of these Special Provisions for Cape Seal and Slurry Seal Operations.

The Contractor will be responsible for any damage to existing curbs, gutters, roadway and driveways, and any asphalt concrete or asphaltic emulsion stains, occurring during the course of this Contract. Stains will be cleaned by the sandblasting, or any other method satisfactory to the Engineer. The cost of repairing this damage shall be considered as included in the contract unit price bid per square yard for Cape Seal (scrub seal overlaid with slurry seal), and no additional compensation will be allowed therefor.

The Contractor shall conform slurry seal to the existing manholes, monuments, gas and water valves. Slurry Seal that is overlapped on manholes, monuments, and gas and water valves shall be cleaned, as directed by the Engineer, at the Contractor's expense.

Any Cape Seal (Scrub Seal overlaid with the Slurry Seal) placed outside the lines and dimensions shown on the Project Plains, and which is not authorized by the Engineer in writing shall not be paid for and shall be at the expense of the Contractor.

Cape Seal (Scrub Seal overlaid with Slurry Seal) will be measured by the square yard. The Contract unit price paid per square yard for Cape Seal shall include full compensation for furnishing all labor, material, tools, equipment and incidentals, and for doing all the work necessary to produce and place Cape Seal (Scrub overlaid with Slurry Seal) complete in place, including but not limited to furnishing, placing, maintaining, and removing C6, C4, and W6 signs, cleaning paves surfaces, sweeping, asphaltic emulsion, chips, rolling chips, repair work required due to chip loss, sufficient sweeping to remove loose chips, removing and hauling excess chips, disposal of excess chips, and furnishing and applying slurry seal mixture as shown on the plans, and as directed by the Engineer and no additional compensation will be allowed therefor.

Before any Slurry Sealing operations, the Contractor will be required to grind off all existing traffic striping and pavement markings which are to be covered with Slurry Seal. Payment for grinding of existing traffic striping and pavement markings shall be as provided in Section 84 of these Special Provisions.

Prior to placing slurry seal, the streets shall be cleaned by the Contractor by sweeping with **pickup broom/mobile type sweepers** with water spray bars to reduce dust. The Engineer shall approve of the type of sweeper to be used. If necessary, more than one sweeper shall be used. Sidewinder sweepers or brooms that windrow material and do not remove it shall not be used. Completion of sweeping shall be evidenced by the absence of all loose particles of paving, dirt and other extraneous material, on the roadway, in the gutters, and other affected areas. If needed, all areas shall be swept a second time or more if necessary in the same manner or as directed by the Engineer prior to placing the slurry seal. **All streets shall be swept by the Contractor two days after completion of the slurry seal to remove any loose aggregate.** The Contractor shall perform additional sweeping after placement of the slurry seal to ensure that any loose rock is removed, at the direction of the Engineer.

Placing shall conform to the provisions in Section 37-2.06, "Placing", of the Standard Specifications and these Special Provisions. Slurry Seal shall not be placed when the atmospheric temperature is below 50F or during unsuitable weather.

Whenever possible, joints shall coincide with lane lines or in the center of the lane. In no case will ridges be allowed in the normal wheel of track vehicles. The forward speed of the slurry spreader shall be adjusted to eliminate corrugations or surface irregularities in the slurry seal, which are caused by excessive speed.

The Contractor shall conform slurry seal to existing manholes, gas and water valves, monuments, concrete valley gutters and concrete curbs and gutters and as directed by the Engineer in the field. Slurry seal that is overlapped on manholes, gas and water valves, monuments, concrete valley gutters and concrete curbs and gutters shall be removed at the Contractor's expense. **The Contractor shall immediately remove any excess slurry from the gutters. The Contractor shall not continue to the next street for slurry sealing until all excess slurry is removed as determined by the Engineer.**

The Contractor shall provide the Engineer with a schedule of the proposed slurry seal operation prior to beginning construction. Such schedule shall be updated on a weekly basis. The Contractor shall not deviate from said schedule except by written authorization from the Engineer. Refer to Section 8-3, "Progress Schedule", of these Special Provisions for format. All requests shall be made in writing to the Engineer and are subject to approval.

Slurry seal (applied to existing road surface) will be measured by the square yard. Section 37-2.07, "Measurement", of the Standard Specifications hall not apply to this item.

Any slurry seal placed outside the lines and dimensions shown on the plan which is not authorized by the Engineer in writing shall not be paid for and shall be at the expense of the Contractor.

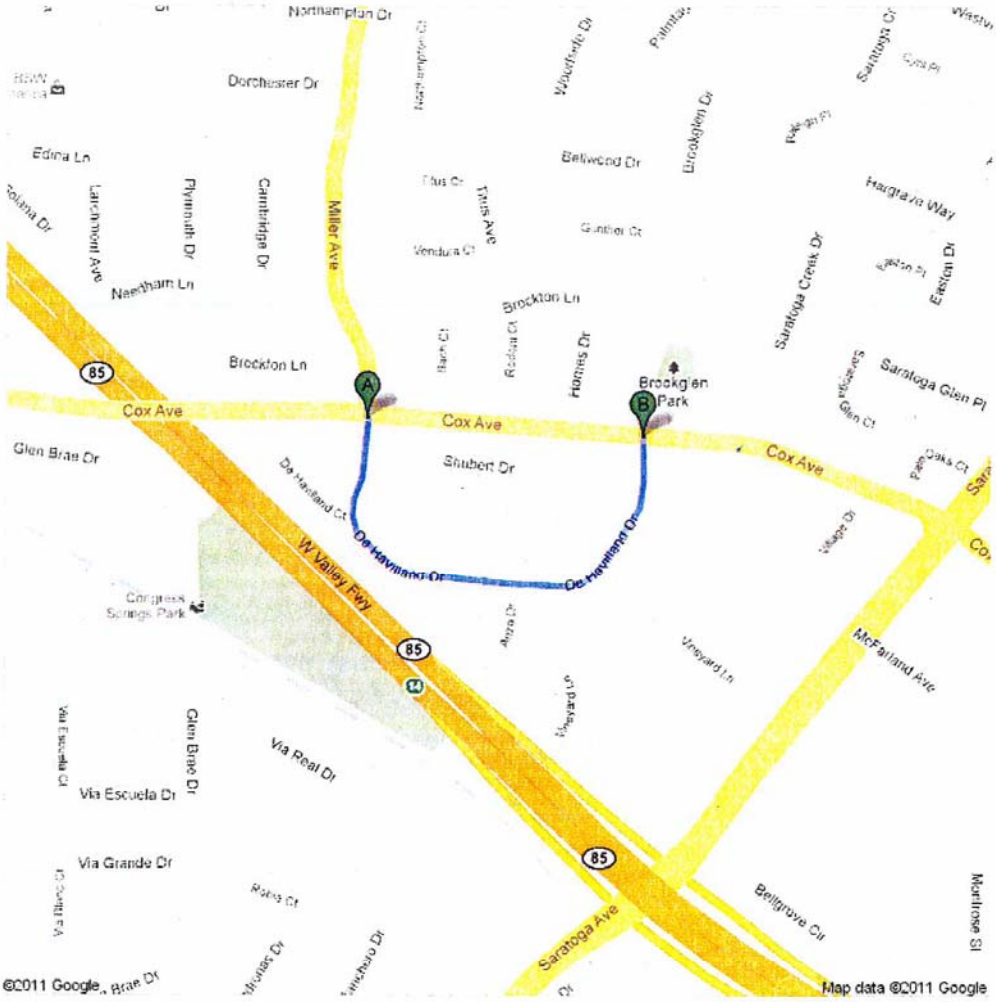
The Contract unit price paid per square yard for Slurry Seal (applied to existing road surface) shall include full compensation for all preparatory and finishing street work, including but not limited to cleaning and sweeping pavement surfaces, protection of existing improvements from asphaltic emulsion or slurry seal stains, furnishing and applying slurry seal mixture **including applying slurry seal for parking bays by hand methods if necessary**, and all labor, materials, tools, equipment and incidentals necessary for doing all work involved.

Exhibit H
Limits of Work

De Havilland Dr to De Havilland Dr - Google Maps http://maps.google.com/maps?f=d&source=s_d&saddr=De+Havilla...

Google maps

Directions to De Havilland Dr
0.4 mi – about **1 min**
Dehavilland Dr



1 of 2 9/22/2011 11:29 AM

Anza Dr to Anza Dr - Google Maps http://maps.google.com/maps?f=d&source=s_d&saddr=Anza+Dr&da...

Google maps

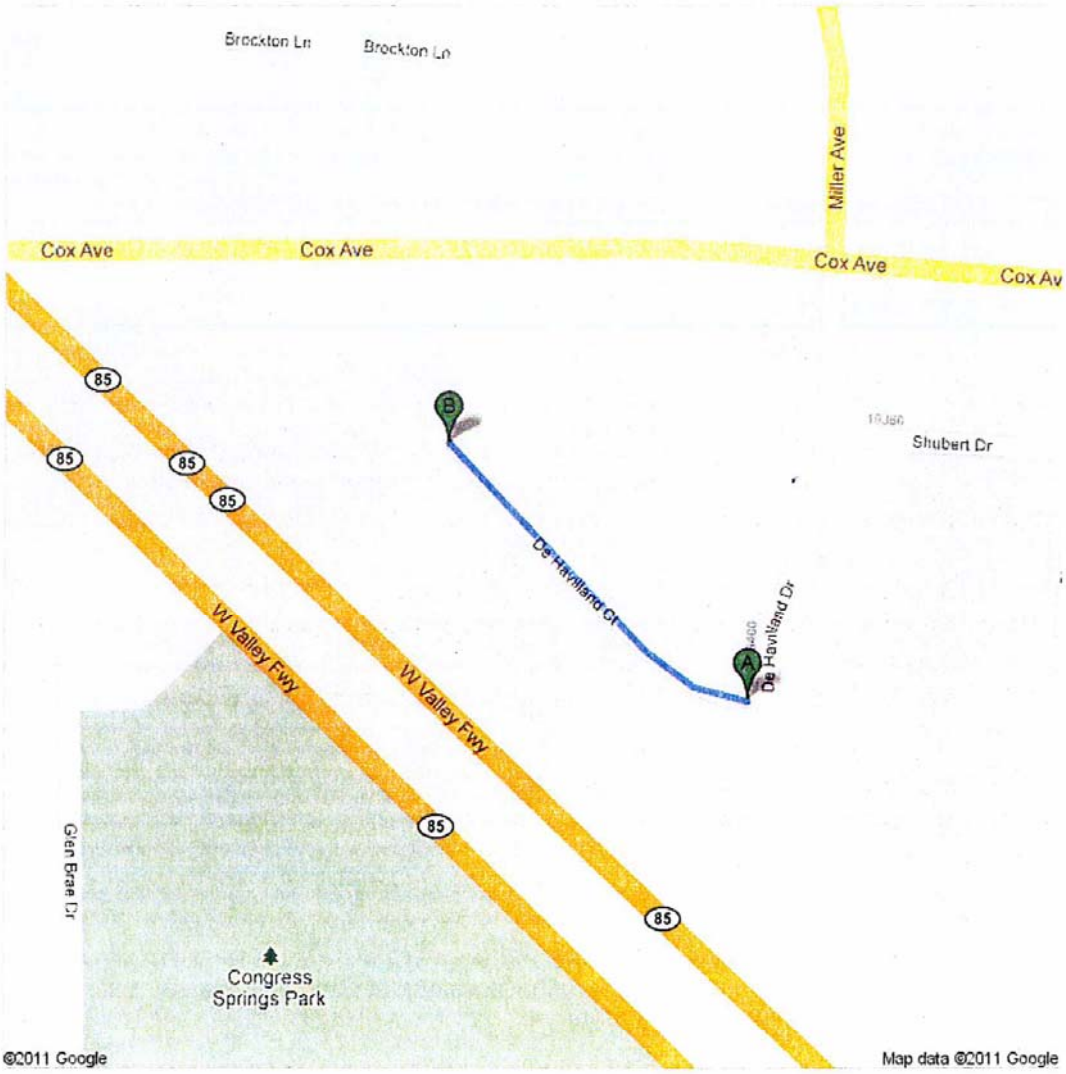
Directions to Anza Dr
0.1 mi
Anza Dr

1 of 2 9/22/2011 11:36 AM

De Havilland Ct to De Havilland Ct - Google Maps http://maps.google.com/maps?f=d&source=s_d&saddr=De+Havilla...

Google maps

Directions to De Havilland Ct
417 ft
Dehavilland Ct

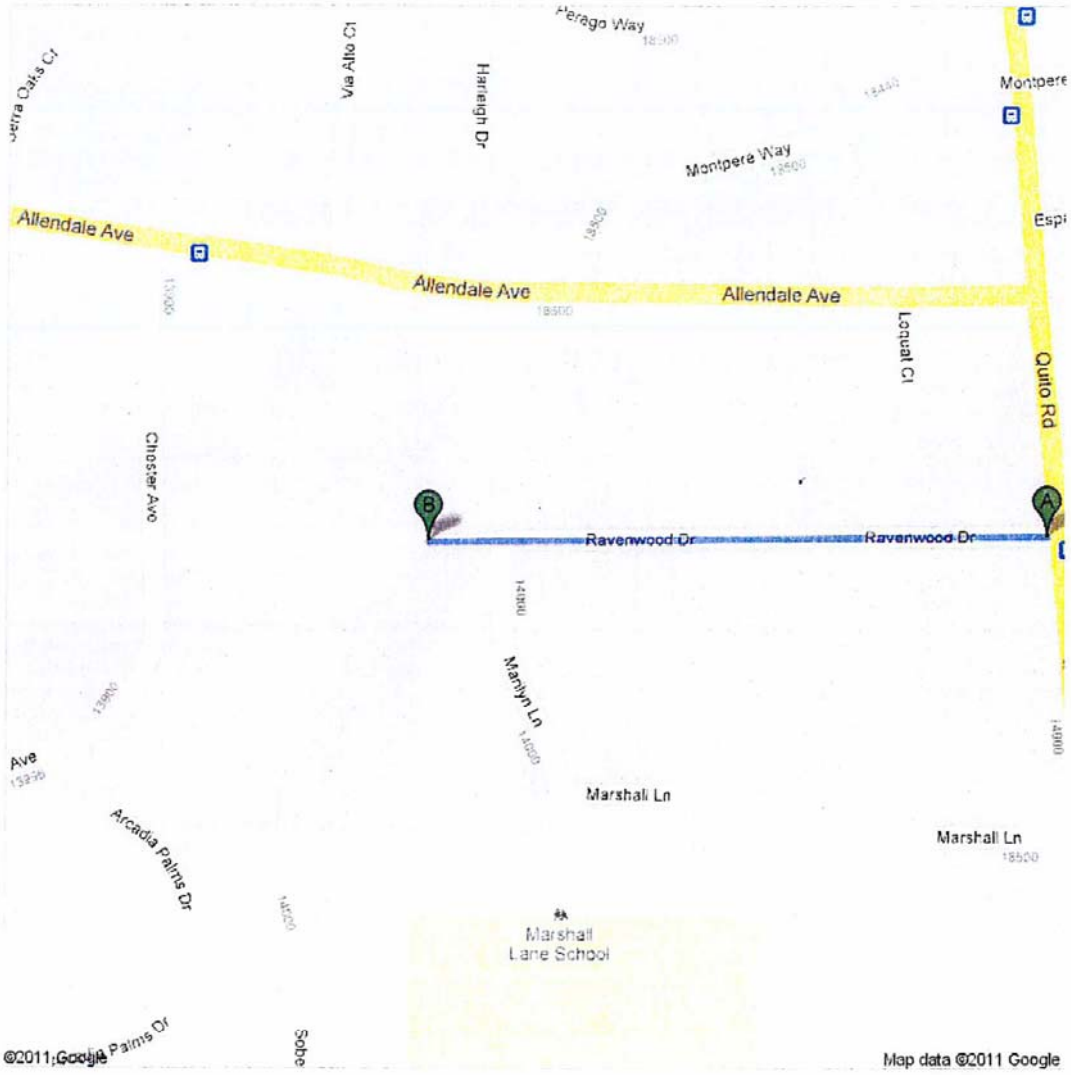


1 of 2 9/22/2011 11:35 AM

Ravenwood Dr to Ravenwood Dr - Google Maps http://maps.google.com/maps?f=d&source=s_d&saddr=Ravenwood...

Google maps

Directions to Ravenwood Dr
0.2 mi
Ravenwood Dr



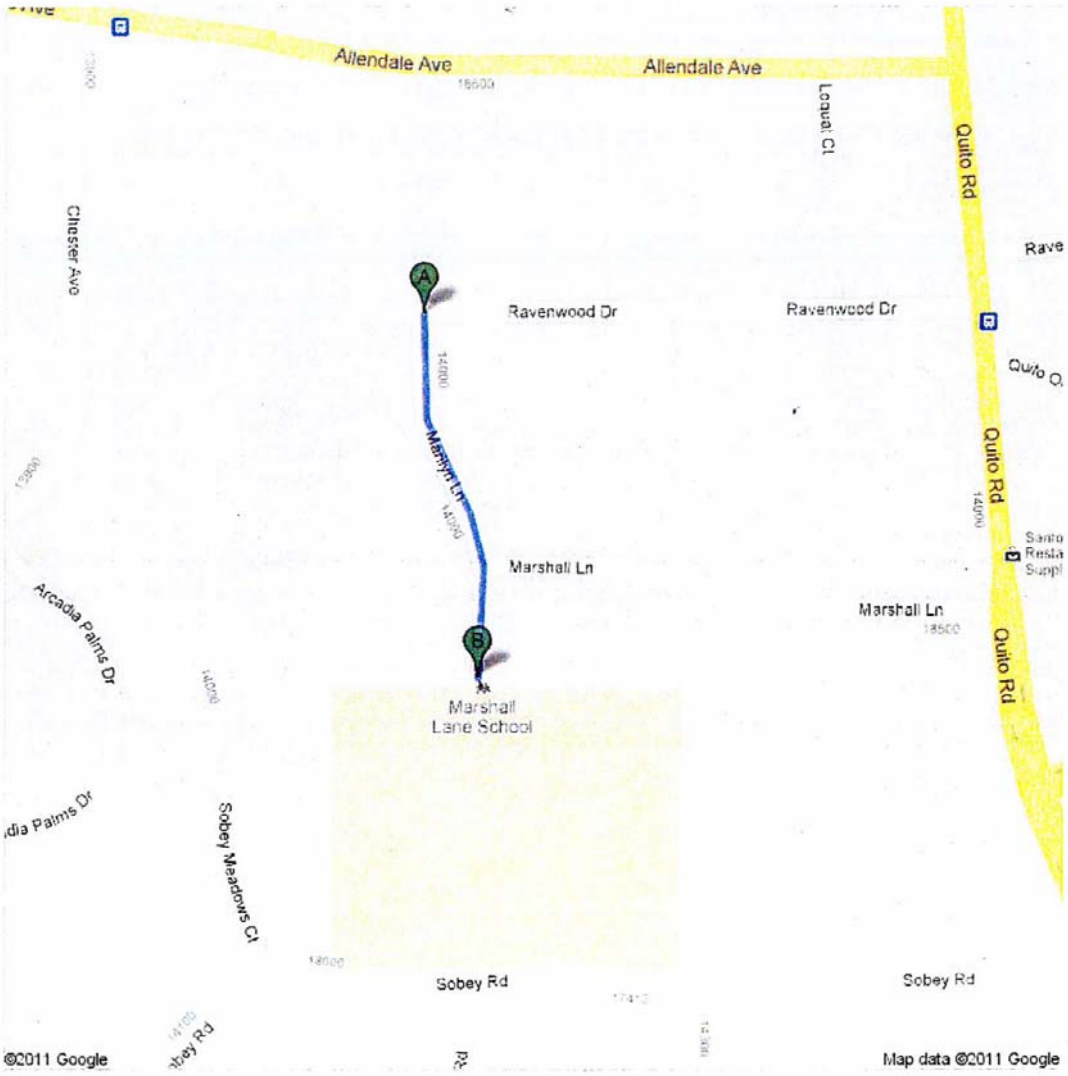
1 of 2 9/22/2011 11:41 AM

Marilyn Ln to Marilyn Ln - Google Maps http://maps.google.com/maps?f=d&source=s_d&saddr=Marilyn+Ln...

Google maps

Directions to Marilyn Ln
0.1 mi

Save trees. Go green!
Download Google Maps on your phone at **google.com/gmm**



1 of 2 9/22/2011 11:42 AM

Marshall Ln to Marshall Ln - Google Maps http://maps.google.com/maps?f=d&source=s_d&saddr=Marshall+L...

Google maps

Directions to Marshall Ln
0.2 mi

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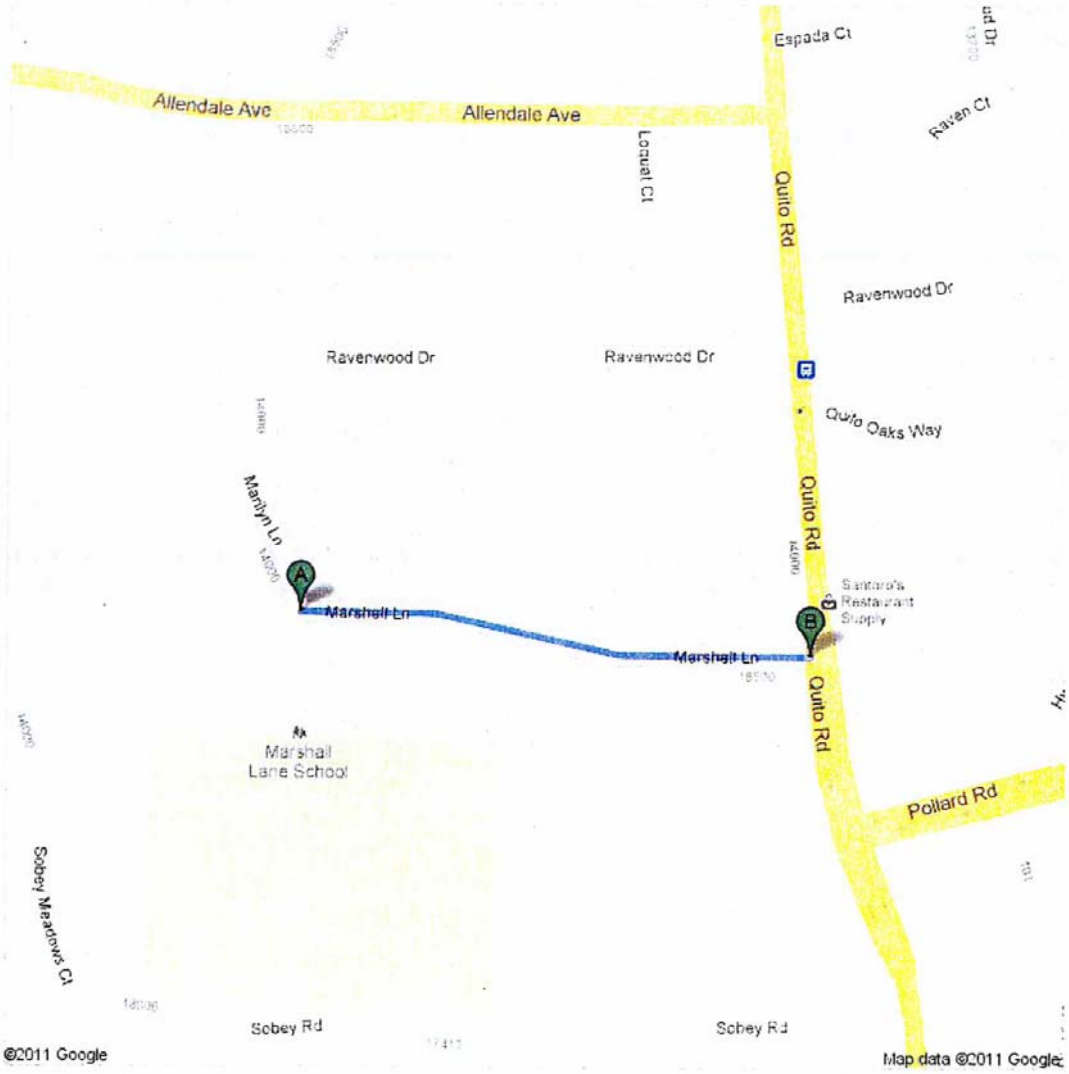
Download Google Maps on your phone at **google.com/gmm**



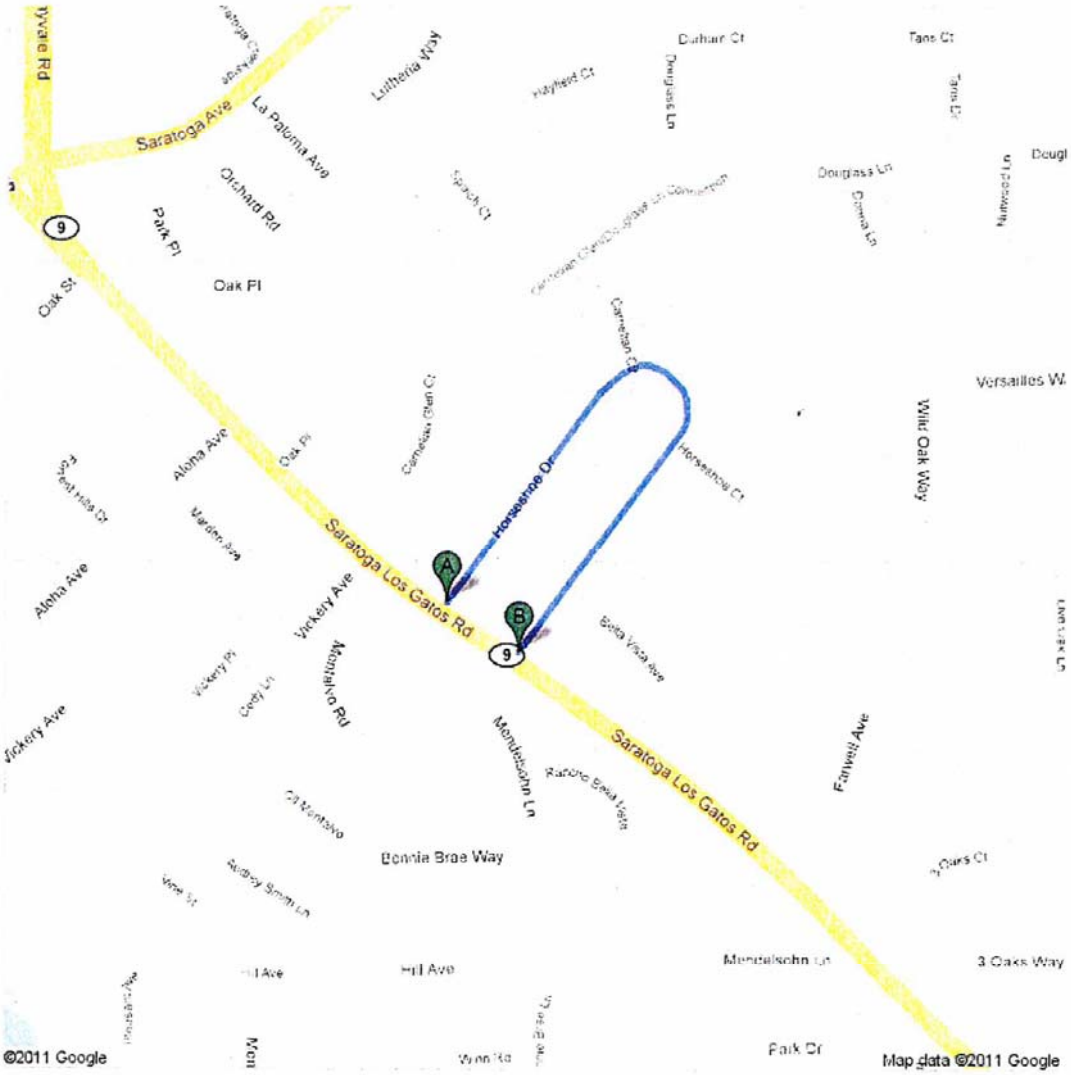
1 of 2 9/22/2011 11:51 AM

~~Horseshoe~~ Dr to Horseshoe Dr - Google Maps http://maps.google.com/maps?f=d&source=s_d&saddr=Horseshoe+...

Google maps

Directions to Horseshoe Dr
0.5 mi – about 1 min

Save trees. Go green!
Download Google Maps on your phone at **google.com/gmm**

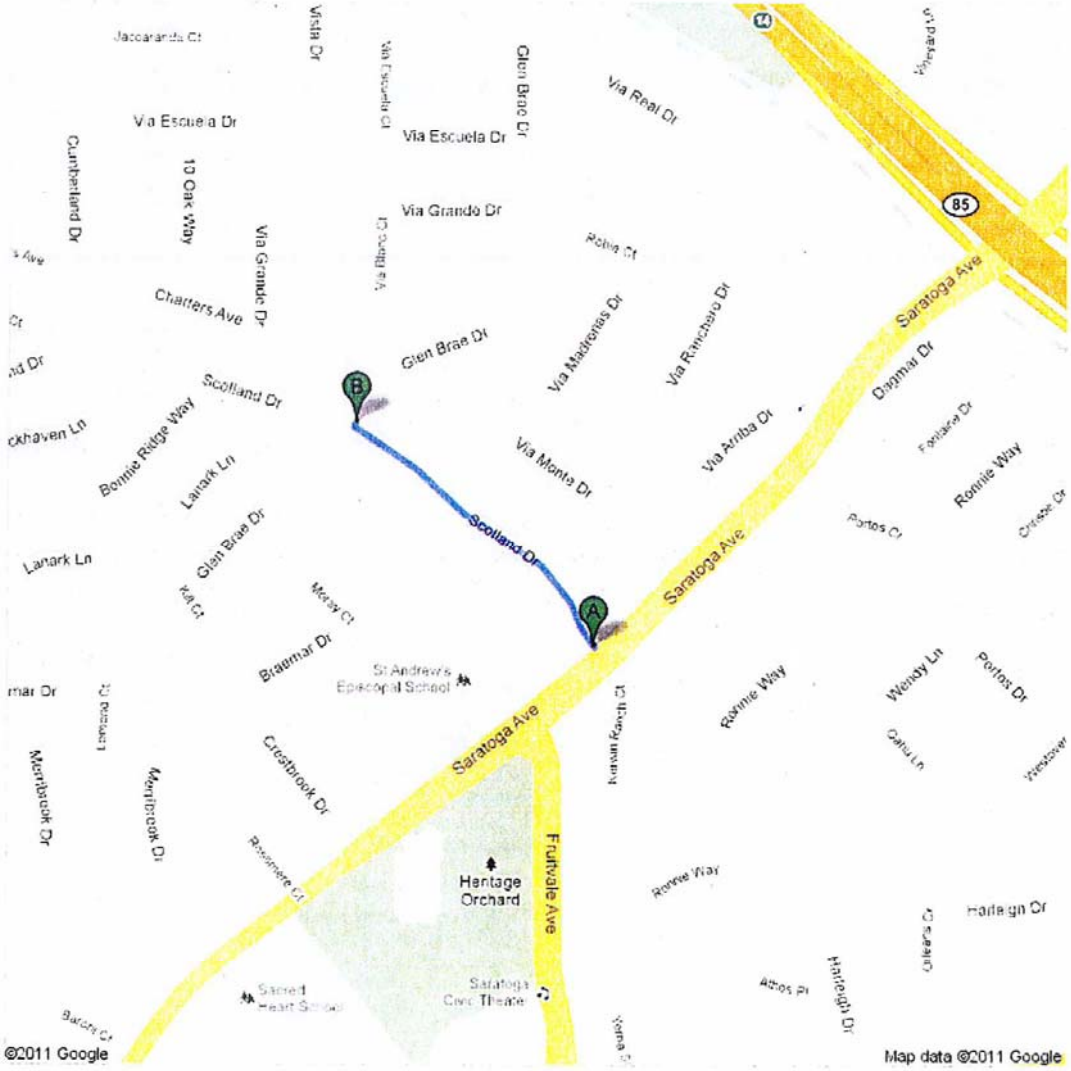


Scotland Dr to Glen Brae Dr - Google Maps http://maps.google.com/maps?f=d&source=s_d&saddr=37.272273,+...

Google maps

Directions to Glen Brae Dr
0.3 mi – about 50 secs

Save trees. Go green!
Download Google Maps on your phone at **google.com/gmm**



1 of 2 9/22/2011 11:48 AM