

AGREEMENT FOR PAYMENT OF COSTS OF  
IMPROVEMENT OF TULLY ROAD

THIS AGREEMENT, made and entered into this 13th day of  
October, 1964, by and between the COUNTY OF SANTA  
CLARA, hereinafter called "County", and the CITY OF SAN JOSE,  
hereinafter called "City",

W I T N E S S E T H:

WHEREAS, City and County wish to improve Tully Road, between  
the easterly curb line of South Seventh Street and a point approxi-  
mately 1,200 feet west of Bayshore Freeway (State Highway Route 101)  
which said portion of Tully Road is hereinafter called "said Road";  
and

WHEREAS, said Road is located approximately equally within  
the limits of City and within the unincorporated territory of County,  
and City and County wish to provide for the payment of their respec-  
tive shares of the cost of acquiring the right of way for and con-  
structing improvements within said Road, which said improvements shall  
consist in general of surface improvements necessary to increase the  
width of said Road thirty (30) feet so as to provide four traffic  
lanes, and to construct within a right of way one hundred forty (140)  
feet in width over the Coyote River a bridge and appurtenances, to  
provide six (6) traffic lanes.

NOW, THEREFORE, in consideration of their mutual promises, cove-  
nants and agreements herein contained, and subject to the conditions  
and terms hereinafter specified, the parties hereto do hereby agree  
as follows:

1. Right of Way and Construction Plans. County shall proceed  
with diligence to prepare plans and specifications for the construc-  
tion of improvements within said Road, and right-of-way drawings for  
acquisition of right-of-way necessary therefor. Upon and after ap-  
proval of said plans and specifications by the Board of Supervisors

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SANTA CLARA

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of County, County shall deliver to the Council of City one (1) complete set of said plans, specifications and right-of-way drawings for approval by said Council.

2. Relinquishment of said Road to County. Not later than 30 days after execution of this agreement by County and City, County, acting pursuant to authority granted in Sections 1700 and 1701 of the Streets and Highways Code, shall adopt and forward to City a resolution declaring said Road to be a county highway. Said resolution shall state that said Road shall become a county highway for the following purposes only: acquisition of right-of-way, construction, improvement and repair. Thereafter, the Council of City shall forthwith act pursuant to Section 1701 of the Streets and Highways Code to grant consent to said Road becoming a county highway for the purposes hereinabove expressed. It is understood and agreed by County and City that City shall not relinquish the obligation of maintenance of said Road except only during the period said Road is under construction.

3. Acquisition of Right-of-Way and Award of Contract. Upon completion of the plans for the construction of said improvements and approval thereof by City and the relinquishment of said Road by City to County as a county highway, County shall commence the acquisition of right-of-way for the construction of said Road. Upon completion of the acquisition of said right of way, County shall take all steps necessary to advertise for bids and award a contract for the construction of said improvements. For the purpose of this paragraph only, the term "acquisition" shall include, without limitation, possession obtained through agreement or order of court.

4. Estimate of Construction Costs. County shall submit to City an estimate of the cost of construction of said improvements, and City shall advance to County, not later than the date of award of the contract for the construction thereof, a sum equal to 50% of the estimated cost of construction.

5. Payment for Acquisition of Right-of-Way.

(a) Upon completion of the purchase of any one or more rights-of-way for said Road, County shall submit to City an itemized statement of the costs and expenses incurred by County. Within fifteen (15) days from the date of mailing said statement, City shall submit in writing to County any objections to said statement or requests for modification. In the event no such objection or request is so made, said statement shall be deemed approved and accepted by City, and one-half (1/2) of the total amount specified in said statement as the costs and expenses of purchase of the rights-of-way described in said statement shall be paid forthwith to County.

(b) For the purpose of paragraph 5(a) above only, the term "purchase" shall include actions in eminent domain. Also for the purpose of said paragraph, the term "costs and expenses of purchase" shall include, without limitation, the amount paid to acquire the right-of-way through negotiation or as determined by a court or jury, severance damages, costs of title searches and title reports, escrow costs and costs of title insurance, revenue stamps, filing fees, jury fees, fees for service of process, legal costs, expenses and fees incurred by the office of County Counsel, costs of exhibits, maps and drawings, appraisal costs and fees, and witness fees.

6. Payment of Construction Costs.

(a) Upon completion of the construction of said improvements and acceptance thereof by County, County shall submit to City an itemized statement of the total construction cost thereof. Within fifteen (15) days from the date of mailing of said statement, City shall submit in writing to County any objections to said statement or requests for modification. In the event no objection or request is so made, said statement shall be deemed approved and accepted by City, and one-half (1/2) of the total amount specified in said statement as the total construction cost of said improvements shall be paid forthwith to County, less any sum advanced under paragraph 4 above. In the event the sum so advanced exceeds 50% of the total construction costs, the difference shall be refunded to City forthwith.

(b) For the purpose of paragraph 6(a) above only, the term "total construction cost" shall mean the total amount paid by County for the construction of said improvements, plus all costs for extra work authorized by County and by the Council of City.

7. Insurance. County shall require any contractor awarded the contract for the construction and improvement of said Road to take out and maintain at all times during construction, public liability and property damage insurance in form and limits of liability acceptable to City and County, insuring City and County and their respective officers and employees from and against loss, cost or expense arising out of or in any way connected with the construction of said project.

8. Limitation on City's Share of Total Costs Hereunder. Notwithstanding any provision hereinabove contained, it is agreed by and between the parties that City's total share of County's "costs and expenses of purchase" of said rights-of-way, as hereinabove defined, and of County's "total construction cost" of said improvements, as hereinabove defined, shall not exceed the total sum of \$303,000.00.

WITNESS THE EXECUTION HEREOF the day and year first hereinabove written.

ATTEST: JEAN PULLAN, Clerk  
of the Board of Supervisors

Jean Pullan

COUNTY OF SANTA CLARA

By M. G. Spangler  
Chairman, Board of Supervisors  
001 13 1964

CITY OF SAN JOSE

By A. P. Hamann  
A. P. HAMANN  
And Franklin D. Mueller  
City Manager

ATTEST: FRANCIS L. GREINER

By Francis L. Greiner  
City Clerk

#15

October 14, 1964

Att: Roy H. Hubbard  
Deputy City Clerk  
City of San Jose  
City Hall  
First & Mission Streets  
San Jose, California

Subject: Agreement for Payment of Costs of Improvement  
of Tully Road

Dear Mr. Hubbard:

Enclosed please find five executed copies of Agreement for Payment of Costs of Improvement of Tully Road. The Board of Supervisors at its regularly scheduled meeting on October 13, 1964, authorized execution of this Agreement. Upon execution by the City of San Jose, it is our understanding that a fully executed copy will be returned to this office.



Very truly yours,

BOARD OF SUPERVISORS

Mrs. Jean Pullan  
Clerk of the Board

JP:DMR:kb  
Encls.  
CC: Public Works

CITY OF SAN JOSE  
CALIFORNIA

CITY HALL

TELEPHONE 292-3141



CITY CLERK

October 5, 1964

Board of Supervisors  
County of Santa Clara  
70 W. Hedding Street  
San Jose, California

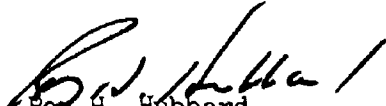
Gentlemen:

Enclosed please find five copies of AGREEMENT for PAYMENT of COSTS of IMPROVEMENT of TULLY ROAD for your signature.

After signing all copies please return to: Roy H. Hubbard, Assistant City Clerk, City Hall, San Jose, California, for completion. When all copies have been executed we will send you a copy for your files.

Very truly yours,

FRANCIS L. GREINER  
CITY CLERK

By:   
Roy H. Hubbard  
Deputy

Enc. 5

vc