

AGREEMENT BETWEEN COUNTY OF SANTA CLARA
AND CITY OF SAN JOSE FOR RELOCATION AND
CONSTRUCTION OF A PORTION OF ALMADEN ROAD

AGREEMENT between the County of Santa Clara, State of California, hereinafter called "County" and the City of San Jose, a municipal corporation of the State of California, hereinafter called "City",

WHEREAS, County and City desire to relocate and widen a portion of Almaden Road; and

WHEREAS, the proposed route of said portion of Almaden Road is shown and designated on that certain map entitled, "Almaden Road by-Pass, 4 lanes vs. 6 lanes," attached hereto as "Exhibit A" and by this reference made a part hereof; and

WHEREAS, the public interest requires that a right of way sufficient for a six lane road, together with certain frontage roads, be acquired for said relocation of said road; and

WHEREAS, the right of way necessary for a six lane road, together with frontage roads, hereinafter referred to as six lane right of way and the right of way necessary for a four lane road, together with frontage roads, hereinafter referred to as four lane right of way, are shown upon the above mentioned map attached hereto as "Exhibit A."

NOW, THEREFORE, for and in consideration of their mutual promises hereinafter set forth, and subject to the terms, provisions and conditions hereinafter set forth, the parties hereto do hereby agree as follows:

1. Acquisition of Right of Way

County shall assume all responsibility for the acquisition by purchase and/or condemnation of all property lying within the

unincorporated area of the County of Santa Clara required for a six lane right of way for said proposed relocation of Almaden Road as shown upon the above mentioned map attached hereto as "Exhibit A." City shall assume all responsibility for the acquisition by purchase and/or condemnation of all property within the incorporated area of the City of San Jose required for a six lane right of way for said proposed relocation of Almaden Road as shown upon said map.

2. Date of Acquisition

City and County shall complete the acquisition of, or shall have the right of possession to, all of the property required for said six lane right of way on or before March 7, 1953.

3. Preparation of Data

County shall prepare and furnish to City all necessary right of way maps, reports of property titles, surveys and construction layouts for the acquisition of the above mentioned property required for the proposed relocation of Almaden Road.

4. Costs of Acquisition

For the purpose of this agreement the "cost of acquisition" for any particular parcel shall mean (1) all costs and expenses (excluding appraisal costs, but including, without limitation, negotiation fees) incurred in acquiring said parcel by purchase, or (2) the amount of any judgment awarded in condemnation proceeding involving said parcel (including, but not by way of limitation, court costs, filing fees, witness fees, jury fees, costs of exhibits, maps, photographs and surveys, and costs on appeal).

5. Apportionment of Costs of Acquisition

The costs of acquisition of the above mentioned property required for said proposed relocation and widening of Almaden Road shall be apportioned between City and County as follows:

City and County shall each obtain and submit to the other party, within 60 days from and after the date of this agreement, an appraisal report setting forth the appraised value (including severance damage, if any) of each parcel of property required (1) for a four lane right of way, and (2) for a six lane right of way, as the same are shown upon the above mentioned map attached hereto as "Exhibit A."

City and County shall, upon the basis of said appraisal reports, agree upon a total value for all of the property (including severance damage) required for (1) a four lane right of way, and (2) a six lane right of way, as the same are shown on said map. In the event City and County can not agree on said values, then, in that event, the total value of all of the property required for said four lane right of way shall, for the purposes of this agreement, be the arithmetic average of the two total appraised valuations set forth in each of said reports for the property required for said four lane right of way, and the total value of all of the property required for said six lane right of way shall, for the purposes of this agreement, be the arithmetic average of the two total appraised valuations set forth in each of said reports, for the property required for said six lane right of way.

City and County shall then compute the "rate of increase" in the total value of all the property required for a six lane right of way, as above determined, over the total value of all the property required for a four lane right of way, as above determined. For the purpose of this agreement, said "rate of increase" shall be determined by dividing the total value (as above determined) of all the property required for the six lane right of way by the total value (as above determined) of all of the property required for the four lane right of way.

County's share of the cost of acquiring each specific parcel of property shall be computed by dividing the "cost of acquisition" of said parcel (whether by purchase or condemnation) by two (2) multiplied by the "rate of increase," as above determined. That is, the formula for determining the County's share for each specific parcel shall be:

$$\frac{\text{cost of acquisition of the parcel}}{2 \times (\text{the "rate of increase"})}$$

City's share of the cost of acquiring each specific parcel of property shall be computed by subtracting County's share of the cost from the "cost of acquisition."

6. Payment of Costs of Acquisition

City shall advance to County from time to time during the current fiscal year, from City's Special Gas Tax Street Improvement Fund, such amounts of money not exceeding the total sum of \$200,000.00, as County shall require for acquisition and/or immediate possession of the above mentioned property agreed to be acquired by County. City shall advance such amounts to County upon receipt by City of an executed copy of a purchase and sale agreement, or a certified, true copy of a judgment of a court of competent jurisdiction or an endorsed copy of an order of immediate possession. City shall not be required to contribute or advance moneys from any fund other than said Special Gas Tax Street Improvement Fund, and it is further agreed that use of such funds as above provided, shall be subject to and in accordance with the terms, provisions and conditions of an agreement to be executed by and between City and the Division of Highways of the State of California, authorizing expenditure of said funds; and County agrees to cooperate with City and do all things necessary to enable City to comply with all the said terms, provisions and conditions of said agreement.

Where moneys advanced by City have been deposited in Court, County shall, upon withdrawal thereof by County, immediately remit the same, together with any interest accrued thereon, to City.

Within a reasonable time after July 1, 1953, County shall pay to City the estimated amount of County's share of the cost of the property to be acquired by County, such payment to be partial reimbursement for the advance of moneys previously made by City to County.

Upon completion of the acquisition of the property required for the proposed relocation and widening of Almaden Road, City and County shall make an accounting of the total cost of acquisition of said property. The proportionate share of said cost to be borne by City and County, respectively, shall be determined and adjusted in accordance with the formula provided in Paragraph 5 hereinabove, and thereupon, the amount owed by either one of the parties to the other, shall be paid forthwith.

7. Excess Condemnation

In any case where excess property is acquired by County, whether by purchase or condemnation, County shall convey to City an interest therein proportionate to City's contribution to the acquisition of the entire property of which it is only a part, and City shall be entitled to a pro-rata share on the basis of said interest on any rents and/or profits therefrom. In the event the excess property would not have been acquired if a four lane right of way were acquired, then County shall convey said excess property to City in its entirety, and City shall be entitled to all the rents and/or profits therefrom.

8. Construction Costs

The initial phase of construction within the six lane

right of way acquired shall consist of (1) construction of a four lane highway, (2) construction of an overpass over the tracks of the Southern Pacific Company (to be located at approximately Station 31 / 75 on relocated Almaden Road, and approximately 1350 feet south of the existing Almaden Road underpass), (3) frontage roads, and (4) drainage facilities.

City shall pay, as its share of the cost of said construction, one-half (1/2) of the County's participating cost of said construction, as said participating cost is determined by the Federal Bureau of Public Roads and the Division of Highways of the State of California, pursuant to agreements between said agencies and County; provided, however, that in no event shall City's share of said cost of construction exceed One Hundred Fifty Thousand Dollars (\$150,000.00). Such share shall be paid by City by authorizing the Department of Public Works of the State of California to withhold, from the moneys credited to the City out of the State Highway Gas Tax Funds for the current fiscal year the sum of One Hundred Fifty Thousand Dollars (\$150,000.00), and to apply such sum or such lesser amount as may be necessary, to pay City's share of County's participating cost of said construction.

IN WITNESS WHEREOF, County and City have executed this agreement as of the 3rd day of March, 1958.

ATTEST:

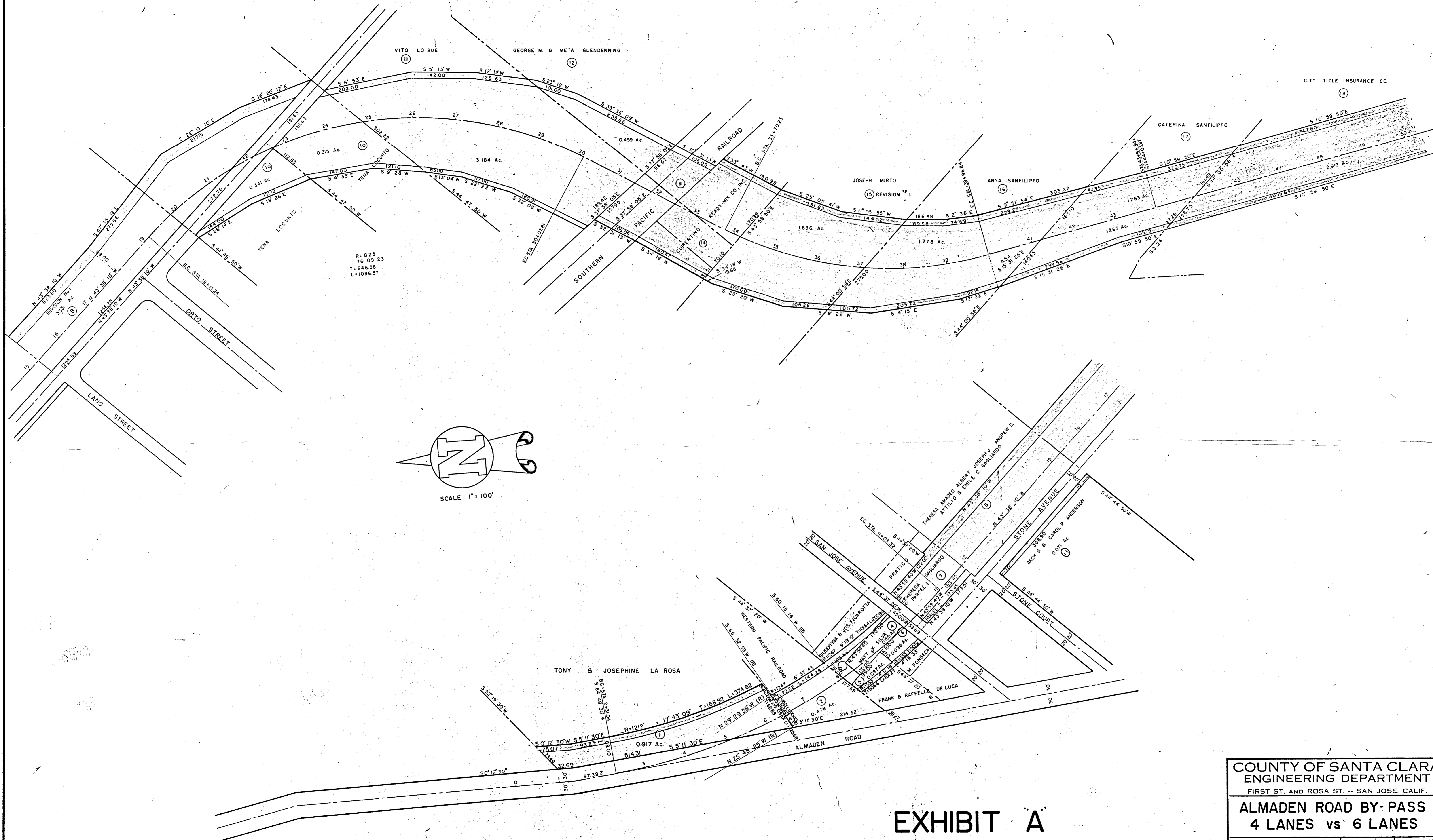
[Signature]
Clerk, Board of Supervisors

[Signature]
Chairman, Board of Supervisors

ATTEST:

[Signature]
City Clerk

[Signature]
Mayor, City of San Jose



R=825
T=646.38
L=1096.57

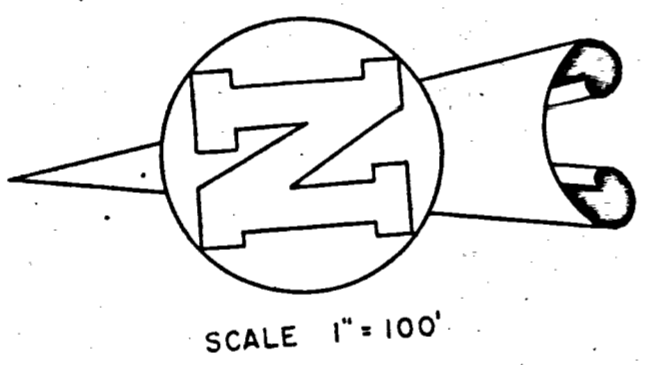


EXHIBIT A

COUNTY OF SANTA CLARA					
ENGINEERING DEPARTMENT					
FIRST ST. AND ROSA ST. - SAN JOSE, CALIF.					
ALMADEN ROAD BY-PASS					
4 LANES vs 6 LANES					
DESIGNED:	DATE:	FIELD BOOK:	PAGE:	LEVEL BOOK:	PAGE:
DRAWN:					
CHECKED:					
APPROVED:					
BRIDGE NO.	SHEET	OF		FILE NO.	