

City Clerk
7/1 1-28-75

AGREEMENT BETWEEN THE CITY OF SAN JOSE
AND THE COUNTY OF SANTA CLARA FOR THE
CONSTRUCTION OF ULTIMATE IMPROVEMENTS
ON CAPITOL AVENUE BETWEEN ALUM ROCK
AVENUE AND MC KEE ROAD

THIS AGREEMENT, made and entered into this MAR-11-1975 day
of _____, _____ by and between the CITY OF SAN JOSE, a
municipal corporation of the State of California, hereinafter referred
to as "City", and the COUNTY OF SANTA CLARA, a political subdivision
of the State of California, hereinafter referred to as "County";

W I T N E S S E T H:

WHEREAS, the public interest requires that ultimate improvements
on Capitol Avenue be constructed in order to provide an adequate road-
way section between Alum Rock Avenue and McKee Road, all of which said
ultimate improvements shall be hereinafter referred to as "project";
and

WHEREAS, approximately sixty-four and four-tenths percent (64.4%)
of the total project improvements lie within the unincorporated area
of the County, and the remaining thirty-five and six-tenths percent
(35.6%) of the total improvements lie within the City; and

WHEREAS, it is in the best interest of orderly and economic con-
struction practices to complete the project through joint action of the
City and County and under a single construction contract, awarded and
administered by County.

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

1. Scope of Project

The scope of this project entails the improvement of Capitol Avenue
to its ultimate width between McKee Road and Alum Rock Avenue. Improve-
ments includes curb and gutter, sidewalk, safety lighting, median pave-
ment, drainage facilities, wheel chair ramps, striping signs and signal
modification. The total project cost, including right of way, is
estimated to be One Million Six Hundred Fifty Thousand Dollars (\$1,650,000

MAR 11 1975

(Signature)

1 signed cpys. to City of San Jose; cpys. to: Counsel, Finance (w/Form 3128), Transportation

The total construction cost as defined hereafter is estimated to be One Million Dollars (\$1,000,000), which is to be shared by the City and the County in accordance with the provisions of this agreement. It is the responsibility of any party to this agreement, when anticipating a change of the project scope or a change of the total construction cost exceeding the amount above described, to immediately notify the other party of this agreement. It is only through mutual consent by a revised agreement executed by all parties that the change will then be valid.

2. Preparation of Plans, Specifications and Estimates

County shall prepare and submit to City for approval plans, specifications and estimates for the construction of the project. Upon approval by City, County shall advertise the project for bid and may award a contract to be supervised to completion by County.

3. Award of a Construction Contract

In the event that the submitted lowest responsible bid exceeds the Engineer's Estimate by ten percent (10%) or more, such bid shall be submitted to City for review and approval prior to the award of a contract.

4. Acquisition of Real Property

County shall acquire all the real property and the necessary temporary easements required for constructing said project, which lies within the unincorporated area of County. City shall acquire all the necessary temporary easements required for constructing said project, which lies within the territorial limits of City. Each party hereto shall be responsible for and shall pay its own land acquisition costs, including costs of eminent domain or inverse condemnation, as necessary for the commencement and completion of construction of said project.

5. City's Estimated Share of Cost

The "total construction cost" is the sum of the "construction cost" as hereinafter defined, and the "construction inspection cost".

As used in this agreement, the term "construction cost" shall mean the total of all costs incurred and expenditures made by the County in connection with constructing said project, including engineering costs and expenses, costs and expenses of preparing plans and specifications, publication, advertising and printing, cost of the construction contract, and cost of extra work and materials in connection with such work authorized by County in accordance with the plans and specifications for the Project approved by the City, but excluding the costs and expenses for construction inspection.

The City's share as hereinafter defined, shall be a total of "City's construction cost" plus the "City's construction inspection cost". "City's construction cost" shall be thirty-five and six-tenths percent (35.6%) of "construction cost". "City's construction cost" is estimated to be the sum of Three Hundred Ten Thousand Dollars (\$310,000). "City's construction inspection cost" shall be fifteen percent (15%) of "City's construction cost", estimated to be Forty Six Thousand Dollars (\$46,000). The estimated cost to City is therefore Three Hundred Fifty Six Thousand Dollars (\$356,000).

City agrees to pay to County the sum of Three Hundred Twenty Nine Thousand Dollars (\$329,000) upon demand of County which said demand shall be made by County no later than the 21 days after County advertises the project for bids.

6. Insurance

County shall require any contractor awarded a contract for any portion of said project to secure and maintain in full force and effect at all times during construction of said project and until said project is accepted by County, public liability and property damage insurance in forms and limits of liability and satisfactory and acceptable to both City and County, insuring City and County, and their respective officers and employees, from and against any claims, loss, liability, cost of expense arising out of or in any way connected with the construction of said project.

The aforementioned policy shall contain a provision that the insurance afforded thereby to City and County and their respective officers and employees shall be primary insurance to the full limits of liability of the policy, and that if the City or County, or their respective officers and employees, have other insurance against a loss covered by such policy, that other insurance shall be excess insurance only.

7. Final Cost to City

Upon completion of said project County shall submit to City a final accounting of the "construction cost". The final sum that shall be paid by City as its share of the "total construction cost" shall be computed as thirty-five and six-tenths percent (35.6%) of the actual "construction costs" plus fifteen percent (15%) of said amount for City's share of inspection costs. This final sum shall be the actual cost and final cost to City. If the actual cost is more than the amount of the deposit paid by the City to County, City shall pay to County the difference. If the actual cost is less than the amount of the deposit paid by City to County, County shall refund to City the difference.

8. Records and Accounts

County shall keep, maintain and render available for inspection by City or its authorized representatives, records and books which will provide a complete and accurate account of all costs, fees and expenditures made by County on construction costs of said project.

9. Annexation

In the event any portion of the area within the limits of said project is annexed to the City before date of advertising of said project by County, City's share of the "total construction costs" shall be increased in proportion to the amount of the project improvements in the territory annexed. Upon acceptance of completed project by County, City shall take all necessary steps which lie within its

powers to annex all unincorporated right of way of Capitol Avenue within the project limits and shall maintain all improvements contained therein.

10. Termination

This agreement shall terminate on June 1, 1975 if County has not awarded a contract for construction of the above described project prior to that date. In the event of such termination County shall refund to City all sums advanced under Paragraph 5 of this agreement.

11. Public Hearings and Environmental Statements

County shall conduct all public hearings and shall prepare all environmental statements that may be required for said project by existing legislation.

12. Administering Agency

In the exercise of this joint powers agreement, County shall be the administering agency and as such shall possess all powers common to both City and County which may be necessary to effectuate the purpose of this agreement, subject only to the manner of exercise of such powers provided herein and the restrictions imposed by law upon County in the exercise of such powers. City hereby grants extra territorial power to County for that area of the project within the City.

WITNESS THE EXECUTION HEREOF the day and year first hereinabove set forth.

CITY OF SAN JOSE, a municipal corporation of the State of California

By *Jonathan Hayes*
Mayor
"City"

APPROVED AS TO FORM

Donald H. Atkinson DIVISION CHIEF ATTORNEY/
~~Deputy City Attorney.~~

ATTEST: FRANCIS D. GREINER

By *Francis D. Greiner* Deputy
City Clerk

APPROVED AS TO FORM

Geirald Thompson
Ass't/Deputy County Counsel

ATTEST: DONALD M. RAINS, Clerk
of the Board of Supervisors

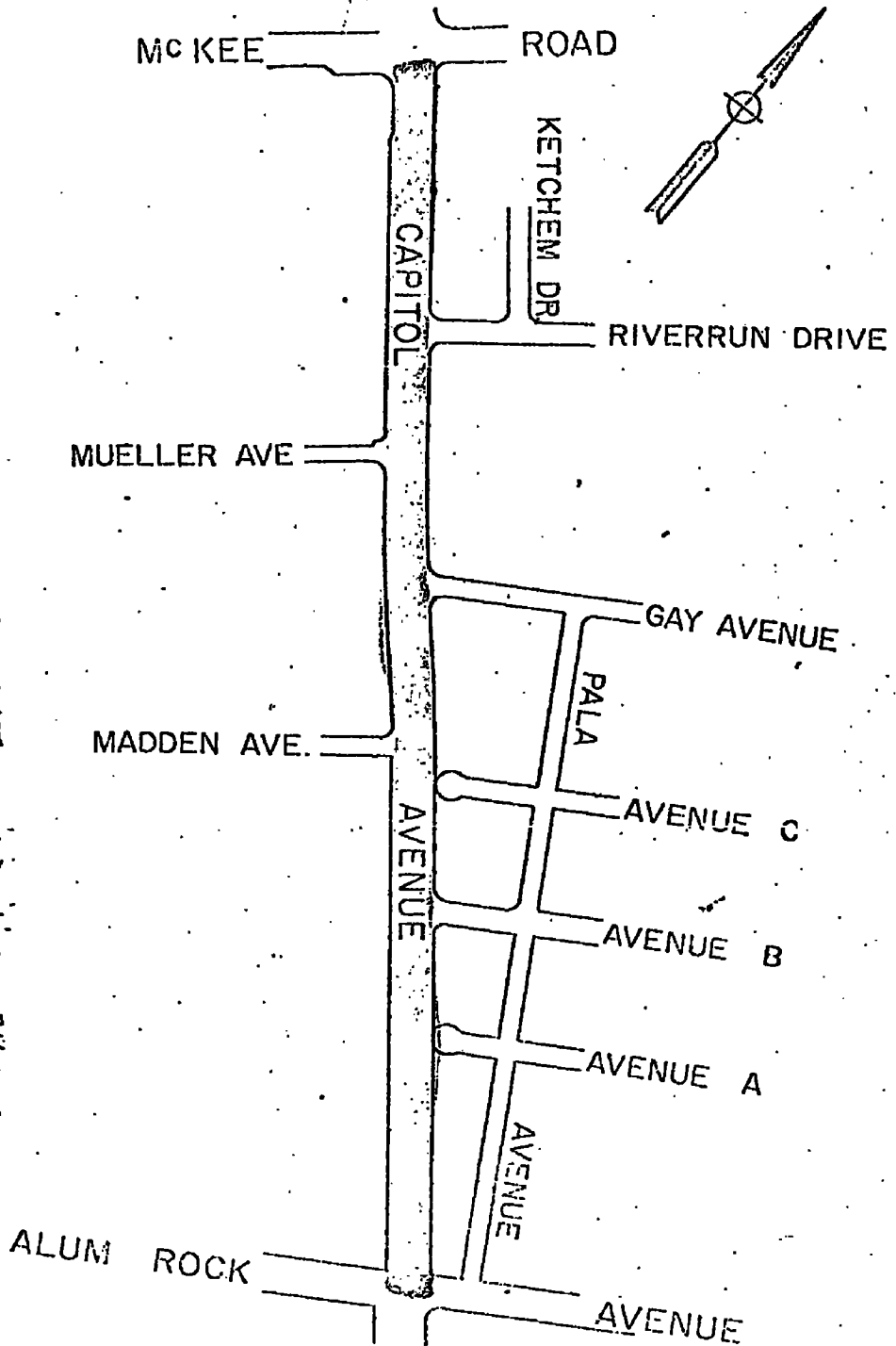
Donald M. Rains

COUNTY OF SANTA CLARA, a political subdivision of the State of California

By *James Lusk*
Chairman, Board of Supervisors
"County"

SITE PLAN

CAPITOL AVE IMPROVEMENT - ULTIMATE PHASE



**County of Santa Clara
California**

Office of the Board of Supervisors
524 County Administration Building
70 West Hedding Street
San Jose, California 95110
209-2323 Area Code 408

Sig Sanchez, District 1
Dominic L. Cortese, District 2
Dan Mc Corquodale, District 3
Rodney J. Dirlon, District 4
Geraldine F. Steinberg, District 5

March 14, 1975

Francis L. Greiner, Clerk
City of San Jose
City Hall
801 North First Street
San Jose, California 95110

Subject: Agreement with City of San Jose

for Construction of Ultimate Improvements on
Capitol Avenue between Alum Rock Avenue and
McKee Road

Dear Mr. Greiner:

Enclosed you will find a fully executed copy of the
subject agreement between the County of Santa Clara
and the party named above. The Board of Supervisors
at its regularly scheduled meeting on March 11, 1975
approved this agreement on behalf of the County.

The enclosed copy is for your records.

Very truly yours,

BOARD OF SUPERVISORS
Donald M. Rains, Clerk

Deputy Clerk

DMR:vas
Enclosure

CC: Finance
Transportation

No. _____

Job No. _____

Change Order No. _____

8.

**BOARD OF SUPERVISORS
SANTA CLARA COUNTY**

DATE March 14, 1975

Agreement

The following contract ~~was awarded or change order~~ was approved by the Board of Supervisors at a meeting held:

_____ March 11, 1975

Project to be charged Agreement with City of San Jose for Construction of Ultimate Improvements on Capitol Avenue between Alum Rock Avenue and McKee Road

For the amount of \$ per copy of Agreement attached

Contractor City of San Jose
801 North First St., San Jose 95110

Completion Date _____

Budget Item _____ (for Controller's use)

Donald M. Rains / scc
DONALD M. RAINS
Clerk of the Board

vas

WHITE --- CONTROLLER
CANARY -- FILE
~~FOR PUBLIC WORKS~~
~~FOR PUBLIC WORKS~~

County of Santa Clara

California

TRANSMITTAL MEMORANDUM

S.D. 3

Page 1 of 2

DATE: February 11, 1975

FOR: BOARD OF SUPERVISORS AGENDA OF February 25, 1975

FROM: *AM* MONTINI, TRANSPORTATION DEVELOPMENT

TITLE: AGREEMENT BETWEEN THE CITY OF SAN JOSE AND THE COUNTY OF SANTA CLARA FOR THE CONSTRUCTION OF ULTIMATE IMPROVEMENTS OF CAPITOL AVENUE BETWEEN ALUM ROCK AVENUE AND MC KEE ROAD

DESCRIPTION:

Introduction

The attached agreement provides for the ultimate improvement of Capitol Avenue between Alum Rock Avenue and McKee Road. This improvement project is a joint agency project with the City of San Jose and is the final phase of a two-phase improvement program on this section of Capitol Avenue. The interim phase was administered by the City of San Jose and is now completed. The ultimate phase will be administered by the County. It is proposed that the City of San Jose and the County shall share in the construction cost of the ultimate phase as follows: 35.6% (City) and 64.4% (County). The County's estimated share is \$650,000.

Background

On August 8, 1972 the Board approved a staff report that Capitol Avenue between Alum Rock Avenue and McKee Road was to be improved as a joint agency project with the City of San Jose and that the improvements be done in two phases; the interim phase was to be administered by the City of San Jose, and the ultimate phase was to be administered by the County.

On June 5, 1973 the City of San Jose and the County jointly executed a cost sharing agreement for the interim improvement of Capitol Avenue between Alum Rock Avenue and McKee Road.

On July 3, 1973 the City of San Jose and the County jointly executed an amendment to the interim improvement agreement to modify the scope of the interim improvement in order to accelerate the ultimate phase.

On February 4, 1974 the contract for the interim improvement was awarded to Leo F. Piazza Paving Company. On September 30, 1974 the interim project was completed and accepted by the City of San Jose.

APPROVED: JAMES POTT *[Signature]*

HOWARD CAMPEN *[Signature]*
3/11/75

AGENDA DATA: DATE: _____

BOARD ACTION: _____

ITEM NO: _____

MAR 11 1975 *[Stamp]*

TRANSMITTAL MEMORANDUM

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DATE: February 11, 1975

DATE OF AGENDA: February 25, 1975

TITLE: AGREEMENT BETWEEN THE CITY OF SAN JOSE AND THE COUNTY OF SANTA CLARA FOR THE CONSTRUCTION OF ULTIMATE IMPROVEMENTS OF CAPITOL AVENUE BETWEEN ALUM ROCK AVENUE AND MC KEE ROAD

On January 28, 1975 the City Council of the City of San Jose approved and executed the attached cost sharing agreement for the ultimate improvement of Capitol Avenue between Alum Rock Avenue and McKee Road.

Project Status

There are 30 parcels involved in the improvement project. Of these 30 parcels, 28 parcels have been settled and 2 parcels remain unsettled. Utilities are being relocated and undergrounded at present. Final plans and specifications are being reviewed by the City of San Jose. If the project is approved, it can be advertised and awarded in March, 1975 and completed by December, 1975.

Alternatives

There are two alternatives for Board action on this agreement. (1) Disapprove and not execute the agreement. (2) Approve and execute the agreement. The first alternative would be contrary to previous Board action and previous County expenditures of \$800,000 for engineering and right of way acquisition. The second alternative would be consistent with the Board's previous commitment but would also require an additional County expenditure of \$100,000. (County's share of increased cost.)

Because of the skyrocketing inflation in construction costs, the funds included in the approved road budget for this ultimate project are now insufficient.

If the agreement is executed, a budget transfer of \$100,000 will be required to cover the County's share of the increased cost. The City will contribute an additional \$56,000.

The budget increase and the budget transfer request are being concurrently presented to the Board under the County Executive's portion of this agenda.

Recommendation

Approval and execution of this agreement are recommended.

Three copies of this Agreement shall be sent to the City Clerk after execution.

LM:AKC:vlt
attachments

cc: A. R. Turturici, Director of Public Works, City of San Jose

SITE PLAN

CAPITOL AVE IMPROVEMENT - ULTIMATE PHASE

