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CONTRACT
BETWEEN CITY OF SAN JOSE
AND
ALVISO IMPROVEMENT CORPORATION ✓

CONTRACT made and entered into this 1 day of NOV, 1967, by and between CITY OF SAN JOSE, a municipal corporation of the State of California, hereinafter referred to as First Party, and ALVISO IMPROVEMENT CORPORATION, a California corporation, hereinafter referred to as Second Party;

W I T N E S S E T H:

WHEREAS, it has been proposed that the City of Alviso, a general law city of the State of California, situate in the County of Santa Clara, be consolidated with the City of San Jose, a municipal corporation of the State of California, pursuant to the Municipal Consolidation Act of 1913, and steps are being taken by proponents in Alviso to accomplish such consolidation; and

WHEREAS, Second Party, being a non-profit corporation created for the purpose of promoting the social welfare of the people of the City of Alviso, is desirous of obtaining some assurance that, if said City of Alviso is consolidated with said City of San Jose pursuant to said Act on or before the date hereinafter specified, First Party will do, subject to the terms, covenants and conditions hereinafter set forth, all the things which it hereinafter agrees to do; and

WHEREAS, First Party, for the consideration hereinafter specified, is willing to agree to do, subject to the terms, covenants and conditions hereinafter set forth, all the things which it hereinafter agrees to do;

NOW, THEREFORE, for and in consideration of their respective covenants, promises and agreements, the parties hereto do hereby contract and agree as follows:

1. Covenants of First Party. First Party agrees that if the said City of Alviso is consolidated with said City of San Jose, on or before the thirtieth day of June, 1968, pursuant to the provisions of the Municipal Consolidation Act of 1913 (Government Code Sections 35800 et seq.), then in that event First Party will do all of the following, to wit:

(a) Fire Protection. Immediately, upon and after the effective date of said consolidation, provide at least one 1,000-gallon-pumper-type fire engine, together with such complement of fire-fighters as is normally assigned to such an engine, to provide fire service to the area now situate within the City of Alviso; and provide for the stationing of said fire engine and complement of fire-fighters at some location within the present city limits of the City of Alviso within thirty (30) days after the effective date of such consolidation.

(b) Police Protection. Immediately, upon and after the effective date of said consolidation, expand the area now served by the First Party's Police Department, including the police car patrol area, to include the area now situate within the City of Alviso.

(c) Stand-by Water Connection. Immediately upon consolidation, commence taking such action as may be necessary to construct and establish a stand-by water connection at the well, located within the lands of San Jose-Santa Clara Sewage Treatment Plant, which is situate approximately one half mile, more or less, from the City of Alviso, and continue thereafter, without unreasonable delay, to complete construction thereof, such stand-by connection to serve the existing municipal water system in Alviso.

The parties hereto understand that parties other than First Party have an interest in the above mentioned well and lands of the San Jose-Santa Clara Treatment Plant, that the consents of said parties to the above will have to be obtained, and First Party's above promise is subject to the obtaining of such consents. First Party agrees that it will proceed with all speed and diligence and without undue delay to obtain such consents so that it can do the above things. First Party further

agrees that if it cannot get such consents or for any other reason fails to do the above things, it will, within not more than one (1) year from and after the effective date of such consolidation, provide for some other stand-by water service from some other well or water facility.

(d) Existing Municipal Water System of Alviso.

Immediately upon consolidation, take over operation of the existing municipal water system of the City of Alviso. Also, lower existing water service rates of said system so that as of the date of consolidation such rates will be not more than those charged by the City of San Jose to users of the City of San Jose's municipal Evergreen Water System. First Party further agrees that, to the extent it can legally do so, it will thereafter refrain from thereafter increasing such rates as long as said water system remains as it now exists.

(e) Library Service. Immediately upon consolidation, and thereafter until provision is made for other library service, provide library bookmobile service to people in the area now in the City of Alviso, such bookmobile service to be similar to that now provided to other areas of the City of San Jose to which such service is now available.

(f) Recreation. Immediately upon consolidation, and prior thereto if possible, negotiate with the school district in Alviso for an agreement, similar to agreements which San Jose has with other school districts, providing for San Jose recreation leadership at the school grounds in Alviso; and, upon execution of such agreement, provide recreation leadership at such school grounds. In the event that a City-school district agreement is not executed prior to or within one hundred eighty (180) days after the effective date of the consolidation, take such other expedient and temporary action as may be necessary to provide a recreation program, similar in general to that provided to other parts of the City of San Jose, for Alviso upon and after consolidation until such an agreement is executed.

(g) Community Center Building. Lease, construct or otherwise acquire a building, or remodel a building, in Alviso



for use as a recreation-community center building. Steps to accomplish this will be commenced immediately upon consolidation, and will be completed within one (1) year from and after the effective date of consolidation.

(h) Swimming Pool. Construct an adequate municipal swimming pool in the Alviso area, such pool to be financed with funds of the consolidated City of San Jose plus contributions to be obtained from private sources. If contributions cannot be obtained from other parties, First Party will nonetheless construct such pool as aforesaid. The pool will be operated by First Party's Recreation Department. Steps to accomplish the above will be commenced immediately upon consolidation, and said pool will be completed within one and one half (1½) years from and after the effective date of consolidation.

(i) Park Facilities. Install park facilities in the Alviso area, either on school district land pursuant to an agreement with the school district in Alviso or on City land. Such will be done, as in other areas of the City of San Jose, as soon as moneys are available for such purpose. However, since the City of Alviso already owns some land which can be used for park purposes, First Party agrees that, if such land is not sold by the City of Alviso before consolidation and such land becomes part of First Party's lands upon consolidation, First Party will, if it shall not have selected some other park site within ninety (90) days after the effective date of the consolidation, (a) immediately thereafter select a park site within said lands which are presently owned by the City of Alviso, (b) thereupon immediately commence preparing designs and plans for park improvements within the park site so selected, (c) plant trees and shrubbery within such site within ninety (90) days after the date of selection of such site, and (d) within two (2) years thereafter make and complete such other improvements in such park site as will permit its opening and use for public park purposes within such two (2) years.

(j) Street Lights. Install a street light at each intersection and, in case of long blocks, at mid-block, in accordance

with San Jose's existing policy for newly annexed areas. There is no charge to property owners for such installation, nor for the required electrical energy. Steps to accomplish this will commence immediately upon consolidation and will be continued without unreasonable delay until completed.

(k) Storm Drains and Street Improvements. Expend  not less than \$300,000 within three (3) years after consolidation,  for the construction of storm drain improvements and street improvements in the residential and down-town areas of Alviso, such work to commence within one (1) year after consolidation. First Party agrees that it will not initiate or conduct any special assessment proceedings for the construction or installation of said \$300,000 of improvements, nor levy any special assessments pursuant to any such proceedings on any property now in the City of Alviso for payment of the cost of said \$300,000 of improvements.

2. It is the understanding of the City that, upon consolidation of the City of Alviso and the City of San Jose, all public streets and roads of the City of Alviso would, under law, automatically become and be public streets and roads of the consolidated City of San Jose. If for any reason such should not be true, First Party agrees that upon said consolidation it will accept all dedications of any and all such streets to the City of San Jose for public street purposes.

3. Covenants by Second Party. In consideration of the above promises and covenants of First Party, Second Party agrees that if the City of Alviso and the City of San Jose are consolidated on or before the thirtieth day of June, 1968, it will convey or cause to be conveyed to the "City of San Jose, a municipal corporation of the State of California", for public street purposes, each of the parcels of real property which are hereinafter described. Second Party warrants that each of said parcels will be so conveyed free and clear of any and all liens and encumbrances excepting those to which such property is subject on date of this agreement, provided and except that with respect to any liens, mortgages or deeds of trust to which such property is subject on date of this agreement which are security for

any indebtedness, Second Party agrees that it will do its utmost to secure releases or partial reconveyances to clear the hereinafter described lands from such liens and encumbrances but if any of the holders thereof refuse, notwithstanding such efforts of Second Party, to execute such releases or partial reconveyances, Second Party will have no further obligation to clear said real property of the liens, mortgages and deeds of trust held by the parties so refusing to execute releases or partial reconveyances.

The cost of any and all revenue stamps, and all recording fees, shall be paid by First Party. First Party further agrees to pay all reconveyance or release fees charged for any partial reconveyances or releases, provided that if the cost for any reconveyance or release should exceed \$50.00 City shall have the right to either pay the same or refuse such release or reconveyance, and if it should reject the same First Party shall have no further obligation with respect thereto.

4. Prior Indebtedness of City of San Jose. Each of the parties hereto have been informed by their respective attorneys that, under the Constitution and under the Municipal Consolidation Act of 1913, the City of Alviso, if it consolidates with the City of San Jose, will not assume any prior indebtedness of the City of San Jose unless the people of the City of Alviso vote to assume such indebtedness. This agreement is entered into by both parties on the assumption and subject to the condition that such is true.

It is also the mutual understanding of both parties hereto that, if and when a proposal for consolidation of said two cities is presented to the people of the City of Alviso, such proposal will not include or be accompanied by any proposal that the people of Alviso assume any prior indebtedness of the City of San Jose. This agreement is entered into by both parties on the assumption and subject to the condition that such is true and that in the event of such consolidation the people of the City of Alviso will not, as a result thereof, assume any prior indebtedness of the City of San Jose and that property within the City of Alviso will not, because of such

consolidation, be taxed by the City of San Jose to pay any prior indebtedness of the City of San Jose.

5. Building Regulations. First Party has been informed by Second Party that Second Party and the people of the City of Alviso are very concerned with respect to the effect enforcement of City of San Jose building regulations might have, in the event of consolidation, on buildings within the City of Alviso. Enforcement of such regulations is one of the functions of the administrative branch of the City. The Council of the City of San Jose is prohibited by the Charter of San Jose from interfering with the execution by the City Manager of his powers and duties. For such and other legal reasons, First Party cannot, and does not, make any promises or commitments respecting this matter. However, for the information of all persons interested, First Party calls attention to a statement which the Council of the City of San Jose made respecting this matter, contained in paragraph 17 of Resolution No. 31507 adopted by said Council on July 17, 1967. Said Council, in its resolution authorizing this agreement adopted on _____, 1967, has declared that said statement still correctly reflects and states its views respecting this matter. Said statement, as contained in paragraph 17 of said Resolution No. 31507, reads as follows:

"Building Regulations. All new construction and improvements occurring or made after consolidation will be required to conform to San Jose building and housing regulations.

"With respect to existing buildings and structures in Alviso, this Council is aware of the fact that a considerable number of such buildings and structures may not meet present Code requirements for new buildings and structures in San Jose. This is true not only in the Alviso area but also in various older sections of San Jose. However, existing buildings and structures do not become illegal merely because Codes are subsequently amended to impose additional or more stringent requirements for buildings or structures thereafter erected. It is only when an existing structure or building becomes a nuisance, dangerous to health, safety or welfare, that some action is taken to remedy the situation. This Council recognizes that hasty action, without regard to the needs, requirements and abilities of owners, residents and occupants of such buildings or structures could result in unreasonable financial hardship, dispossession of occupants who can't afford better housing, and other effects adverse to the public welfare. Consequently, in the event of consolidation,

although this Council would urge and encourage a voluntary program to improve housing, this Council would also urge the City Manager and other enforcing agencies and officers of the City to use great caution in the exercise of their enforcement powers, and to refrain from any action which would cause unnecessary hardships."

6. Descriptions of Property to be Conveyed to First Party. The parcels of real property, hereinabove mentioned and referred to in paragraph 3 of this agreement, which Second Party hereinabove agrees to convey or cause to be conveyed to First Party as provided in said paragraph 3, are all those parcels of real property situate in the County of Santa Clara, State of California, described as follows, to wit:

PARCEL 1

A strip of land 25 feet in width, contiguous to and lying Southwesterly of the existing Southwesterly line of San Jose-Alviso Road, 80 feet in width, beginning at the Southeasterly line of that certain parcel of land conveyed to C. P. Albanese, as filed for record on September 23, 1960 in the County Recorders Office in Book 4926 of Official Records, at Page 628; thence N 72° 31' W approximately 420 feet to the Northwesternly line of said lands of Albanese.

PARCEL 2

A strip of land 25 feet in width, contiguous to and lying Southwesterly of the existing Southwesterly line of San Jose-Alviso Road, 80 feet in width, beginning at the Northwesternly line of that certain parcel of land conveyed from St. Claire Corp. to C. P. Albanese, as filed for record on September 23, 1960 in the County Recorders Office in Book 4926 of Official Records, at Page 628; thence along said Southwesterly line through the lands of Sainte Claire Corp. to the prolongation of a line parallel with and 45 feet Northwesternly of the centerline of Grand Boulevard.

PARCEL 3

A strip of land 10 feet wide, contiguous to and lying Southerly of the Southerly line of Los Esteros Road as it now exists, running from the Southeasterly line of the tract of land conveyed to Roy M. Butcher by deed recorded in the Office of the County Recorder, County of Santa Clara, in Book 1760 of Official Records, at Page 115, to the Northwesternly line of Lands of Butcher.

PARCEL 4

A strip of land 25 feet wide, contiguous to and lying Northeasterly of the Northeasterly line of San Jose-Alviso Road, 80 feet wide, and running from the Northerly line of Alviso-Milpitas Road to the Northwesternly line of that certain 7.776 acre tract of land conveyed to Gilbert Irvine Smith and Frances C. Smith, his wife, by deed recorded in the office of the County Recorder, County of Santa Clara, in Book 4403 of Official Records, at page 596.

PARCEL 5

A strip of land 1 foot in width, contiguous to and lying Southeasterly of the Southeasterly line of Grand Boulevard, 50 feet wide, running from Station R.E.4 as described in the deed to Lawrence O'Neill and Nellie O'Neill, his wife, and recorded in the office of the County Recorder, County of Santa Clara, in Book 4247 of Official Records, at Page 737, to the Southeasterly prolongation of the center line of Pacific Avenue.

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

ATTEST:

FRANZIS L. GREINER

By [Signature]
City Clerk

CITY OF SAN JOSE, a municipal corporation,

By [Signature]
Vice-Mayor

A. P. HAMANN

And [Signature]
City Manager, Deputy
"First Party

ALVISO IMPROVEMENT CORPORATION, a California corporation,

By [Signature]
President

By [Signature]
Secretary

"Second Party