

**ORIGINAL**

Decision No. 26456

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

<p>In the matter of the application of the City of Palo Alto, a muni- cipality, for an order permitting the separation of grades at the crossing of the Embarcadero Road over the right-of-way and tracks of the Southern Pacific Company in said City.</p>	)
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Application No. 14323.

- Norman E. Malcolm, for the City of Palo Alto.
- Henry W. Hobbs, for Southern Pacific Company.
- John H. Skeggs, for Department of Public Works,  
Division of Highways.

BY THE COMMISSION:

O P I N I O N

In this application the City of Palo Alto requests an order authorizing a separation of grades at the crossing of Embarcadero Road in that city with the right-of-way and tracks of Southern Pacific Company and apportioning the cost of such separation between Southern Pacific Company, the City of Palo Alto, the County of Santa Clara and the State Highway Commission. Public hearings were held at Palo Alto on February 14th, April 16th, May 28th and June 25th, 1928, before Examiner Rowell, and at the hearing on June 25th, 1928, the matter was taken under submission.

Embarcadero Road is an east and west street of the City of Palo Alto, located about one-half mile southerly from the main business district along University Avenue. On the easterly side of the tracks this highway passes through a residential section of the city and on the westerly side of the tracks it passes the Palo Alto

Union High School and after crossing the State Highway enters Stanford University campus in the vicinity of Stanford Stadium. Because of the fact that other streets in the residence district on the easterly side of the railroad are laid out either parallel or at right angles to the railroad right-of-way, while Embarcadero Road crosses the city at an angle of about sixty (60) degrees to the railroad, it forms a diagonal artery. This, combined with the fact that it is one of the few streets in Palo Alto crossing the railroad, makes it a fairly important traffic artery. Traffic counts, taken at the crossing during a 16-hour period in 1925 and 1928, on approximately the same dates, gave the following results:

	<u>1 9 2 5</u>		<u>1 9 2 8</u>	
	<u>Sun.Feb.1</u>	<u>Tues.Feb.3</u>	<u>Sun.Feb.12</u>	<u>Fri.Feb.10</u>
Pedestrians & Bicycles	305	2,102	405	1,437
Vehicles	1,834	2,528	1,983	2,810

The counts indicate a slight increase in traffic during the three-year period.

Southern Pacific Company stipulated that a grade separation at this point was desirable and accordingly no evidence was introduced to show the necessity for the proposed improvement. The parties are not in agreement, however, either as to the plan to be used in effecting such a separation or the division of cost thereof and testimony and documentary evidence was presented covering these phases of the matter.

In the application, as filed, the city proposed a subway having a 37-foot roadway with a sidewalk on each side, the center line of the subway coinciding with the center line of Embarcadero Road. At a subsequent hearing, however, a new plan (Exhibit No. 7) was presented by the city, under which a subway, with the same width of roadway and two sidewalks, would be built but the center of which

would be near the southerly line of the street, and a considerable portion of the east approach would lie on land belonging to the city while the west approach would require the acquisition of some of the High School grounds, the latter property being owned by Stanford University. By this change it is possible to have the northerly portion of Embarcadero Road, both east and west of the track, remain open for the use of the public to the railroad right-of-way, thus avoiding damage to the property fronting on this side of the street. The cost of caring for pipe lines and sewers will also be reduced under this plan and access facilitated from Embarcadero Road to Alma Street, an important traffic artery parallel and adjacent to the easterly line of the railroad right-of-way. It is also claimed that this plan will facilitate the handling of large crowds of pedestrians passing between Stanford Stadium and Southern Pacific trains at Stadium Station. The estimated cost of constructing this subway, exclusive of additional property requirements, property damage and relocation of pipe lines and sewers, is \$141,116.

Southern Pacific Company, in Exhibit No. 8, proposes a modification of this plan to provide for a 23-foot roadway with sidewalks on each side. If such width is used, a smaller portion of the city's property is utilized and a narrower parcel from the High School grounds will be required. Southern Pacific Company also proposes a 23-foot roadway on the bridge carrying Alma Street across the easterly approach, whereas the city plan would provide a roadway 40 feet in width. In addition to being a smaller structure, with resulting lower construction cost, the amount of repaving required to provide satisfactory entrance and exit is also considerably less. The cost of the project, as proposed under Southern Pacific Company's plan, exclusive of additional property requirements, property damage and cost of moving pipe lines, is

estimated to be \$92,791.

The principal point of disagreement, in respect to this plan, is the width of roadway to be provided in this subway. The city contends that 23 feet is insufficient to meet the future traffic needs, when consideration is given to the prospective growth of the community, and it is no doubt true that the opening and settlement of new residential districts in the southeastern portion of the city, the expansion of Stanford University and the construction of the Bayshore Highway southward to San Jose, will cause some additional travel over Embarcadero Road. It is also true that a certain amount of travel will be attracted by the fact that the grades are separated but it is equally true that a substantial portion of the travel, which now uses the Embarcadero grade crossing, will, because of the inconvenient entrance from Alma Street when the subway is completed, be diverted to other grade crossings to the southward. If the subway were to be located at a point where it could be expected to carry the major portion of the vehicular travel in the City of Palo Alto, having occasion to cross Southern Pacific Company's tracks, there undoubtedly would be reason for a wider subway, but the University Avenue crossing will continue to be the main entrance to the city and other crossings will attract such travel as conveniently can use them. Southern Pacific Company has presented exhibits showing that subways 23 feet in width have, under actual traffic conditions, carried ten times the number of vehicles now using the Embarcadero crossing. After a thorough consideration of all the evidence in this record, we believe a subway 23 feet in width will be adequate at Embarcadero Road. A structure substantially in accordance with Exhibit No. 8 is recommended and the division of cost arrived at in this decision will be based on such a structure.

There is a disagreement between the parties as to whether or not certain items should be considered as a part of the subway cost. The city contends that the amount to be apportioned between the parties should include the Alma Street Bridge, the cost of securing additional right-of-way and certain paving work between the west portal of the subway and the State Highway.

With respect to the first item, Southern Pacific Company contends that it receives no benefit from the separation of the grades of Alma Street and Embarcadero Road and should not be assessed any portion of the cost of the bridge carrying Alma Street over the subway approach. It should be pointed out that this bridge is not being installed primarily for the purpose of separating the grades of these two streets but rather because it is the only practical means of maintaining the continuity of Alma Street if the grades between Embarcadero Road and the railroad tracks are to be separated. Public necessity requires that Alma Street be kept open as a through street and the cost of so maintaining it appears to be properly chargeable as a part of the subway cost.

With respect to the cost of additional right-of-way, it appears that the triangular block on the east side of the track, now owned by the city, was acquired for park and subway purposes. The railroad has agreed to the plan of including in the subway's cost the value of such portion of this tract as actually is used for subway purposes. The value of the portion so used is estimated by the city engineer to be \$3,000. and as this estimate appears reasonable this sum should be included in the subway cost. The additional right-of-way required on the westerly side of the railroad is now the property of Stanford University, leased to the Palo Alto Union High School under a 99-year lease. While both of these institutions will secure very material benefit from a subway at Embarcadero Road, it is claimed that Stanford University legally cannot convey title to this land except upon con-

demnation. It therefore appears proper that the cost of securing such portions, as actually are required for the subway, should be included in its cost.

The city also requests that the cost of securing an additional strip of property from the High School grounds, between the westerly end of the subway approach and the State Highway, and of widening and paving Embarcadero Road for this distance be considered as a part of the subway project and that the cost thereof be apportioned between the parties. The cost of widening such road for a greater distance west of the subway portal than is actually necessary in order to provide a safe and convenient approach does not appear to be a proper part of the subway cost. A satisfactory entrance to the underpass can be accomplished without producing the line of the subway to its intersection with the highway. It does, however, appear desirable to remove the entrance to the High School grounds one hundred feet westerly from the westerly end of a subway approach, and to secure a safe and adequate entrance to the subway, it is recommended that the southerly line of the subway be produced westerly to its intersection with this driveway in its new location, to form the southerly boundary of Embarcadero Road. The cost of acquiring this small parcel of property and the cost of paving and reconstructing curbs and sidewalks incurred in making this change are, properly, part of the subway cost.

It also appears that certain pipe lines will have to be moved, in connection with the construction of this subway. These lines are the property of the City of Palo Alto and not of privately owned utilities operating on a franchise. The city has agreed to assume the cost of moving these lines and it will, therefore, be unnecessary for the Commission to apportion the cost of this work. It also appears that a sewer line from Stanford University is maintained in this street and that the University will undertake the necessary changes to this line.

In the judgment of the Commission the cost of constructing a subway at Embarcadero Road, which should be apportioned between the city and Southern Pacific Company, should include the following items:

First: A subway, having a 23-foot roadway and sidewalks on each side, providing deck for three tracks, with grade lines established to provide for two additional tracks, as proposed in plan offered by Southern Pacific Company and designated as Exhibit No. 8 in this proceeding.

Second: All additional expense involved in the construction of a bridge 23 feet in width to carry Alma Street across the easterly approach to such a subway.

Third: The sum of \$3,000., representing the cost of acquiring that portion of the triangular block, bounded by Embarcadero Road, Alma Street and Kingsley Street, which is used for subway purposes.

Fourth: The cost of acquiring such property from the High School grounds as actually is used for subway construction purposes and to secure a proper and adequate entrance to the westerly entrance end of such a subway.

Fifth: The cost of reconstructing pavement, substantially as shown in tint on Exhibit No. 8, and including, in addition, such pavement and reconstruction of curbs and sidewalks as may be required to extend the highway leading from the westerly portal of the subway along the lines of the subway produced to the intersection with the entrance to the High School grounds in the new location recommended in this opinion.

It is the judgment of the Commission that fifty (50) per cent of the total cost of the above items should be borne by Southern Pacific Company and the remainder by the City of Palo Alto.

Nothing in this opinion and the following order should be construed, however, as prohibiting the city from building a wider subway, if it so desires, but the apportionment to Southern Pacific Company should be fixed on the above basis.

In its application, the city requests that the County of Santa Clara and the State Highway Commission be assessed a portion of the cost of this project, but from the present record it is not apparent that either of these parties should be assessed by this Commission with any of the cost of accomplishing this grade separation.

O R D E R

The City Council of the City of Palo Alto having made application to the Commission for permission to construct a public highway, known as Embarcadero Road, under the tracks of Southern Pacific Company and for an order determining and apportioning the costs of constructing such crossing, public hearings having been held, the Commission being apprised of the facts, the matter being under submission and ready for a decision; therefore,

IT IS HEREBY ORDERED that the City of Palo Alto be and it is hereby authorized to construct an undergrade crossing under the tracks of Southern Pacific Company at Embarcadero Road, in the City of Palo Alto, County of Santa Clara, State of California, said crossing to be constructed subject to the following conditions:

(1) Said crossing shall be constructed so as to provide one roadway with not less than twenty-three (23) feet clear width and grades of approach of approximately five (5) per cent and to provide two sidewalks with a width of not less than six (6) feet.

(2) Said crossing shall be constructed with clearances conforming to the provisions of this Commission's General Orders No. 26-C and No. 64.

(3) Fifty (50) per cent of the cost of construction of an undergrade crossing, of the dimensions given in Condition (1), and as set forth in the opinion preceding this order, shall be borne by Southern Pacific Company. All remaining costs shall be borne by the City of Palo Alto. The cost of maintenance of the superstructure shall be borne by Southern Pacific Company. All other maintenance costs shall be borne by the City of Palo Alto.

(4) Applicant shall, before commencement of construction, file with this Commission a complete set of the detailed plans of said undergrade crossing, said plans to have the approval of the Southern Pacific Company.



(5) Applicant shall, within ninety (90) days from the date hereof, file with this Commission, for its approval, a certified copy of the agreement between the interested parties relative to the construction of said crossing.

(6) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossing.

(7) If said crossing shall not have been installed within two years from the date of this order, the authorization herein granted shall then lapse and become void, unless further time is granted by subsequent order.

(8) The Commission reserves the right to make such further orders, relative to the location, construction, operation, maintenance and protection of said crossing, as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

For all other purposes the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 13<sup>th</sup> day of November, 1928.

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*O. L. Seaman*  
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*James L. Cook*  
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*Thos. D. Louth*  
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*M. J. Linn*  
Commissioners.