

PLEASE RECORD AND RETURN TO:

Richard H. West, City Clerk
City of San Leandro
835 East 14th Street
San Leandro, California

94577

NO. 77-128605

RECORDED

JUN 29 5 23 PM '77

RENE C. DAVIDSON
COUNTY RECORDER
ALAMEDA COUNTY CA

RE:4933 IM:257

2004 X

1092

DH

IN THE CITY COUNCIL OF THE CITY OF SAN LEANDRO

RESOLUTION NO. 77 - 108

RESOLUTION APPROVING AGREEMENT
(Southern Pacific Transportation Company)

Recitals

An agreement between the City of San Leandro and the Southern Pacific Transportation Company relating to construction of right angle bicycle lanes along the Washington Avenue tracks, a copy of which is attached, has been presented to this Council.

The City Council is familiar with the contents thereof.

The City Manager has recommended the execution of said agreement.


NOW, THEREFORE, the City Council of the City of San Leandro does RESOLVE as follows:

That said agreement is hereby approved and the Mayor is hereby authorized and directed to execute the same on behalf of this City.

Introduced by Council Member Seymon and passed and adopted this 18th day of April, 1977, by the following called vote:

Members of the Council:

Ayes:	Council Members Coppa, Gill, Landis, Seymon, Soares; Mayor Maltester	(6)
Noes:	None	(0)
Absent:	Councilwoman Frazier	(1)

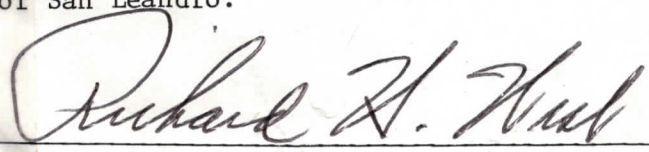

JACK D. MALTESTER
Mayor of the City of San Leandro

Attest:


Richard H. West, City Clerk

The foregoing Resolution No. 77-108 is a true and correct copy of a Resolution passed this 18th day of April, 1977, by the City Council of the City of San Leandro.

4/11/77/j


Richard H. West, City Clerk

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STATE OF CALIFORNIA)
COUNTY OF ALAMEDA) ss.

On this 18th day of April

in the year one thousand nine hundred and seventy-seven
before me, Richard H. West, a Notary Public, State of
California, duly commissioned and sworn, personally
appeared

JACK D. MALTESTER

known to me to be the person whose name is
subscribed to the within instrument and acknowledged to
me that he executed the same.

IN WITNESS WHEREOF I have hereunto set my hand
and affixed my official seal in the County of Alameda
the day and year in this certificate first above written.



A handwritten signature in cursive script, appearing to read "Richard H. West", is written over a horizontal line.

Richard H. West, Notary Public, State of California
My Commission Expires February 1, 1981

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AND WHEN RECORDED MAIL TO

Name

Street
AddressCity
State
Zip

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Mile Post D-16.5-X(N)

THIS INDENTURE, made this 18th day of April, 1977,
by and between SOUTHERN PACIFIC TRANSPORTATION COMPANY, a Delaware
corporation, herein called "Railroad", and CITY OF SAN LEANDRO, a
municipal corporation of the State of California, address: City Hall,
San Leandro, California, herein called "Grantee";

WITNESSETH:

1. That Railroad hereby grants to Grantee the right to construct, reconstruct, maintain and use a bicycle pathway, hereinafter termed "pathway", upon and across the real property described on the attached Exhibit "A". The property described in said Exhibit "A" is shown on the print of Railroad's Western Division Drawing E-1777, Sheet No. 1, revised December 13, 1976, attached and made a part hereof.

Railroad, at the expense of Grantee, will remove fifty feet (50') of track and relocate the track bumper. Grantee agrees to reimburse Railroad for all cost and expense incurred by Railroad in connection therewith.

Grantee, at Grantee's expense, shall install paving for the said pathway, including the track areas.

2. The rights herein granted are expressly limited vertically and shall not extend beyond a plane parallel with and twenty (20) feet above the roadway surface of the pathway as originally constructed, except that lighting fixtures and similar highway appurtenances may extend above said plane, provided that any such facilities will be removed or rearranged within thirty (30) days after notification from Railroad that such facilities interfere with Railroad's intended use of the space above said plane.

3. This grant is subject and subordinate to the prior right of Railroad, its successors and assigns, to use all the property described in the performance of its duty as a common carrier, and there

is reserved unto Railroad, its successors and assigns, the right to construct, reconstruct, maintain, use and remove existing and future transportation, communication, power and pipeline facilities in, upon, over, under, across or along said property. In the event Railroad trackage facilities are removed from said property, Railroad shall not be obligated to make any change in the grade of said pathway, nor shall such removal affect Railroad's title to the underlying property.

This grant is subject to all licenses, leases, easements, restrictions, conditions, covenants, encumbrances, liens and claims of title which may affect said property, and the word "grant" shall not be construed as a covenant against the existence thereof.

4. The rights herein granted shall lapse and become void if the construction or reconstruction of said pathway is not commenced within two (2) years from the date first herein written.

5. This grant shall not be construed as conveying or otherwise vesting in Grantee the right to install or to authorize the installation of any ditches, pipes, drains, sewer or underground structures, or the facilities of any telegraph, telephone or electric power lines in, upon, over, under, across or along said property, except as necessary for maintenance of said pathway.

6. Grantee shall obtain any necessary governmental authority to construct, reconstruct, maintain and use said pathway. Any contractor performing work on the property described herein shall execute Railroad's standard form of contractor's agreement prior to commencing any work on Railroad's premises.

7. Except as herein otherwise provided, Grantee shall bear the entire expense of constructing, reconstructing and maintaining said pathway. The crossing of said pathway over any tracks of Railroad shall be constructed and maintained at the grade of said tracks now or hereafter existing. After the construction or reconstruction of said pathway has been completed, Railroad shall maintain the surface of that portion of said pathway between lines two (2) feet outside the rails of each track located thereon. Should Railroad abandon tracks leading to said pathway, Railroad may abandon its rails, ties and appurtenant materials and leave same in place. In such event, Railroad shall not be liable for maintenance of the portion of said pathway specified above.

8. As part consideration herefor, Grantee agrees to pay Railroad an amount equal to all assessments levied by any lawful body against the property of Railroad to defray any part of the expense incurred in connection with the construction or reconstruction of said pathway commenced within two (2) years from the date first herein written.

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9. Should Grantee at any time abandon the use of said property or any part thereof, or fail to use the same for said purpose for a continuous period of one (1) year, the rights granted shall cease to the extent of the use so abandoned or discontinued, and Railroad shall at once have the right, in addition to but not in qualification of the rights hereinabove reserved, to resume exclusive possession of said property or the part thereof the use of which is so discontinued or abandoned. Upon termination of the rights hereby granted, Grantee agrees to remove said pathway, including the paving, from said property of Railroad, to restore said property as nearly as practicable to the same state and condition in which it existed prior to construction of said pathway, and to bear the expense thereof. Should Grantee in such event fail, neglect or refuse to so remove said pathway and restore said property, such removal and restoration may be performed by Railroad at the expense of Grantee, which expense Grantee agrees to pay to Railroad upon demand.

10. This indenture shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed in duplicate as of the day and year first herein written.

SOUTHERN PACIFIC TRANSPORTATION
COMPANY,

By L. D. Blake
(Title) Manager, Contract Dept.
Attest: T. F. O'Donnell
Assistant Secretary

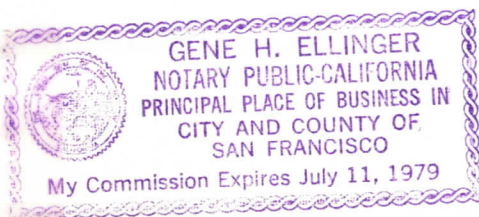
STATE OF CALIFORNIA }
City and County of San Francisco } ss.

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On this 27th day of May in the year One Thousand Nine Hundred and Seventy seven
before me, GENE H. ELLINGER, a Notary Public in and for the City and County of San Francisco, State of California, personally appeared
One Market Plaza

L. D. Blake and T. F. O'Donnell



known to me to be the Manager, Contract Department and
Assistant Secretary
of the corporation described in and that executed the within instrument, and also known
to me to be the person S who executed it on behalf of the corporation therein named
and t he y acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal
at my office in the City and County of San Francisco, the day and year in this certificate first
above written.

Corporation

Gene H. Ellinger
Notary Public in and for the City and County of San Francisco, State of California.

My Commission Expires July 11, 1979

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EXHIBIT "A"

All those certain parcels of land situate in the City of San Leandro, County of Alameda, State of California, described as follows:

PARCEL NO. 1

Beginning at the point of intersection of the southwesterly line of Washington Avenue (84 feet wide), with a line drawn parallel with and 24.83 feet southwesterly measured at right angles from the original located center line of main track of the Southern Pacific Transportation Company (Oakland to Niles); thence North 42°38' West along said parallel line 90 feet; thence North 17°22' East 31.95 feet to said southwesterly line of Washington Avenue; thence South 28°00' East along last said line 109.53 feet to the point of beginning, containing an area of 1245 square feet, more or less.

PARCEL NO. 2

Beginning at the point of intersection of the northeasterly line of Washington Avenue (84 feet wide), with a line drawn parallel with and 24.83 feet northeasterly measured at right angles from the original located center line of main track of the Southern Pacific Transportation Company (Oakland to Niles); thence South 42°38' East along said parallel line 95 feet; thence South 17°22' West 33.73 feet to said northeasterly line of Washington Avenue; thence North 28°00' West along last

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said line 115.61 feet to the point of beginning, containing an area of 1387 square feet, more or less.

RE: 1933 M. 504

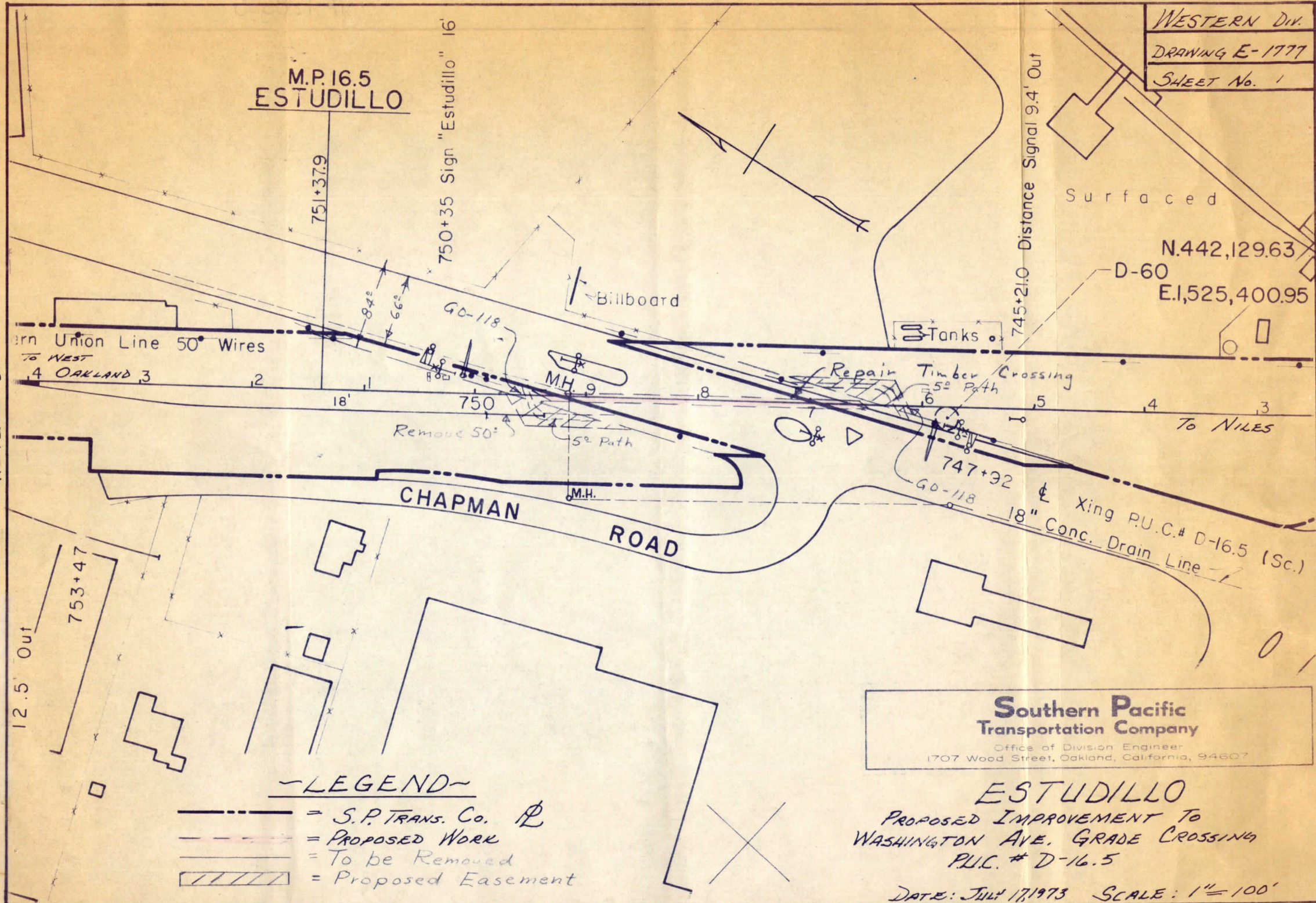
1933 M. 504

1933 M. 504

RE: 4933 M: 265

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WESTERN Div.
DRAWING E-1777
SHEET No. 1



~LEGEND~

- S.P. TRANS. Co. Φ
- - - PROPOSED WORK
- To be Removed
- /// PROPOSED EASEMENT

Southern Pacific
Transportation Company
Office of Division Engineer
1707 Wood Street, Oakland, California, 94607

ESTUDILLO
PROPOSED IMPROVEMENT TO
WASHINGTON AVE. GRADE CROSSING
P.L.C. # D-16.5

DATE: JULY 17, 1973 SCALE: 1" = 100'
Rev. Nov. 13, 1975 Rev. Dec. 13, 1976