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Title: Staff Report for a City of San Leandro City Council Resolution to Approve a Public Highway and Pedestrian At-Grade Crossing Agreement with Union Pacific Railroad for Improvements to the Davis Street Rail Crossing of the Niles Subdivision

Sponsors: Keith Cooke

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Attachments: 1. California Public Utilities Commission GO 88-B

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Staff Report for a City of San Leandro City Council Resolution to Approve a Public Highway and Pedestrian At-Grade Crossing Agreement with Union Pacific Railroad for Improvements to the Davis Street Rail Crossing of the Niles Subdivision

SUMMARY AND RECOMMENDATIONS

Staff recommends that the City Council adopt a Resolution approving a Public Highway and Pedestrian At-Grade Crossing Agreement (Crossing Agreement) with Union Pacific Railroad for improvements and easements for the Davis Street rail crossing of the Niles Subdivision. The improvements will include new flashing light pedestrian warning devices and associated safety features at the crossing.

SLTC, LLC (SLTC), a California limited liability company and developer of the San Leandro Tech Campus, will install the required sidewalks, pavement markings, and signs. Union Pacific Railroad will install the flashing light warning devices. Payment to Union Pacific Railroad will be disbursed from an escrow account established by SLTC according to an Escrow Agreement with the City.

BACKGROUND

Adoption of the City’s Downtown San Leandro Transit-Oriented Development (TOD) Strategy allows increased density in and around the San Leandro BART station. This expected growth will also increase pedestrian travel in and around the San Leandro Tech Campus. North of the Tech Campus, the Niles Subdivision rail line crosses Davis Street with adjoining sidewalks that serve pedestrians. Because the Niles Subdivision serves both freight and Amtrak trains and the expected increase of pedestrian travel, the City under the direction of the California Public Utilities Commission required SLTC to upgrade the sidewalks and safety features at this crossing and the Alvarado Street crossing. A Crossing Agreement for the Alvarado Street crossing of the Niles Subdivision was approved on July

16, 2018. The Development Agreement that governs the phasing of the Tech Campus requires SLTC to complete pedestrian safety improvements within the railroad right-of-way as part of Phase 2 construction. Phase 2 includes development of the second office building within the campus, which is currently nearing completion.

Analysis

Rail crossing safety is a priority issue not only for the City, but also for Union Pacific Railroad, Amtrak, and the California Public Utilities Commission. Safety enhancements are recommended for those rail crossings within TOD areas such as Davis Street at the Niles Subdivision. The Public Highway and Pedestrian At-Grade Crossing Agreement with Union Pacific provides for the \$381,506 reimbursement of improvement cost to Union Pacific, crossing easements with the railroad, construction requirements, and permission to complete the work. The developer, SLTC, as a condition of approval will fund and construct sidewalk improvements and street improvements that compliment Union Pacific's work and make for a safe crossing of Davis Street at the Niles Subdivision. This work will be completed over a 1 year time frame.

Current Agency Policies

- Maintain and enhance San Leandro's infrastructure
- Advance projects and programs promoting sustainable economic development, including transforming San Leandro into a center for innovation

Previous Actions

Development Agreement. On April 7, 2014, following Planning Commission review and recommendation, and after a duly noticed public hearing, the City Council, by Ordinance No. 2014-002, approved a Development Agreement by and between the City of San Leandro and Chang Income Property Partnership LP, San Leandro Land Series (R1), a Delaware Limited Partnership (property owner of the San Leandro Tech Campus).

Standard Public Improvement Agreement. On June 16, 2014, the City entered into a Standard Public Improvement Agreement with Chang Income Property Partnership LP, which guarantees improvements to the portion of former Martinez Street within the future East Bay Greenway alignment.

Public Highway and Pedestrian At-Grade Crossing Improvement Agreement. On July 16, 2018, the City Council, by Resolution No. 2018-082, approved a Public Highway and Pedestrian At-Grade Crossing Agreement with Union Pacific Railroad for Improvements to the Alvarado Street Rail Crossing of the Niles Subdivision

Applicable General Plan Policies

- Policy T-1.3 Mitigation of Development Impacts. Require developers to address the impacts that their projects will have on the City's transportation system. A variety of mitigation measures including impact fees, street improvements, traffic signal and Intelligent Transportation Systems (ITS) improvements, transportation demand management (TDM) measures, and improvement of non-automobile transportation modes, should be considered.

- Policy T-3.6 Pedestrian Environment. Improve the walkability of all streets in San Leandro through the planning, implementing, and maintaining of pedestrian supportive infrastructure.
- Policy T-4.9 BART Station Provisions for Bicycles and Pedestrians. Ensure that all BART stations and major bus routes are served by bicycle and pedestrian systems. Bicycle and pedestrian connections between Downtown San Leandro and Bay Fair BART stations and the surrounding neighborhoods, business districts, and community institutions should be improved, with special attention to the at-grade railroad crossing and connections through the parking lots.
- Policy T-8.6 Railroads. Work with the Union Pacific Railroad and Amtrak to minimize the impacts of their facilities on the City and to better educate the public about railroad crossing safety and the materials transported by rail through the city. Collaborate with California Public Utilities Commission (CPUC) to explore potential railroad improvement projects and funding sources in San Leandro.

Permits and/or Variances Granted

The CPUC issued General Order 88-B Request for Authority to Alter the Davis Street At-Grade Highway-Rail Crossing, CPUC No. 001D-14.70 and DOT No. 749728V in the City of San Leandro, Alameda County on September 25, 2017.

Environmental Review

A Mitigated Negative Declaration or Categorical Exemption for the San Leandro Tech Campus development, which was prepared pursuant to CEQA, was recommended for adoption by the Planning Commission on February 20, 2014, by Resolution No. 2014-002, and adopted with findings by the City Council on April 7, 2014.

Board/Commission Review and Actions

Zoning Amendment. On April 7, 2014, following Planning Commission review and recommendation, and after a duly noticed public hearing, the City Council, by Ordinance No. 2014-002, approved a zoning change of the San Leandro Tech Campus property.

Planned Development Project Approval. On April 7, 2014, following Planning Commission review and recommendation, and after a duly noticed public hearing, the City Council, by Resolution No. 2014-002, approved the Planned Development Project Application submitted by SLTC.

Legal Analysis

The City Attorney reviewed the Crossing Agreement and approves the document as to form.

Fiscal Impacts

The Crossing Agreement with Union Pacific obligates the City to pay \$381,506 for easements and rail improvements, subject to adjustment for actual costs once work is complete. This amount includes \$1,700 for easements (or \$60.71 per square foot) plus \$379,806 in improvement costs.

To fund the City's obligation under the Crossing Agreement, the City will rely on funds deposited into an escrow account by SLTC where the Development Fee for Street Improvements (DFSI) for Phases 1 and 2 have been paid. The funds are governed by an Escrow Agreement between the City and SLTC dated February 9, 2017, as amended on August 7, 2018.

The current escrow account balance is \$1,336,932.50 not including accrued interest. In addition to paying Union Pacific for its costs, the escrow agreement will also be used to disburse fee credits for eligible street improvements performed by SLTC. The fee credit payment will be in conformance with San Leandro Municipal Code Section 7-11-125 which provides:

"A credit may be given for street construction costs where street widening is required in excess of fourteen (14) feet. The credit shall be equal to the standard qualities and cost, as determined in the sole and absolute discretion of the City Engineer, to construct street improvements in excess of fourteen (14) feet."

Escrow account disbursements are expected as follows:

Current escrow account balance (not including accrued interest):	\$1,336,932.50
Previous Agreement with Union Pacific for Alvarado Street:	<\$589,460.00>
Amount <u>not</u> eligible for fee credits (I-880/Marina Fee):	<\$368,659.50>
<u>Agreement with Union Pacific for Davis Street Crossing:</u>	<u><\$381,506.00></u>
Escrow Account balance (eligible for fee credits):	<\$2,693.00>

Since the escrow account will have a negative balance according to these expected disbursements, SLTC will be responsible for funding any shortfall. Staff believes that the amounts indicated in the two Union Pacific agreements (previous Alvarado Street and current Davis Street) are conservative estimates. Since Union Pacific will invoice their work based on actual costs, it is expected that there will be no shortfall.

Budget Authority

No City funds will be expended to pay for rail crossing improvements governed by the Crossing Agreement with Union Pacific. Instead, funds will be disbursed from an account governed by the Escrow Agreement between the City and SLTC. Any funding shortfall will be paid by SLTC.

ATTACHMENT

Attachment to Staff Report

- California Public Utilities Commission General Order 88-B Request for Authority to Alter the Alvarado Street At-Grade Highway-Rail Crossing, CPUC No. 001D-14.99 and DOT No. 912075T in the City of San Leandro, Alameda County dated September 26, 2017.

Attachment to Related Legislative Files

- Public Highway and Pedestrian At-Grade Crossing Agreement with Union Pacific

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