



## Legislation Text

---

**File #:** 18-071, **Version:** 1

---

RESOLUTION to Approve 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

WHEREAS, Chang Income Property Partnership LP, San Leandro Land Series (R1), a Delaware Limited Partnership, entered into a Development Agreement with the City that governs development of the San Leandro Tech Campus, recorded as Series No. 2014153467 on June 27, 2014, Alameda County official records (Development Agreement); and

WHEREAS, Paragraph 1.4.4.c of the Development Agreement obligates the property owner to complete pedestrian safety improvements within the roadway and railroad rights-of-way as part of Phase 2 office building construction; and

WHEREAS, SLTC, LLC (SLTC), a California limited liability company, is currently developing the Phase 2 office building on behalf of the property owner, and has assumed responsibility for implementation of required railroad crossing safety improvements; and

WHEREAS, SLTC deposited \$1,336,932.50 in impact fee funds as payment for the City's Development Fee for Street Improvements (DFSI) into an account governed by an Escrow Agreement between SLTC and the City dated February 9, 2017; and

WHEREAS, San Leandro Municipal Code Section 7-11-125 provides that a DFSI fee credit may be disbursed from the escrow account "...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"; and

WHEREAS, SLTC has documented eligible fee credits in the estimated amount of \$156,180; and

WHEREAS, the California Public Utilities Commission issued 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, issued on September 26, 2017 (File Number XREQ 2017090004) for the Niles Subdivision at the Alvarado Street crossing; and

WHEREAS, a Public Highway and Pedestrian At-Grade Crossing Agreement (Crossing Agreement) between the City of San Leandro and Union Pacific Railroad, a copy of which is attached hereto and incorporated herein by reference, was presented to this City Council; and

WHEREAS, the Crossing Agreement obligates the City to fund \$589,460 in rail crossing easements and improvements to be implemented by Union Pacific; and

WHEREAS, the City's funding obligation to Union Pacific has been transferred to SLTC by way of the Development Agreement with Chang Income Property, with funding available in the escrow account to issue fee credits and to pay Union Pacific; and

WHEREAS, the City Council is familiar with the contents of the Crossing Agreement; and

WHEREAS, the City Manager recommends approval of said Crossing Agreement.

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

1. That said Public Highway and Pedestrian At-Grade Crossing Agreement with Union Pacific Railroad for Improvements to the Alvarado Street Rail Crossing of the Niles Subdivision is hereby approved, and execution by the City Manager is hereby authorized; and

2. That the City Manager shall use the authority granted by the Development Agreement and Escrow Agreement to disburse funds to Union Pacific as payment pursuant to the Crossing Agreement.