



## Legislation Text

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**File #:** 18-651, **Version:** 1

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RESOLUTION of the City of San Leandro City Council 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

**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) and Marina/I-880 Traffic Impact Fee (TIF) into an account governed by an Escrow Agreement between SLTC and the City dated February 9, 2017, as amended on August 7, 2018; 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**, the California Public Utilities Commission 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, issued on September 25, 2017 (File Number XREQ 20170900034) for the Niles Subdivision at the Davis 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 \$381,506 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 Partnership, with funding available in the escrow account to pay Union Pacific, with any remaining funds to be paid to SLTC as DFSI fee credits; 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:

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