21-1185 **Agenda Date: 9/28/2021**

REPORT TO COUNCIL

SUBJECT

Action on Authorizing the City Manager to Sign Notice of Option Letters and a Continued Use License Agreement with Park Central Apartments L.P. (Prometheus) for the Franklin and Washington Street Right-of-Way Easement Acquisition

BACKGROUND

Promote and Enhance Economic, Housing, and Transportation Development

BACKGROUND

On June 17, 2018, the City Council authorized the City Manager to enter into two option agreements with Park Central Apartments L.P. (Prometheus) for the Franklin and Washington Street Right of Way Easement Acquisition. Staff had presented and discussed this action at multiple Council meetings and there was significant community input as part of the process. Key discussion points at these various meetings included the following:

- The current vision for the downtown and reconstruction of the street grid system
- The complexity of reinstating the grid and the multiple property owners affected
- The options for the future street sections of Franklin and Washington Streets
- The existing constraints within the Prometheus property and how different street sections affect the property
- The land value negotiation and appraisal process
- And the key terms of the agreement

The key terms of the agreement for Council consideration were the following:

- The option is for acquisition of a Right-of-Way (ROW) Easement in perpetuity
- The City has a 10 year-option and requires a $90,000 non-refundable deposit
- If the City exercises the option in the first 4 years, the City is required to pay:
    - $1.8 million for the easement
    - $800,000 for parking and rent loss (prior to construction)
- If the City exercises the option between years 5 and 10
    - A new appraisal will be required for the easement
    - The value of the Consumer Price Index (CPI) will be added to the parking and rent
- The City can purchase the easement before they are ready to proceed with construction of the roadway. Prometheus can continue to use the property until roadway construction begins.
- The City does not have to pay for rent and parking loss until construction begins
- The City will provide 39 replacement parking spaces adjacent to the Prometheus site until the

Prometheus site redevelops
- The City is responsible for all construction costs, including any Prometheus facilities

The agreements were signed, including payment of the $90,000 non-refundable deposit, and became effective on September 10, 2018.

DISCUSSION

Staff originally anticipated that the Notice of Option letters (the next step in acquisition) would be issued within the same time frame as Council consideration of the Downtown Precise Plan. Due to several factors, the Downtown Precise Plan has been delayed, and Council consideration is likely to occur in Fall 2022. Staff is proposing to move forward with the Notice of Option letters now to maintain the $1.8 million purchase price. As stated in the background section of this report:

- If the City exercises the option in the first 4 years, the City is required to pay:
  - $1.8 million for the easement
- If the City exercises the option between years 5 and 10
  - A new appraisal will be required for the easement
  - The value of the Consumer Price Index (CPI) will be added to the parking and rent

Even though the Downtown Precise Plan has not been considered by Council, Council has previously provided both policy and budget direction that restoring the grid streets is a City priority as part of any future downtown development. Work on the Downtown Precise Plan has progressed consistent with this direction. However, it must be noted that there is no funding or timeline for any design or construction of the streets. With this next step of acquisition, and no funding, design or construction timeline, the key terms that apply are the following:

- Pay $1,587,831 for the Franklin Street Easement
- Pay $212,169 for the Washington Street Easement
- Enter into a Continued Use License Agreement- Prometheus can continue to use the property until roadway construction begins.
- Identify the 39 replacement parking spaces adjacent to the Prometheus site until the Prometheus site redevelops (Attached). This would not be required until commencement of construction of the roadways. These locations have been coordinated with Prometheus and both Parties agreed that modifications could be made in the future
- Provide a legal description of the acquisitions (Attached). This has been coordinated with Prometheus.

ENVIRONMENTAL REVIEW

Signing the Notice of Option and Continued License Agreement does not require CEQA. However, prior to proceeding with design and construction, appropriate CEQA will be required. There is no funding or timeline for either design or construction of the project.

FISCAL IMPACT

Funding for the both the Franklin and Washington Street Easements is provided by the FY 2021/22 Capital Improvement Budget, in the General Government Fund under the Downtown Master Plan Implementation Project. The cost of both easements is fully budgeted in the project's budget.

COORDINATION
This report has been coordinated with the Finance Department and City Attorney's Office.

PUBLIC CONTACT
Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email clerk@santaclaraca.gov <mailto:clerk@santaclaraca.gov> or at the public information desk at any City of Santa Clara public library.

RECOMMENDATION
Authorize the City Manager to Sign Notice of Option Letters and a Continued Use License Agreement with Park Central Apartments L.P. (Prometheus) for the Franklin and Washington Street Right-of-Way Easement Acquisition.

Reviewed by: Manuel Pineda, Assistant City Manager
Approved by: Deanna J. Santana, City Manager

ATTACHMENTS
1. Franklin Street Option Agreement
2. Washington Street Option Agreement
3. Franklin Street Notice of Option Letter
4. Washington Street Notice of Option Letter
5. Replacement Parking Locations
6. Franklin Street Plat and Legal Description
7. Washington Street Plat and Legal Description