

From: Bill Souders <illsouders@outlook.com>

Sent: Thursday, March 14, 2019 6:33 PM

To: Walesh, Kim

Cc: maria@wpusa.org; testremera@valleywater.org; jim.lawson@vta.org; jean@local393.org; whitneymorris@umpquabank.com; cenders@thecorecompanies.com; jpedigo@catholiccharitiesscc.org; swilley@minoritybusinessconsortium.com; pete.kolstad@gmail.com; nicolejustinebrown@gmail.com; nadia.aziz@lawfoundation.org; leslee@grpg.org; khondayamamoto@greenbelt.org; kcygnusraz@aol.com; ben.tripousis@hsr.ca.gov; jonathan_georgetown@yahoo.com; walterwilson@hotmail.com; Dan Mountsier (dan@mountsier.com); jeffrey@wpusa.org; leslye@siliconvalleyathome.org; laurarwinter@gmail.com; talvarado@spur.org; smcdermott@unitehere19.org; shiloh@bikesiliconvalley.org; edward@saumdesignconsulting.com; jgoddard@sapcenter.com; charlie.faas@sjsu.edu; sondraweber019@gmail.com; Darnell, Harvey; Sutherland, Kathy; scanlone@samtrans.com; calais@adobe.com; Bill Souders

Subject: Backlash in Toronto; Implications for SAAG and Project Spartan?

March 14, 2019

To: Kim Walesh

Cc: SAAG Members

From: Bill Souders

Re: **Backlash to (Alphabet/Google) Sidewalk Labs' Controversial Smart City in Toronto**

Kim, as you will recall from our email thread from last year (see below), I shared the original Quayside article with SAAG members, but we never got any report-back from your city-sponsored trip, as requested.

Since then, much has happened relative to large tech companies choosing to build major headquarters in various cities. Even as Mayor Liccardo continues to assert that San José has not given Google any special incentives, I think it is important that you keep the community members who are participating in your Advisory Group as informed as possible.

Below is an article about strong community backlash, akin to the Amazon HQ2 backlash in Queens, based on recent news from the Toronto Star.

<https://www.citylab.com/equity/2019/02/block-sidewalk-labs-quayside-toronto-smart-city-resistance/583477/>

At the Feb. 2, 2019 City Council Meeting (see video [here](#) at 06:27:00), SJC Airport Commissioners questioned you about Google's involvement in shaping the taxpayer-funded study (~ \$940,000) to determine how much to increase building heights in the Station Area, for land and air rights recently sold to them. The commissioners, who were not included in the OEI Steering Committee, found this information buried in the city contract with consultant Landrum & Brown. The documents required the contractor to host conference calls to provide "briefing and updates" to both the city and a "Project Spartan consultant" and called for calculating "economic impacts that may be directed by the Project Spartan Team."

The study and contract documents included the names of private companies and stakeholders but did not include Google's name. It turns out that "Project Spartan" was Google all along, which was only disclosed publicly after the query by the Airport Commissioner.

<https://sanjosespotlight.com/google-in-san-jose-why-did-consultant-contract-use-a-pseudonym/>

This week, City Council has voted unanimously to eliminate the One Engine Inoperable (OEI) height protection on the Google property in the Station Area, based on your recommendation. For some reason, there was this contractual commitment to collaborate with Google on this far-reaching decision, which concerns significant city and regional assets, beyond the just the property that they purchased (our long-haul International Airport, for example). This was happening with certain city employees on the OEI Steering Committee who were still under NDA with Google, yourself included, and prior to finalizing negotiations on the land sale, and air rights, in December.

<https://sanjosespotlight.com/google-in-san-jose-who-signed-non-disclosure-agreements/>

You led the Steering Committee that collaborated with Project Spartan (Google), and you ultimately made the recommendation to maximize building heights, in spite of the fact that it poses the most risk of airline interruption (and expense) of all scenarios presented, according to your own data. I think it may be worth explaining to the SAAG members why you don't believe that this is an issue. Perhaps you should do so in writing as well, since our next SAAG meeting is not planned (nor scheduled yet) until at least three months from now.

Thank you for your continuing effort to make this community outreach exercise a true success by keeping all relevant information visible, in the sunshine of this open forum. I trust that someone from the City Manager's Office will post this to the SAAG public record to comply with the Brown Act requirements.

Respectfully, Bill

From: Walesh, Kim <Kim.Walesh@sanjoseca.gov>

Sent: Friday, May 25, 2018 3:35 PM

To: 'Bill Souders' <billsouders@outlook.com>

Subject: RE: Forward to SAAG?

Hi—good idea....been swamped so haven't written anything specific....main lesson learned is that all cities are facing the same issue of how to have 'inclusive growth', and that SJ seems way ahead of Toronto in terms of affordable housing requirements and renter protections.

From: Bill Souders

Sent: Friday, May 25, 2018 1:15 PM

To: Walesh, Kim <Kim.Walesh@sanjoseca.gov>

Subject: RE: Forward to SAAG?

Will you be sharing your lessons learned from your trip?

From: Bill Souders
Sent: Wednesday, April 11, 2018 10:16 AM
To: Walesh, Kim <Kim.Walesh@sanjoseca.gov>
Subject: RE: Forward to SAAG?

Excellent. I look forward to hearing about their lessons learned. B

From: Walesh, Kim <Kim.Walesh@sanjoseca.gov>
Sent: Tuesday, April 10, 2018 5:06 PM
To: 'Bill Souders' <bill souders@outlook.com>
Subject: RE: Forward to SAAG?

Thanks, Bill. I am going to Toronto in May to be on a program at the University of Toronto, prompted in part by community reactions to this project—will be great to compare notes

From: Bill Souders
Sent: Wednesday, April 11, 2018 9:16 AM
To: Reid, Tara <Tara.Reid@sanjoseca.gov>; lee.wilcox@sanjoseca.gov
Subject: FW: Google Toronto Quayside - Sidewalk Labs Project

Tara, Lee:

Is there a recommended process, or are there restrictions, for sharing info like this among the SAAG members? For example, should I just be posting the link somewhere or is there an email list that I should be using?

I know this is evolving so I don't want to clutter, misstep, confuse or violate any regulations.

Thanks. B

From: Bill Souders <bill souders@outlook.com>
Sent: Wednesday, April 11, 2018 8:32 AM
To: Walesh, Kim <Kim.Walesh@sanjoseca.gov>; Klein, Nanci <Nanci.Klein@sanjoseca.gov>; Wilcox, Leland <Leland.Wilcox@sanjoseca.gov>; Haley, Loren <Loren.Haley@sanjoseca.gov>; Ortbal, Jim <Jim.Ortbal@sanjoseca.gov>; Dave Javid <dave@plantoplace.com>; Matthew Raimi <matt@raimiassociates.com>; Ekern, Bill <Bill.Ekern@sanjoseca.gov>; Ristow, John <John.Ristow@sanjoseca.gov>; Hughey, Rosalynn <Rosalynn.Hughey@sanjoseca.gov>; Ramirez, Lucas <lucas.ramirez@sanjoseca.gov>; ginnyth@pacbell.net; Jeffrey@wpusa.org; Madison Nguyen <madisonn@thesvo.com>; Leslye Corsiglia <leslye@siliconvalleyathome.org>; maria@wpusa.org; Laura Winter <laurarwinter@gmail.com>; Teresa Alvarado <talvarado@spur.org>; Sarah McDermott <smcdermott@unitehere19.org>; cguardino@svlg.org; Shiloh Ballard <shiloh@bikesiliconvalley.org>; Edward Saum <edward@saumdesignconsulting.com>; Jim Goddard <JGoddard@sapcenter.com>; Kwok-Smith, Candice <ckwok-smith@valleywater.org>; testremera@valleywater.org; Jim.Lawson@vta.org; Fernandez, Monica <Monica.Fernandez@ceo.sccgov.org>; Marquez, Miguel <miguel.marquez@ceo.sccgov.org>; jean@local393.org; Lisa Vlay <lisa.vlay@sjsu.edu>; Charlie Faas <charlie.faas@sjsu.edu>; s_lalloway@yahoo.com; WhitneyMorris@umpquabank.com; cenders@thecorecompanies.com; Sondra Weber <sondraweber019@gmail.com>; jpedigo@catholiccharitiesscc.org; Darnell, Harvey <harveydarnell@yahoo.com>;

swilley@minoritybusinessconsortium.com; pete.kolstad@gmail.com; nicolejustinebrown@gmail.com; Nadia.Aziz@lawfoundation.org; leslee@grpg.org; khondayamamoto@greenbelt.org; KCygnusRaZ@aol.com; Sutherland, Kathy <kathysutherland@pacbell.net>; Scanlon, Elizabeth <ScanlonE@samtrans.com>; Ben.Tripousis@hsr.ca.gov; jonathan_georgetown@yahoo.com; Ernst Calais <calais@adobe.com>; Bill Souders <billsouders@outlook.com>; flynnm@google.com; walterwilson@hotmail.com; Dan Mountsier (dan@mountsier.com) <dan@mountsier.com>
Cc: Harkness, Kip <Kip.Harkness@sanjoseca.gov>
Subject: Google Toronto Quayside - Sidewalk Labs Project

This is the Quayside project that I referenced on Monday night, for your reference.

<https://www.google.com/amp/s/www.wired.com/story/google-sidewalk-labs-toronto-quayside/amp>

Cheers, Bill



billsouders@outlook.com

Mobile: +1 (408) 202-2828

Live as if you were to die tomorrow.

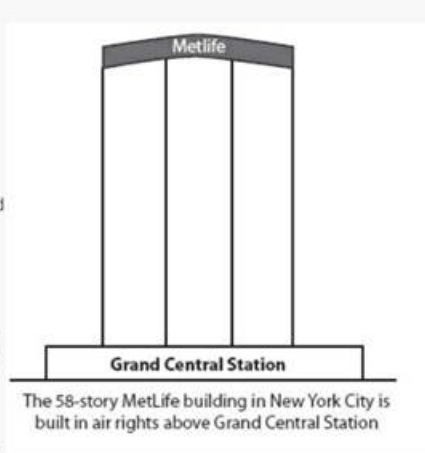
Learn as if you were to live forever.

--Mahatma Gandhi, 10/02/1869 - 01/30/1948

air rights

Historically, property owners owned to the center of the earth and to the top of the heavens, which included the right to all the air above the property and the right to exclude trespassers from that air. Until the invention of aircraft, the matter typically arose only in disputes over the right to remove tree limbs extending over one's property. Today, aircraft constantly trespass into property owner's air space and violate their air rights. As an accommodation to modern technology, courts allow reasonable trespasses to air rights. Airports and governments frequently purchase air rights adjacent to an airport, called aviation easements, to provide glide paths for aircraft. (Because of the scarcity of prime real estate near city centers, many local governments are investigating and implementing plans to lease air rights above transit hubs to developers, for building hotels and other such projects.)

"CITE"  The Complete Real Estate Encyclopedia by Denise L. Evans, JD & O. William Evans, JD. Copyright © 2007 by The McGraw-Hill Companies, Inc.



April 5, 2019

Dear Bill,

Thank you for expressing your concerns in your email letter to me on March 14. I'm glad we could get together recently to discuss your concerns for a few hours in person. As you suggested, I'm going to also put a few key responses in writing for the public record.

Non-Disclosure Agreements

First, I am clarifying that there are no city employees, including me, that are 'still under NDA with Google.'

As soon as the City publicly announced its intent to negotiate with Google on June 9, 2017 -- via the City Council Memo for the June 20 Council meeting -- no City official has been bound to confidentiality by any NDA, as stated early last year by City Attorney Rick Doyle in an official statement (attached). All negotiations proceeded without any NDA-imposed requirement of confidentiality, and City-created documents remain subject to public disclosure under existing local, state, and federal law. This information was also provided in an FAQs document text was distributed to SAAG members and made available on diridonsj.org in July 2018. For your reference, I have provided at the end of this email the complete text to FAQ Question #18 regarding Non-Disclosure Agreements.

Council Decision Regarding OEI/Downtown Height Limitations

I know that you advocated for a different Downtown height limit than the one unanimously adopted by City Council on March 19, and recommended by City staff and by the project Steering Committee. Thank you for investing time to review the staff/consultant analysis and for contributing your views on the topic at the Council meetings.

Your question about our coordination with Google's OEI consultant was one John Aitken and I answered at the Feb. 26 City Council meeting (in the video you attached). As we said, the prior 2006 attempt to resolve the OEI issue with a formal Council-adopted policy failed precisely because of lack of agreement on the facts and analysis. In our 2018 work, we wanted to avoid a situation where Google as the potential master developer in the Diridon Station Area had a different analysis of how high they could build. To that end, the City's OEI consultant Landrum and Brown were authorized to share interim analyses with Google's OEI consultant, after the analysis had been shared with City staff and Steering Committee members. The goal was to ensure that Google was approaching the issue with a technically accurate understanding of the

facts and the analysis of the various air surfaces and scenarios. The task order with Landrum and Brown referenced the term that Google apparently uses for their San Jose: Project Sparta. (Note: The City refers to Google as Google).

On the City's part, there was no attempt to hide that Google is a major stakeholder in Downtown and that we were discussing OEI with them as the potential master developer of the Diridon Station Area. I said at the public Stakeholder Meetings throughout the process that we were coordinating with Google. (Concerns were raised in the public meetings that we were not coordinating with the company.)

Despite our coordination with Google, Google was not involved as a decision-maker. The Airport Director, after reviewing all of the analysis and considerations, and the input of the Steering Committee, recommended Scenario 4 in the best long-term interest of the airport and the City. After two lengthy Council meeting deliberations, Council adopted the recommendation unanimously.

My Trip to University of Toronto/Quayside Project Reflections

Your letter references a 'city-sponsored' trip to Toronto, and your disappointment that I did not provide a report-back to the SAAG. I was invited by the University of Toronto to be the plenary speaker at a Tuesday, May 15 conference entitled "Toronto: Toward a Smart and Inclusive City-Region." The University of Toronto covered all of my travel-related expenses. My talk that generally followed the slides used in our 2018 community meetings. It's clear that many cities globally are wrestling with similar challenges.

Bill, we have known each other for a very long time and I have tremendous respect for your lifetime of contribution to our city, our downtown, and our neighborhood. I respect that you are raising questions that matter to you, and will continue to be available to answer questions or provide clarity on these topics.

Sincerely,


Kim

Attachment A: FAQ Concerning Non-Disclosure Agreements

FAQ 18. Why did some City staff and elected officials sign Non-Disclosure Agreements in Spring of 2017? Are they still operative? What is a Non-Disclosure Agreement?

A Non-Disclosure Agreement (NDA) is a contract that creates a confidential relationship between a person or entity that holds confidential information or a “trade secret”, and a person to whom the information will be disclosed. It is common for purchasers of multiple real estate sites to seek NDAs with the land owner in the very early exploratory stage of real estate projects while both parties are assessing a potential deal, in order to prevent land speculation by other developers. To the extent that such speculation makes a larger land assemblage financially untenable, it does so to the detriment of both the buyer and the seller. For that reason, the City has entered into NDAs in other instances in which large employers have sought to assemble multiple parcels.

Google requested that key City employees and officials sign NDAs in the February-May 2017 time-period when a potential Exclusive Negotiations Agreement was being considered and a draft recommendation was being developed for City Council consideration.

On June 9, 2017, the Administration publicly released its Council memo recommending the Exclusive Negotiations Agreement, which included the recommended Agreement as an attachment. City Council considered and adopted this recommendation at its June 20, 2017 meeting. As soon as the City publicly announced its intent to negotiate on June 9, 2017, the transaction no longer remained confidential. Accordingly, since that date, no City official has been bound to confidentiality by any NDA, according to City Attorney Rick Doyle. All negotiations have proceeded without any NDA-imposed requirement of confidentiality, and City-created documents remain subject to public disclosure under existing local, state, and federal law.

Government entities and government employees who enter into NDAs remain subject to the Public Records Act requirements for disclosures. For example, in February 2018, the City received a Public Records Request for the executed NDAs related to the Google-Diridon Station land sale and potential development. The City fulfilled that request, and provided the documents to the public.

In addition, the City has followed—and will continue to follow—all sunshine requirements related to this project, including the requirement that proposed agreements be publicly posted 10 days before coming to Council for approval.

Attachment B: Rick Doyle Official Statement February 16, 2018



For Immediate Release
February 16, 2018

Contact:

Rosario Neaves, Director of Communications
Phone: 408-535-8170
rosario.neaves@sanjoseca.gov

Statement from City Attorney Rick Doyle on San Jose's Non-Disclosure Agreement with Google

San Jose, Calif. – San Jose City Attorney Rick Doyle released the following statement, regarding San Jose's Non-Disclosure Agreement with Google:

"San Jose's Non-Disclosure Agreement with Google has had no effect in constraining the release of any information to the public since June of 2017, months before any negotiations over the price of publicly-owned land took place.

Although the Council just considered a compensation agreement relating to the sale of property to Google on Tuesday, that agreement will have been subjected to no fewer than 15 public hearings by 14 separate governmental agencies before a single parcel of public land changes hands." – *Rick Doyle, City Attorney*

###

FREQUENTLY-ASKED QUESTIONS (FAQS) ABOUT GOOGLE AND THE DIRIDON STATION AREA

Updated May 2019

+ 1. Why does the City want Google in San José at Diridon Station? Why did the City select Google to have an Exclusive Negotiations Agreement? What is the result of the Exclusive Negotiations Agreement?

Background

In 2011, after three years of extensive community input from more than 5,000 residents and more than 50 public meetings, the City Council unanimously adopted the Envision 2040 General Plan, to determine how San José would develop in the next three decades. A critical component of the Envision 2040 Plan focused on creating a vibrant Downtown, as the community emphasized its desire for a more prominent commercial, social, and cultural destination, and embraced expansion of our relatively diminutive Downtown to a scale more appropriate for a city of 1 million people. The Envision 2040 Plan called for adding 48,500 jobs, along with 10,360 housing units, to Downtown.

Three years later, in 2014, the City Council adopted the Diridon Station Area Plan to transform the 250-acre area of Downtown's western side into a vibrant destination for people to live, work, visit, and play. The Plan was created over five years, with extensive involvement from the Diridon Station Area Good Neighbor Committee. Developing the Diridon Station Area according to the Plan would bring new urban-style mixed-use development; improved parks, trails and public spaces; safe, convenient pedestrian and bike connectivity; many more transit options and users; and new housing, shops, and jobs.

To achieve this vision, the Good Neighbor Committee and City of San José anticipated that the central zone of the Diridon Station Area would be designed as a cohesive, master-planned development to ensure the kind of high quality, public realm and amenity-rich place that the Plan envisioned. Since half of the properties in the central zone are owned by four public agencies—City, the Successor Agency to the Redevelopment Agency (SARA), Santa Clara Valley Transportation Authority (VTA), and Caltrain—and the rest were mostly smaller parcels owned by a variety of owners, securing an anchor developer would be difficult. Also, after the end of Redevelopment Agencies in California in 2011, there was no longer a public entity with the authority and resources to purchase properties for purpose of land assembly and contribution to an anchor private development.

For several years prior to 2017, the San José Mayor and Office of Economic Development staff had been in touch with Google, encouraging the company to consider expanding into San José and consider locating in Downtown. Google expressed interest in the Diridon Station Area early in 2017 and expressed alignment with the Station Area Plan's vision of a transit-rich, amenity-rich, pedestrian-friendly, mixed-use destination.

As a potential anchor developer, Google has the resources to assemble enough properties without subsidy to help realize the shared vision, and be a long-term stakeholder in the area. For these reasons, the City decided to

enter into an Exclusive Negotiations Agreement with Google, as a practical, timely way to explore a potential sale of public property and partnership to help implement the Diridon Station Area Plan. The City Council approved the commencement of direct negotiation with Google in June 2017.

Achieving the community-inspired vision for a vibrant urban center outlined in both the Envision 2040 General Plan and the Diridon Station Area Plan would bring many benefits to correct San José's historical pattern of sprawling growth. A transit-oriented city core would:

- reduce carbon emissions
- mitigate worsening freeway traffic
- increase the number of jobs in San José
- provide housing opportunities with easy access to transit
- bolster arts and cultural vitality
- offer a unique urban lifestyle in the South Bay
- revitalize a long-under-utilized western portion of Downtown, and
- generate substantial revenues for chronically underfunded public services.

The City conducted a comprehensive community engagement process in 2018 to gather input on a potential Google development in the Diridon Station Area and inform negotiations. The process culminated in a Civic Engagement Report in October 2018 and City Council approval of a Memorandum of Understanding (MOU) and Purchase and Sale Agreements with Google at the Council meeting on December 4, 2018 (see question 10 below for more information on these documents). The City is now preparing to review a mixed-use plan from Google and to amend the Diridon Station Area Plan (DSAP), adopted in 2014.

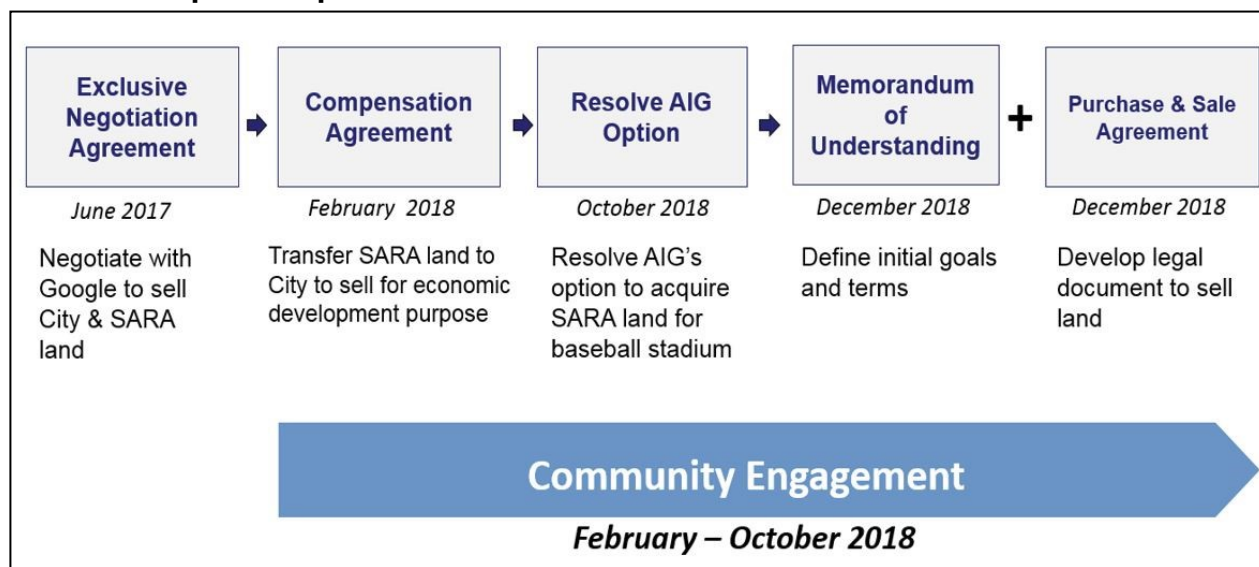
+ 2. What is the timeline for development of the Diridon Station Area? What is the timeline for the potential Google development? What are the steps?

The Diridon Station Area Plan anticipated that development of the Diridon Station Area would take place over 20+ years, with the involvement of many private property owners and developers as well as public agencies. Approval of a potential Google development is a multi-year process that will have many steps and ongoing community engagement.

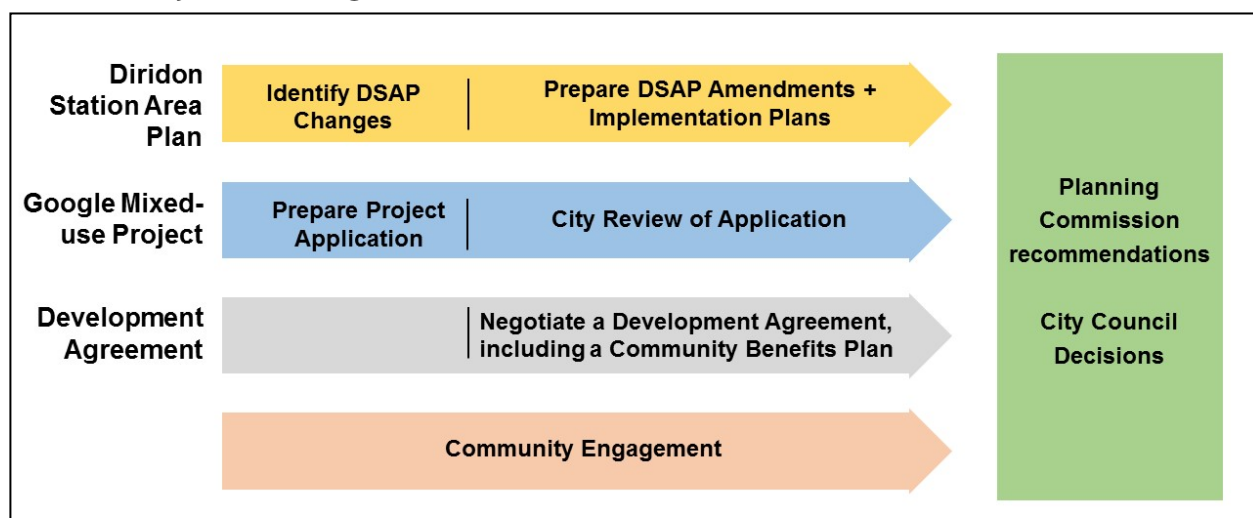
In 2018 (Phase I), the focus was on community engagement, concept development, and the sale of key publicly owned lands. On Dec. 4, 2018, City Council accepted the Memorandum of Understanding and Purchase and Sale Agreements. As described further under question 10, the Memorandum of Understanding is a high-level statement of intent between the City and Google, including the key elements of Google's development and the benefits to the community. The Purchase and Sale Agreements stated the price and terms to sell City- and SARA-owned land to Google.

Phase II (Project Planning and Review Process) began early in 2019. Google is developing a mixed-use plan to submit to the City Planning Department, which will start the regular entitlement (permitting approval) process for their development project. At the same time, the City is preparing to amend the Diridon Station Area Plan to consider new factors—such as the lack of a baseball park, the new policy that would allow taller building heights, and Google's envisioned mix of land uses.

Phase I: Concept Development and Land Sale



Phase 2: Project Planning and Review Process



The anticipated approvals include, but are not limited to: environmental clearance under the California Environmental Quality Act (CEQA), amendments to the adopted Diridon Station Area Plan and General Plan, rezoning to reflect details of the proposed development and change in conditions, a Development Agreement, and a site development permit(s). The City will negotiate the Development Agreement with Google and it will include a Community Benefits Plan, as described under question 10 below. City Council will have ultimate approval authority over these actions, with recommendations from the Planning Commission.

The Diridon Station Area Plan amendment and Google project review process is expected to be completed by the end of 2020. Community engagement is continuing throughout this period. Following project approval, Google can begin applying for building permits. It is expected that the project will be constructed in several phases.

+ 3. Is Google being subsidized to come to San José? Will they receive tax or fee breaks?

No.

Google has not asked for subsidies or tax breaks, and the San José City Council provided explicit direction last June 20, 2017 when the Exclusive Negotiations Agreement was adopted (see this [Council Memo](#)) that: “The City shall obtain fair market value for the sale of any publicly owned parcel, and the City shall not subsidize the development with taxpayer dollars.”

This direction was affirmed in the MOU that City Council approved on Dec. 4, 2018.

+ 4. What land did Google buy? Why sell the land for private development?

The City Council approved several Purchase and Sale Agreements with Google at the December 4, 2018 meeting, covering eight sites and about 21 acres of land in the Diridon Station Area.

First, Google has purchased five main sites which were formerly owned by the San José Redevelopment Agency and are now owned by the “Successor Agency to the Redevelopment Agency” (SARA). These five sites, made up of nine individual parcels, total about 6.5 acres. Currently, [these sites](#) are mainly surface parking lots serving Caltrain users and SAP patrons. The sites also include the Stephen’s Meat site, Patty’s Inn, and a building currently used by San José Taiko. There is no residential housing on this land.

In addition, Google worked with the City on purchasing two sites (made up of seven individual parcels) owned by the City of San José and comprising about 15 acres. One is the Fire Training Site—4.3 acres with several aging buildings used for training firefighters. Council approved the Purchase & Sale Agreement for this site on Dec. 4, 2018.

The final site is known as Lots A/B/C; it lies to the west of the SAP Center, is currently used for SAP patron parking, and is roughly 10.5 acres. Google has an option agreement on Lots A/B/C (see question 10 below for more information).

Why did the City sell the five former Redevelopment Agency properties?

These properties were mandated to be sold within a specified time-frame for economic development purposes, according to the State-approved plan governing termination of redevelopment agencies. The City did not have the resources to buy the properties itself, and wanted to see the area developed by an anchor developer, consistent with the Diridon Station Area Plan.

When the State of California terminated redevelopment agencies in 2011, they developed very specific regulations for how local authorities must sell or otherwise dispose of properties owned by local redevelopment agencies. Under these regulations, properties must be disposed of according to a State-approved “[Long Range Property Management Plan](#)” (Plan). The Plan approved in 2014 for the former San José Redevelopment Agency identified that the Diridon properties were to be transferred to the City for redevelopment. The approved process required the City to enter into a “Compensation Agreement” with the other 13 taxing entities to sell the properties at fair market value, and then to provide payments to the taxing entities in proportion to their shares of the base property tax. In January 2018, the City and County determined, using professional appraisers, the fair market value of the Diridon properties to be \$67 million (\$237 per square foot).

The [Compensation Agreement](#) reflecting this price has been approved and executed by all 14 taxing entities, as of August 14, 2018. Accordingly, the properties were transferred to the City to sell for the agreed-on price. The

Compensation Agreement states that the properties must be transferred to the City and the City was obliged to dispose of the property by December 31, 2018. City Council approved the Memorandum of Understanding and the Purchase & Sales Agreements relating to the sale of the properties on Dec. 4, 2018 (click [here](#) for links to the documents). The sale of these properties closed with Google prior to the deadline, generating \$67 million that was divided among the 14 taxing entities, including the City of San José and San José Unified School District.

Why sell the two City properties?

The [Fire Training Site](#) (4.3 acres) includes an aging City facility used to train firefighters, and the City has for decades envisioned replacing it with a modern facility that can better serve the Fire Department's needs. Given its proximity to Diridon Station, the site presents a major opportunity for transit-oriented development and inclusion as an integral component of a master-planned Google project. Revenue the City receives from sale of the property to Google will fund construction of a new Fire Training Center elsewhere in the city.

The 2014 Diridon Station Area Plan identified the Fire Training Site as a potential public park site (chiefly because it was publicly owned land). The City will update the Plan to provide equivalent acreage of park/public space elsewhere in the Station Area. During the Community Engagement process initiated by the City in 2018, community members strongly preferred multiple, accessible, smaller open spaces and connecting parks and trails over additional "large green areas" such as Discovery Meadow.

Google has an option to purchase what are known as Lots A, B, C (about 10.5 acres) [next to the SAP Center](#). These sites are currently large surface parking lots, which SAP Center uses for parking (1,440 spaces). The soil beneath the parking lots is contaminated, and the severe extent of contamination, and the high cost of its remediation has been a barrier to redevelopment. Ownership by Google could enable development of the site for more uses than just parking, and better integration of the site with the station and nearby areas. The contamination could be remediated and the parking replaced underground or in a structured facility.

+ 5. Why didn't the City buy the former Redevelopment Agency land?

The City did not have the resources to buy the properties itself and was committed to seeing the area developed privately consistent with the adopted Envision 2040 Growth Plan, including adding significant jobs and high-density housing Downtown and strengthening the City's fiscal base for services.

The City lacked the funding to purchase the former Redevelopment Agency parcels and assemble the other parcels without incurring debt. If the City had bought the land, the City would have to take out debt to pay for it, and then the City would have less money to pay for services like police, fire, and park services.

In addition, Google's private development can support the longstanding City vision for job growth in our Downtown, and a stronger tax base to fund public services. San José is a very fiscally constrained city and will be for the foreseeable future. The underlying reason is that San José has an imbalanced structure – it has a very large resident population/housing base relative to its narrow job/workplace base. In fact, San José is the only "Top 20" city in the United States that has a larger resident population than job base. San José is by far the most imbalanced and fiscally challenged city in the South Bay.

A key goal of San José's plan for growth—the Envision 2040 General Plan—is to add 360,000 new jobs by 2040 to increase fiscal strength, reduce carbon emissions from travel, and give more residents opportunity to work closer to home. According to the plan, 48,500 of those jobs should be located in the Downtown. So far, the City

has added 70,000 jobs toward its citywide 360,000 goal. An additional 20,000 jobs in the Diridon Area, and the associated tax revenues, would help the City meet its goals of providing better services to residents.

The cost to provide services to San José's existing housing stock far exceeds the property and sales tax revenue generated by those properties and their residents. The opposite is true for industrial, office, and retail lands—the cost of providing services to these 'job-supporting' uses is substantially less than the revenues received from them. Job-supporting lands—e.g. office, retail, or industrial—not only cost less to service, but they produce net property tax and other revenues that the City can spend on services for residents.

+ 6. How will San José taxpayers know they are getting a good deal on the property sales?

The [Exclusive Negotiations Agreement](#) that the City of San José entered into with Google in June 2017 outlined the potential sale of the properties in the Diridon Station Area owned by the Successor Agency to the Redevelopment Agency (i.e., 5 main sites made up of 9 individual parcels, about 6.5 acres), and properties owned by the City of San José (i.e., 2 main sites made up of 7 parcels, about 15 acres).

In January 2018, the City and County determined, using professional appraisers, the fair market value of the Successor Agency properties to be \$67 million (\$237 per square foot). A fair market price is typically determined by looking at the sales of comparable parcels in the area. The terms of all of the prior sales of privately-owned parcels in the Diridon Station area—including each of Google's purchases of those private parcels—are public, and have been widely reported in Mercury News and other media. The valuation of \$237 per square foot, compares favorably to those other transactions, and exceeds by 2.5 times the valuation of parcels in the Diridon Station area only a year before Google's interest in the parcels became public, based both on prior sales and appraisals.

Each of the public agencies that received revenue from the sale of the former Redevelopment Agency-owned parcels—including the City, the County, and several school districts—have reviewed the terms for the land sales.

+ 7. Why did the City sell, rather than lease, the land to Google?

Google needed to own the sites to create a cohesive, master-planned development for the long term. In San José, the public properties were relatively small and are located within the set of private properties Google already owned. By contrast, the ground leases that Google has for public properties in Mountain View are for very large, contiguous public sites.

Also, as described previously, the City lacked the funding to purchase the former redevelopment agencies properties and can realize ongoing fiscal benefits to the city's tax base from private ownership and development.

+ 8. What kind of jobs will Google create in San José?

At Google's current sites across the Bay Area, there are a variety of technical and non-technical jobs. At this early stage in the long-term development process, Google does not know the specific business units that will be located in San José.

Enrico Moretti, economic professor at UC Berkeley, found that each new tech job is likely to stimulate creation of four to five non-tech jobs in the surrounding area, with other businesses. Roughly 40% of the non-tech work is professional—like lawyers, doctors, architects—and the remaining 60% is non-professional, such as store clerks, restaurant servers, or drivers.

+ 9. What is an Exclusive Negotiation Agreement?

An Exclusive Negotiation Agreement (ENA) is an agreement between the City and a developer that specifies a period in which the parties will negotiate exclusively on the acquisition of property or a development.

After a public hearing, the City Council approved the [ENA](#) between the City of San José and Google on June 20, 2017. It specified a period of one year to negotiate, but anticipated that additional time could be needed to resolve the negotiations, giving the City Manager the flexibility to extend the ENA for an additional year if needed. All negotiations and property sales were completed within the required period.

+ 10. At the end of 2018, City Council is voted unanimously to accept a staff-recommended Memorandum of Understanding and Purchase and Sale Agreement. What is a Memorandum of Understanding? What is a Purchase and Sale Agreement?

Memorandum of Understanding (MOU)

The MOU is an outline of mutually accepted terms and expectations between parties as they work toward a common objective, and is typically at the “20,000 foot” concept level. An MOU is legally non-binding, but is a very public statement of intent and expectation. It is a common first step before a more specific, legally binding agreement, or Development Agreement that is intended to be put in place as the properties are entitled.

When Council approved the ENA, they directed staff to develop an MOU with Google to act as a basis for a future Development Agreement. The MOU contains the Vision and a set of Shared Goals for the potential development, which were informed by the extensive civic engagement process.

The MOU states the City and Google’s shared vision -- “... to create a vibrant, welcoming, and accessible urban destination consisting of a mix of land uses and that are well-integrated with the intermodal transit station, adjacent neighborhoods, and Downtown. This shared vision embodies a commitment to place-making, social equity, economic development, environmental sustainability, and financially-viable private development. The City and Google intend to collaborate and innovate in the development of this urban destination to bring opportunity to the local community and create new models for urban and workplace design and development.”

The [MOU](#) further defines 15 broad goals for the Google project:

1. Create a balanced development
2. Capitalize on transit synergy
3. Optimize density and mix of uses
4. Grow and preserve housing
5. Create broad job opportunities.
6. Pursue equitable development
7. Design for human scale
8. Enhance and connect the public realm
9. Pursue excellence in design
10. Maximize use of public transit and minimize parking
11. Pursue excellence in transit access and operations
12. Optimize sustainability
13. Be open to innovation
14. Proceed with timely implementation

15. Participate in fair share development

In addition, the MOU affirms the expectation that Google will enter into a Development Agreement with the City, and the Development Agreement will include a Community Benefits funding commitment and Plan. The MOU can be considered a high-level preview of the Development Agreement.

The City's expectation of a community benefit contribution will be premised on, among other factors, the additional value Google receives as a result of the legislative changes that may be approved by the City Council that enhance the value of both the City/SARA Properties and the private properties acquired by Google, as well as the certainty that could be provided to Google through a Development Agreement.

Other main terms of the MOU include:

1. Term: From Council approval to the mutual execution of a Development Agreement or December 31, 2022, whichever occurs first.
2. Financing of shared infrastructure and services
3. Exploration of district utilities
4. Parking plan
5. Ongoing community engagement
6. No City funds or tax subsidies for private development

Purchase and Sale Agreement

A Purchase and Sale Agreement (PSA) is a legally binding document that sets out the prices and terms for real estate transactions. The PSA outlines the rights and obligations of both buyer and seller. Typically, several documents accompany the PSA such as the Deed of Trust, Legal Description, Plat Map, and Title Insurance. The PSA for the former Redevelopment Agency properties reflected the \$67 million price approved by the San José City Council, the County of Santa Clara, the Successor Agency to the Redevelopment Agency (SARA) Oversight Board, and the taxing entities. There also were two PSAs for the two city sites: the Fire Training site, and Lots A, B, C next to SAP Center.

The purchase price is based on the same price per square foot of \$237.50 that was agreed upon in the Compensation Agreement for the SARA properties.

The MOU and PSAs received City Council approval on December 4, 2018. Taken together, these agreements give the City enough certainty about what Google intends to build and the benefits to the San José community, and give Google enough certainty to invest in the next stage of planning a specific development project.

Sale of Fire Training Center

The Fire Training Center includes aging City facilities used to train firefighters. The City has long envisioned replacing the Center with a modern facility that can better serve the Fire Department's needs.

Because this property was used for fire training purposes, and certain materials (including firefighting foams) were used on the site over the years, Google is conducting specialized soil and groundwater testing to determine whether the presence of these materials will require additional development remediation.

It is common practice for a seller of real property to credit remediation costs related to environmental conditions; the financial burden imposed by such remediation requirements effectively reduces the value of the property by

that amount. The Purchase and Sale Agreement for this site included a provision to allow for a credit against the Purchase Price up to \$1,000,000 to remediate the existing environmental conditions. If the testing reflects no additional remediation costs, no credit will be provided. If the testing reflects more than \$1,000,000 in additional remediation costs, the City may terminate the Agreement. If the testing reflects more than \$1,000,000 in additional remediation costs, and Google elects to complete the transaction and incur the additional remediation costs, the City will consider the difference between the purchase price paid and the inherent value of the land (price minus remediation costs) as a benefit to help subsidize the relocation of the Fire Training Center.

Ground Lease of Fire Training Center

The Ground Lease for the Fire Training Center site allows the City (as Tenant) to “rent back” the property from Google (as Landlord) for a period of up to three years to allow the City to develop the replacement Center. No lease payments are due to Google during the three-year term of the lease. Google will also provide the City with free use of its privately owned warehouse space north of the SAP Center for a period of three years (for \$0) through a separate lease agreement. The City’s free use of this space will help with the relocation of the Fire Training Center.

Option/Negotiation Rights Agreement for Lots A/B/C

Lots A/B/C are City-owned parking lots adjacent to the SAP Center and used by San José Arena Management (SJAM) for event parking for patrons. The Arena Management Agreement (AMA) between the City and SJAM provides SJAM with the use of Lots A/B/C for the term of the AMA, which currently ends in year 2040.

The Option/Negotiation Rights Agreement for Lots A/B/C allows Google to negotiate an alternative parking arrangement with SJAM, and to move forward with purchasing the property from the City should the alternative parking arrangement be acceptable to all parties (SJAM, Google, and the City). (Because SJAM has the right to use Lots A/B/C through the AMA, SJAM must approve any alternative parking arrangement.) Should Google, SJAM, and the City come to an agreement on parking, Google may exercise an option to purchase Lots A/B/C from the City.

+ 11. What is a Development Agreement?

A Development Agreement is a contract between a City and a developer that is adopted by ordinance. The agreement sets the obligations of both parties, and the standards and conditions that govern the development of the property. It contracts the developer to provide benefits to the City, such as infrastructure improvements, public open space, monetary payment into funds, or other community benefits, in exchange for certainty about development standards, such as zoning laws, that will apply over the course of the development, from project entitlement through construction.

A Development Agreement reduces risks associated with development and enhances the City's ability to obtain public benefits beyond those achievable through existing ordinances and regulations.

+ 12. Now that the City has sold the land to Google, what assurance is there that Google would actually deliver on the expectations laid out in the Memorandum of Understanding?

A Development Agreement, as described above, stipulates the obligations of the parties and can outline a variety of tools to ensure timely development and provision of community benefits. Tools can include timeframes for development and penalties, including monetary penalties, if the developer does not meet specified timeframes. Other binding requirements could limit or eliminate entitlements for portions of the property if the developer does not perform in a timely fashion.

+ 13. How will community benefits be addressed?

A potential Google project could bring many benefits to the City.

- Local Jobs—at least 20,000 ongoing jobs, which support creation of another 60,000+ multiplier jobs; 1,500+ construction jobs annually over a 16-year period
- New Housing Supply—potential for 5,000+ new housing units, including 25% affordable housing
- New Tax Revenue of \$28-40 million annually to improve city services. Also: estimated \$76-116 million in one-time construction taxes for the City, and new property tax of \$28-\$45 million annually to San José Unified School District and \$9-\$14 million annually to the County
- Increased Transit Use—shortens commutes, reduces traffic, prevents pollution, improves quality of life
- New Parkland and Public Space—Investment in parks, trails, plazas and neighborhood-serving amenities and infrastructure

In addition, the MOU affirms the expectation that Google will enter into a Development Agreement with the City, and the Development Agreement will include a Community Benefits funding commitment and Plan.

The City's expectation of a community benefit contribution will be premised on, among other factors, the additional value Google receives as a result of the legislative changes that may be approved by the City Council that enhance the value of both the City/SARA Properties and the private properties acquired by Google, as well as the certainty that could be provided to Google through a Development Agreement.

In developing the Community Benefits Plan, the parties will utilize the input provided through the City's community engagement process (reflected in the [Diridon Station Area Civic Engagement Report](#)) and subsequent input provided by the community or City Council, and the shared goals in the [MOU](#). In developing the Community Benefits Plan, consideration will be given to major categories of community priorities identified in the 2018 community engagement process, including the following:

- Affordable housing, displacement prevention and mitigation
- Education, workforce training, and career opportunities
- Small business opportunity
- Historic and cultural preservation, public art
- Public space, trails, and mobility
- Community nonprofit support, including homeless services
- Habitat and environmental sustainability

+ 14. What has the City done to discover and address community concerns about this proposed development, and has Google been involved?

The input gathered through the engagement process has informed, and will continue to inform, a variety of decisions related to the Diridon Station Area, including:

- The Memorandum of Understanding with Google and (later) the Development Agreement, which will include a community benefits commitment and plan
- Google's development concepts and design thinking
- Private development proposals by other property owners, companies, and real estate developers.

- Implementation of and future updates to the Diridon Station Area Plan, Downtown Strategy, and other applicable plans
- Transit improvements and new station development (including the Diridon Integrated Station Concept community engagement)

San José launched a community engagement process much earlier than is typical for development projects. From February to October, 2018, the City of San José managed an extensive civic engagement process to spur community conversation about issues and opportunities, refine the vision for the Diridon Station Area, and help inform the City's negotiations with Google. The goal was to provide a balanced, inclusive, and effective two-way dialogue with a broad range of the San José community.

To ensure a broad range of participation, the civic engagement process has included a variety of methods to share information and gather input on the community's hopes, issues, and ideas for the Diridon Station Area and potential Google project. In 2018, this process included:

- 38 community member Station Area Advisory Group (SAAG) meeting 10 times and 11 Solution Group (subcommittees) meetings
- 7 Community Forums/Meetings
- 2 Walking Tours
- 6 Pop-up Events
- 5 presentations and feedback sessions with stakeholder groups
- Website with information on the project (www.diridonsj.org)
- Over 600 responses to an online feedback form
- A website with information on the project (www.diridonsj.org)

Through these efforts, there were an estimated 1,200 in-person encounters with community members. In addition, the website has nearly 18,000 page views.

Google representatives attended all of the meetings, and listened.

Though the engagement process, community members identified a range of issues and opportunities related to a potential Google development in the Diridon Station Area. Input was synthesized into Desired Outcomes to reflect the most common aspirations for these six topics:

- Housing and displacement
- Jobs, education and economic development opportunities
- Land use, design and parking
- Public space, creeks and trails
- Transportation
- Environmental sustainability

All community input was presented in the [Diridon Station Area Civic Engagement Report 2018](#).

+ 15. What is being done about affordable housing and potential displacement?

Many San Joséans are fearful that a potential Google development, bringing more people to the area, will exacerbate rising rents and gentrification and lead to the displacement of people who have called San José their home for many years.

The entire San Francisco Bay Area is facing a housing crisis, resulting from housing construction not keeping pace with economic growth. The regional housing crisis will continue to affect San José as long as the region continues to enjoy a robust job growth. The City will continue to fight the negative impacts of high housing costs and displacement pressures regardless of the Google project.

Recognizing the regional nature of the housing shortage, the City collaborates with other agencies and organizations in the Bay Area to develop and implement strategies, most notably through the CASA (The Committee to House the Bay Area) process. San José is also partnering with several nonprofit groups as part of a [PolicyLink](#) cohort to learn about additional anti-displacement tools used throughout the U.S.

Information from both of these workgroups is anticipated to inform the development of an anti-displacement strategy for San José. The creation of the City's anti-displacement strategy and implementation of equitable housing development strategies will consider and build upon the input received through the civic engagement process completed in 2018. Multiple City departments are working together to develop, refine and deploy strategies designed to prevent or mitigate displacement of residents and local businesses caused by rising costs and development.

The City has a strong commitment to ensure that all its residents have decent, safe, and affordable housing. The City is actively working to address the affordable housing shortage and displacement pressures occurring in San José, including:

- Under its inclusionary housing ordinance, the City requires that a percentage (15% if on-site, and 20% if off-site) of homes in any new development be affordable. In some cases, the developer will instead pay a fee that the City uses to develop rent-restricted affordable housing on a separate site. When developers challenged these requirements, the City defended its inclusionary ordinance all the way to the California Supreme Court and prevailed.
- Additionally, the Mayor and the City Council have set a five-year goal to facilitate the construction of 15,000 new market-rate homes and 10,000 new affordable (rent-restricted) homes by 2022. The City Council approved an Affordable Housing Investment Plan which prioritizes how City funds will be invested in new affordable developments and a Housing Crisis Response Workplan which outlines strategies to accelerate housing production.
- The City Council also has significantly strengthened tenant protections to help residents stay in their homes in the face of rising rents. ([Click here](#) to view all recent Housing-related ordinance updates). For example:
 - In 2017, the City reduced the maximum allowed rent increase in rent-stabilized apartments from 8% to 5%, and authorized the creation of a rent registry to enable better enforcement of rent restrictions.
 - The City passed [Ellis Act](#) requirements on owners who remove apartments from the rental market to provide relocation benefits to impacted tenants, and a requirement to replace rent-stabilized apartments in the new development.

- The City passed a [Tenant Protection Ordinance](#) to strengthen tenants' rights by limiting the ability of a landlord to terminate a lease based on 13 listed just causes. Starting in July 2018, the City will invest \$500,000 to provide legal services for low-income tenants and landlords. The goal of the grant is to promote housing stability by providing landlord/tenant counseling, education and referrals, and legal assistance to tenants facing unlawful evictions. In addition, the City is developing an affordable housing preference for residents who are experiencing certain types of displacement caused by Ellis Act evictions and expiring affordability restrictions, including an anti-displacement preference for residents who live in gentrifying areas that are highly likely to result in displacement.
- The City is studying a commercial impact fee and affordable housing bond to generate funds for affordable housing.

As long as the City is fiscally constrained, it will be difficult to dedicate resources for affordable housing construction and displacement mitigation. Office development in strategic transit-oriented locations, such as proposed by Google, will help generate significant revenues for City services - including housing plans, programs, and projects.

+ 16. Silicon Valley Rising has written that “Google’s plans rely on major public contributions from residents in San José, including investing over \$10 billion in taxpayer dollars to make Diridon Station the biggest transit hub on the West Coast.” Is this accurate?

The plans to make major public investments in transit systems at Diridon Station—including BART, CalTrain, and High-Speed Rail—were in place long before Google expressed interest in the site, and will continue regardless of Google’s presence. For example, BART first became a reality for Downtown San José with the voters’ approval of Measure A in 2000. These public investments will improve mobility for thousands of South Bay commuters, regardless of Google’s presence.

The \$10 billion figure cited dramatically exceeds the cost to expand Diridon Station. Nonetheless, it is certainly true that all the transit system improvements—which serve many cities throughout the Bay Area—will cost several billions of dollars, including more than \$7 billion for the BART extension from Warm Springs in Alameda County to the City of Santa Clara, \$2 billion for CalTrain electrification from San Francisco to San José, and tens of billions for California High Speed Rail. San José residents comprise only a small fraction of the taxpayers funding those transit improvements, and the improvements all depend on a combination of federal, state, regional, and local funding sources.

These transit investments are intended to support a more environmentally sustainable land use pattern, and are consistent with the community’s shared vision for Downtown San José, which calls for 48,500 jobs in Downtown by 2040. The City consistently urges major employers to locate close to transit because – more than any other type of land use (residential, retail, or entertainment) – transit-oriented office employment drives transit ridership and mitigates traffic congestion. In other words, we can best leverage our large public investments in transit by locating large employers close to transit stations.

+ 17. Why did some City staff and elected officials sign Non-Disclosure Agreements in Spring of 2017? Are they still operative? What is a Non-Disclosure Agreement?

A Non-Disclosure Agreement (NDA) is a contract that creates a confidential relationship between a person or entity that holds confidential information or a “trade secret,” and a person to whom the information will be disclosed. It is common for purchasers of multiple real estate sites to seek NDAs with the land owner in the very early exploratory stage of real estate projects while both parties are assessing a potential deal, in order to prevent land speculation by other developers. To the extent that such speculation makes a larger land assemblage financially untenable, it does so to the detriment of both the buyer and the seller. For that reason, the City has entered into NDAs in other instances in which large employers have sought to assemble multiple parcels.

Google requested that key City employees and officials sign NDAs in the February-May 2017 time-period when a potential Exclusive Negotiations Agreement was being considered and a draft recommendation was being developed for City Council consideration.

On June 9, 2017, the Administration publicly released its [Council memo](#) recommending the [Exclusive Negotiations Agreement](#), which included the recommended Agreement as an attachment. City Council considered and adopted this recommendation at its June 20, 2017 meeting.

As soon as the City publicly announced its intent to negotiate on June 9, 2017, the transaction no longer remained confidential. Accordingly, since that date, no City official has been bound to confidentially by any NDA, according to City Attorney Rick Doyle. All negotiations have proceeded without any NDA-imposed requirement of confidentiality, and City-created documents remain subject to public disclosure under existing local, state, and federal law.

Government entities and government employees who enter into NDAs remain subject to the Public Records Act requirements for disclosures. For example, in February 2018, the City received a Public Records Request for the executed NDAs related to the Google-Diridon Station land sale and potential development. The City fulfilled that request, and provided the documents to the public.

In addition, the City has followed—and will continue to follow—all sunshine requirements related to this project, including the requirement that proposed agreements be publicly posted 10 days before coming to Council for approval.

+ 18. Why are we selling the public lands before the Google project is known and approved?

Sometimes, the sale of public lands comes later, after Council approves a Development Agreement, or Disposition and Development Agreement, and the project has obtained entitlements.

This situation is different for several reasons:

1. Per the requirements of the State-mandated dissolution process and State-approved Plan for property disposition of former Redevelopment Agency-owned parcels (“SARA”), SARA properties must be sold in a timely manner so that proceeds get distributed to the 14 taxing entities. It’s not an option to wait 2-3 years until project entitlement approval.
2. The other City properties--the Fire Training Property and Lots A/B/C--lie in the middle of Google’s other purchased private properties. Given the large scale of the development and the City’s ambition for the

Station Area, Google will need to invest a very substantial amount of money in designing their project and obtaining entitlements from the City. Google cannot reasonably invest extensive resources over years—both in staff time and tens of millions of dollars—to plan a development if it does not know whether it will have control of all properties comprising their development area. It would be extremely unusual that a buyer would accept such significant risk and high upfront cost prior to obtaining entitlements for the project.

3. Because Google still needs City entitlements (such as General Plan amendments and rezoning), the City is not giving up leverage in the negotiation over community benefits through the sale of these parcels now. Currently, most of the parcels are zoned solely for industrial use, allowing warehouse or manufacturing uses, which appears not to be Google's intention. The City retains whatever leverage it might need to seek benefits for the community—in the form of impact fees, appropriate development, infrastructure investment, or additional community benefits for affordable housing or other needs—so long as it retains the ability to decide on the appropriate land use. Even though Council approved the land sale, Council will have five other "legislative acts" that provide the Council with leverage over what development will be allowed, with what conditions or requirements. These include:
 - Certification of an Environmental Impact Report
 - General Plan Amendments
 - Diridon Station Area Plan Amendments
 - Rezoning
 - Development Agreement, including the Community Benefits Plan
4. Prior to Google's interest in the Diridon Station Area, the City anticipated needing to provide substantial subsidies to engage a Master Developer for the central site, given the risk and expense involved in having to assemble many properties from many different owners. Since Redevelopment ceased in 2011, the City has limited (or no) tools to assemble properties, and doing so entails a very large cost, because "hold-out" owners often exact large premiums on the sale of their sites. Google's willingness and capacity for assembly provides a substantial benefit to the community and City, which would otherwise lack the resources to enable an appropriately integrated development at the Diridon site. Moreover, the early assembly of these sites allows important coordination with the City and transit agency partners (VTA, Caltrain, High Speed rail) to plan the new intermodal station and new/expanded transit service in a manner well-coordinated with private development to create a spectacular urban destination.

###

UPDATE ON THE DIRIDON STATION AREA PLAN

What is the Diridon Station Area Plan?

The Diridon Station Area Plan (DSAP), adopted by the City in 2014, set forth a blueprint for the development of the Diridon Station Area, a 250-acre district surrounding San Jose Diridon Station on the western edge of downtown. The DSAP envisions the transformation of the station area—an area which is currently dominated by parking lots and old industrial buildings—into a dynamic mixed-use urban neighborhood anchored by a world-class transportation hub and the SAP Center.

Why is the City updating the 2014 DSAP?

Since adoption of the DSAP in 2014, several key planning assumptions have changed, including the following:

- A major league baseball ballpark—a key anchor of the DSAP—is no longer planned.
- The Diridon Integrated Station Concept Plan process is underway.
- Google is pursuing a large-scale, mixed-use development in the station area.
- The City recently adopted a policy that will enable taller building height limits in the Diridon area, compared to the current limits under the DSAP and zoning code.
- There is a new focus on environmental sustainability through Climate Smart San José.
- The City adopted Downtown Design Guidelines and initiated a Downtown Transportation Plan.

The City is preparing to amend the plan to: adapt to current circumstances; align and have the DSAP complement the other adopted and ongoing plans, including the Diridon Integrated Station Concept Plan; and support and facilitate DSAP implementation (private development and public investments).

The City is not expecting to make major changes to the primary objectives of the DSAP (see Figure 1 on the following page). Anticipated changes include adding development capacity and updating the sections on land use, design, transportation, and public spaces. In addition, the City will prepare implementation plans for shared parking, infrastructure, and affordable housing.

What is the planning process to amend the DSAP?

The City conducted an extensive community engagement process in 2018 to get input on the future of the Diridon Station Area, given the changing conditions described above. The City will consider this input to identify changes to the plan. The City will conduct additional outreach with the City's Station Area Advisory Group (SAAG) and use other methods to gather feedback as part of the amendment process. The process will also require completion of an environmental analysis as required by the California Environmental Quality Act (CEQA).

How does the Google mixed-use project relate to the DSAP amendment process?

In 2017, Google expressed interest in being the master developer to implement key aspects of the Diridon Station Area Plan. On December 4, 2018, the City Council adopted a Memorandum of Understanding (MOU) with Google, based partly on community input gathered in 2018. The MOU sets forth the guiding principles for collaboration between the City and Google and shared goals for future mixed-use, transit-oriented development, consistent with the DSAP vision. Prior to constructing any buildings, Google will need to submit an application for "planning entitlements" (or land use approvals) to the City and receive approvals from the City Council. The review process

for the Google project will involve environmental review and negotiation of a Development Agreement, including a Community Benefits Plan.

The City anticipates reviewing Google's application for a mixed-use development concurrently with the DSAP amendment process. The City Council will consider approval of the DSAP amendments, Google planning entitlements, and all associated environmental documents and legislative changes as part of the comprehensive planning process.

When will the process begin and what is the timeline?

The DSAP amendment and Google project review process is beginning this summer and is expected to be completed by the end of 2020.

Figure 1: Primary Objectives of the Diridon Station Area Plan (Page 1-5 of the adopted DSAP)

The primary project objectives are to:

- establish a land use plan and policy framework that will guide future development and redevelopment toward land uses that support transit ridership and economic development and create a world-class cultural destination;
- improve pedestrian, bicycle, motorized and transit connectivity between the station site and existing adjacent commercial and residential areas;
- develop and implement urban design standards that promote walkable, livable, and business supportive environments within the Diridon Station Area;
- provide a variety of commercial and mixed-use development opportunities, ranging from large-scale corporate or institutional sites to smaller infill development sites;
- create a highly active and lively pedestrian and bicycle friendly environment with excellent connectivity to downtown destinations and regional transit;
- expand Diridon Station to create a well-integrated center of architectural and functional significance;
- ensure the continued vitality of the San José Arena, recognizing that the San José Arena is a major anchor for both Downtown San José and the Diridon Station area, and that sufficient parking and efficient access for San José Arena customers, consistent with the provisions of the Arena Management Agreement, are critical for the San José Arena's on-going success.
- enhance the existing neighborhoods and add high-density residential-commercial mixed-use development within the study area and to act as a catalyst for similar developments in surrounding areas;
- prepare a program-level environmental clearance document which anticipates the maximum build out to facilitate subsequent project-level environmental review, possible changes to existing policy/regulatory documents, capital improvement projects, and private development proposals;
- educate and inform the public about the area planning process and Transit-Oriented Development (TOD) concepts;
- create a great place in the City of San José that is a local and regional destination.

City Council Direction from December 4, 2018 Meeting

Mayor and Councilmembers provided some text modifications that are reflected in the final Memorandum of Understanding.

In addition, the Mayor and Councilmembers requested staff to undertake specific actions as immediate and subsequent steps:

- Immediately commence discussions with Google regarding the amount and purpose of a Google Community Benefits fund, prioritizing, among other needs:
 - A. Affordable housing, with priority for those residents displaced by rising rents;
 - B. Educational opportunity, with an emphasis on (i) *college tuition and fee assistance*, (ii) *middle and high school career pathways* from local schools, focusing on San Jose youth from low-income families in high-risk neighborhoods, and (iii) programs for *job-shadowing and internships* to develop foundational skills to remove barriers to postsecondary education and employment with the objective of expanding the diversity of the tech workforce.
 - C. *Job training*, with an emphasis on careers in (i) construction trades, and (ii) IT-enabled jobs not requiring a college degree, such as network systems administration, programming, coding, computer-aided design, and software design.
- Return to Council with the next steps required to generate dollars for such public purposes as affordable housing, transit, parks, and trails funded by property owners and/or developers of commercial (office, R & D, hotel) property such as Google. Vehicles to be explored include: a commercial linkage fee, development impact fee or infrastructure financing district for new construction, and a PBID (Property Business Improvement District.)
- Return during the next General Plan update to recommend that Council include language in the Envision 2040 General Plan mandating -- not merely offering as an aspiration -- an area-wide affordable housing requirement of 25% in the aggregate for all housing built in the Diridon Station Area, including a plan for implementation.
- Return to Council next fall with a plan for residential displacement, and explore strategies and financing tools to mitigate small business displacement. (Note: these are intended to be city-wide plans.)
- Include a provision for the completion of the Los Gatos Creek Trail through the current Fire Training property, or immediately adjacent property, as part of the Diridon Station Area Plan Update.

- Reconvene the Station Area Advisory Group (SAAG) to discuss and provide feedback in a public forum on a final Community Benefits and Development Agreement(s) prior to any Council decision.
- Direct the City Manager to coordinate the development of a work plan to achieve the goals listed in the MOU. As part of the work plan, include the following:
 - a. A financing plan that evaluates the mechanisms and strategies identified in Section IV (F) and (G) of the MOU, as well as exploration of other sources of funding in connection with the Diridon Station development.
 - b. Review and/or update the April 2018 “Residential Cost of Development Study” to reflect current market conditions, and present updated information to enable Council to assess the feasibility of increased affordable housing inclusionary standards and incentives enabled by the increase in allowable heights and density of future residential and commercial developments downtown if the City increases allowable heights as a result of study of the One Engine Inoperative (OEI) and Downtown Height study.
 - c. Time table for periodic review of the work plan, including metrics gauging progress in achieving the goals in the MOU, by the Council and relevant Council committees.
- Direct staff to provide City Council a full accounting of funds to be received by the City of San Jose resulting from the sale of SARA and city-owned properties to Google if these transactions were to be approved. These funds should also be clearly marked in documents guiding future budget discussions in 2019. Lastly, staff should be prepared to respond to questions as to how they would recommend the City of San Jose use these funds for the community’s benefit.