FREQUENTLY-ASKED QUESTIONS (FAQ)

+ 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?

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 240-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 shared 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 over 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.
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 is on community engagement, concept development, and the sale of key publicly owned lands. On Dec. 4, 2018, City staff will recommend a Memorandum of Understanding and Purchase and Sale Agreement for City Council consideration. 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 will state the price and terms to sell City- and SARA-owned land to Google.

Phase II (Project Approval) is expected to begin in 2019 and last at least two years. Civic engagement will continue throughout this period. In Phase II, Google will submit a specific project plan to the City Planning Department which will start the regular entitlement (permitting approval) process for their development project. At the same time, the City will initiate updates to the Diridon Station Area Plan to consider new factors—such as the lack of a baseball park, potential increases to building height limitations, and Google’s envisioned mix of land uses. The necessary approvals include, but are not limited to: site approval plan, design review, environmental clearance under the California Environmental Quality Act (CEQA), amendments to the adopted Diridon Station Area Plan, rezoning to reflect details of the proposed development and change in conditions. The work also will involve preparation and approval of a Development Agreement (described below). City Council will have ultimate approval of the environmental impact analysis, the planning permits, the Development Agreement with Google, the rezoning actions, and the updates to the Diridon Station Area Plan, with recommendations from the Planning Commission and other advisory bodies.

Following project approval, Google would begin applying for building permits. It is expected that the project will be constructed in several phases over at least 10 years.

**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.”

**4. What land does Google want to buy? Why sell the land for private development?**

Google has expressed interest in purchasing 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.

Google has also expressed interest in 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. The other 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.
Why sell the five former Redevelopment Agency properties?

These properties must be sold according to the State-approved plan governing termination of redevelopment agencies. The City does not have the resources to buy the properties itself, and wants 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 requires the City to enter into a “Compensation Agreement” with the other 13 taxing entities to sell the properties at fair market value, and then 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. Accordingly, the properties have been 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 must dispose of the property by December 31, 2018. The Memorandum of Understanding and the Purchase & Sales Agreements relating to the sale of the properties will be heard by the City Council on Dec. 4, 2018. Links to these documents is available here.

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 would 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 also expressed interest in purchasing 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 doesn’t the City buy the former Redevelopment Agency land?

The City does not have the resources to buy the properties itself and wants to see 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 lacks the funding to purchase the former Redevelopment Agency parcels and assemble the other parcels without incurring debt. If the City 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 would 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 is for 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 will receive 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 is the City intending to sell, rather than lease, the land to Google?

Google is interested in owning the sites to create a cohesive, master-planned development for the long term. In San José, the public properties are relatively small and are located within the set of private properties Google now owns. 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 lacks 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 other companies. 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. The negotiations were recently extended to June 20, 2019.

+ 10. By the end of 2018, City Council is expected to consider 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 proposed 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 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.

**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 MOU and PSA will go to Council for review and approval on December 4, 2018. Taken together, these two agreements will 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.
Purchase and Sale Agreement for SARA Properties
When the State of California terminated redevelopment agencies in 2011, it 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 according to a State-approved Long Range Property Management Plan. The Plan, approved in 2014 for the former San José Redevelopment Agency, identified that the Diridon Station Area properties were to be retained for development and transferred to the City for redevelopment purposes through a Compensation Agreement. The sales price included in the Compensation Agreement is to be based on an appraisal that establishes the Fair Market Value of the property. The Plan requires that all 14 taxing entities approve the Compensation Agreement. Upon sale of the property, the proceeds are to be distributed 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 ($237.50 per square foot). A fair market price is typically determined by looking at the sales of comparable parcels in the area. The purchase prices of all the prior sales of privately owned parcels in the Diridon Station Area, including each of Google’s purchases of private parcels, are public and have been widely reported in the San José Mercury News and other media. The valuation of $237.50 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 will receive revenue from the sale of the SARA-owned parcels, including the City, the County, and several school districts, have reviewed the terms for the land sales. As of August 14, 2018, all 14 affected taxing agencies (13 plus the City), approved and executed the Compensation Agreement reflecting the $237.50 per square foot price – a total of $67 million. Per the state-approved plan and terms of the Compensation Agreement, the properties were transferred from SARA to the City on August 24, 2018. The Compensation Agreement states that the City must dispose of the property by December 31, 2018, which staff proposes as part of this memorandum.

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 the City has intended to replace and relocate the Fire Training Center, the Diridon Station Area Plan identified this site as a potential public park site, chiefly because the City already owned it. Given its proximity to the expanding transit station at Diridon, the site presents a major opportunity for high-density, transit-oriented development, and inclusion as an integral component of a master planned project. Revenue the City receives from the sale of the property to Google will fund the development of a new Fire Training Center elsewhere in San José, including the Central Service Yard as a potential site. Also, the City anticipates updating the Diridon Station Area Plan to provide the equivalent acreage of park/public space elsewhere in the Area.

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. 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 proposed Purchase and Sale Agreement for this site includes 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 “prepaid” community benefit, as it will have subsidized the relocation of the Fire Training Center.

Should the sale of this property close escrow, the City will continue to use the site as its Fire Training Center for up to three years (at $0 in rent) while the replacement Center is developed (see terms of the Ground Lease in a subsequent section). During this lease period, the City will need to satisfy two performance milestones: (i) completion of construction documents for the replacement Center within 18 months; and (ii) vacation of the leased site within three years. If the City fails to meet these performance milestones, thereby causing significant financial damages to Google, the purchase price will be reduced by up to ten percent.

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. If the City sells 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. 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 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 affordable
- **New Tax Revenue** of $28-40 million annually to improve city services. Also: $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 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 and Diridon Station Area Civic Engagement Report and subsequent input provided by the community or City Council, as well as address the shared goals in this MOU.

In developing the Community Benefits Plan, consideration will be given to major categories of community priorities identified to date, 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
Other main terms of the MOU include:

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

**+ 14. 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, and 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 also 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 this year.

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.

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. On June 12, 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:
  o Last year, 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.
  o 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.
  o 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.

+ 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—preceded Google’s 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 they 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.

+ 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 confidentially by any NDA, according to City Attorney Rick Doyle. All negotiations have proceeded without any NDA-imposed requirement of confidentially, 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.

19. **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 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 is approving the land sale now, 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 potentially include:

- Environmental Impact Report
- General Plan Land 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 City and community, 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.

20. 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 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
- 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 the community engagement process 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 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. 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 22,000 page views. Google representatives attended all of the meetings, and listened to the community’s feedback.

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