

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

Updated September 2019

## Background

The City of San José adopted the [Diridon Station Area Plan \(DSAP\)](#) in 2014 after five years of engagement involving the Diridon Good Neighbor Committee. The DSAP is intended to guide development in support of the major transportation improvements planned for Diridon Station, including electrification of Caltrain service, the extension of BART and the new high-speed rail service. The DSAP envisions a high-density, mixed-use, vibrant, transit-supportive neighborhood that expands Downtown.

Since the adoption of the DSAP, Google expressed an interest in developing a project that would help implement the vision for the Diridon Station Area. In June 2017, the City and Google entered into an Exclusive Negotiation Agreement for potential sale of about 20 acres of City-owned lands to Google, including about six acres formerly owned by the Successor Agency to the Redevelopment Agency (SARA), the four-acre Fire Training site, and 10-acre “ABC” parking lot next to the SAP Center.

In December 2018, City Council approved the sale of the SARA and Fire Training sites at fair market value with no subsidy, as well as an option/Negotiating Rights Agreement for Google to buy the ABC lot. In addition to the Purchase and Sale Agreements for these properties, City Council approved a Memorandum of Understanding (MOU) with Google. The MOU sets forth the guiding principles to collaborate on a future mixed-use development in the Diridon Station Area and to negotiate a Development Agreement, which will include a Community Benefits Plan.

The City conducted an extensive community engagement process leading up to the City Council’s decision on the land sale and MOU. The process included a variety of methods to share information and gather input on the community’s hopes, issues, and ideas. At the core of the process was the Station Area Advisory Group (SAAG), which includes 38 community members appointed by the City Council. In addition to SAAG meetings, the City also hosted community meetings, walking tours, pop-ups at neighborhood events, presentations to stakeholder groups, and an Online Feedback Form. This report summarizes this process and the community’s input: [Diridon Station Area Civic Engagement Report \(2018\)](#).

The remainder of this document focuses on what has happened since December 2018 and the upcoming planning processes. For additional background on Google and the Diridon Station Area prior to December 2018, please see the prior FAQs posted in our Archive section: <https://www.diridonsj.org/archive>. This includes detailed descriptions of terms like Exclusive Negotiation Agreement, Memorandum of Understanding, and Purchase and Sale Agreement.

## + 1. Why is the City pleased to have Google as the anchor developer of the Diridon Station Area?

For many years, San José has dedicated significant resources and solicited considerable community input around how best to maximize the area around Diridon Station. In 2014, the City Council adopted the Diridon Station Area Plan (DSAP) 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 a five year period, 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.

One of the key factors in realizing this vision was being able to attract an "anchor developer" who would undertake development of a significant portion of the area, thus ensuring a cohesive, coordinated project that the DSAP proposed. With Google, the City of San José believes it has found the right partner to serve as anchor developer of a transit-oriented district. Google signed an MOU with the City that demonstrates their commitment to shared goals, following months of listening to community members about their aspirations and concerns. This is not typical for corporations or developers that are considering a project of this scale. The City recognizes that Google has many options for where and how it grows within the Bay Area, and sees this project as an opportunity to maximize benefits to San José. We are glad to have a partner that is willing to work proactively with us and community members to develop a project in San José that can:

- create a welcoming place that is open to and integrated with the rest of the city;
- increase the number of job opportunities for San José residents;
- provide a range of housing opportunities, including affordable, with easy access to transit;
- reduce carbon emissions and mitigate worsening freeway traffic;
- bolster arts and cultural vitality;
- offer a unique urban lifestyle in the South Bay;
- revitalize a long-under-utilized western portion of Downtown;
- support small, local businesses; and
- generate substantial revenues for chronically underfunded city 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 next 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. Completion of the potential Google development project would take many years, requiring many steps and ongoing community engagement.

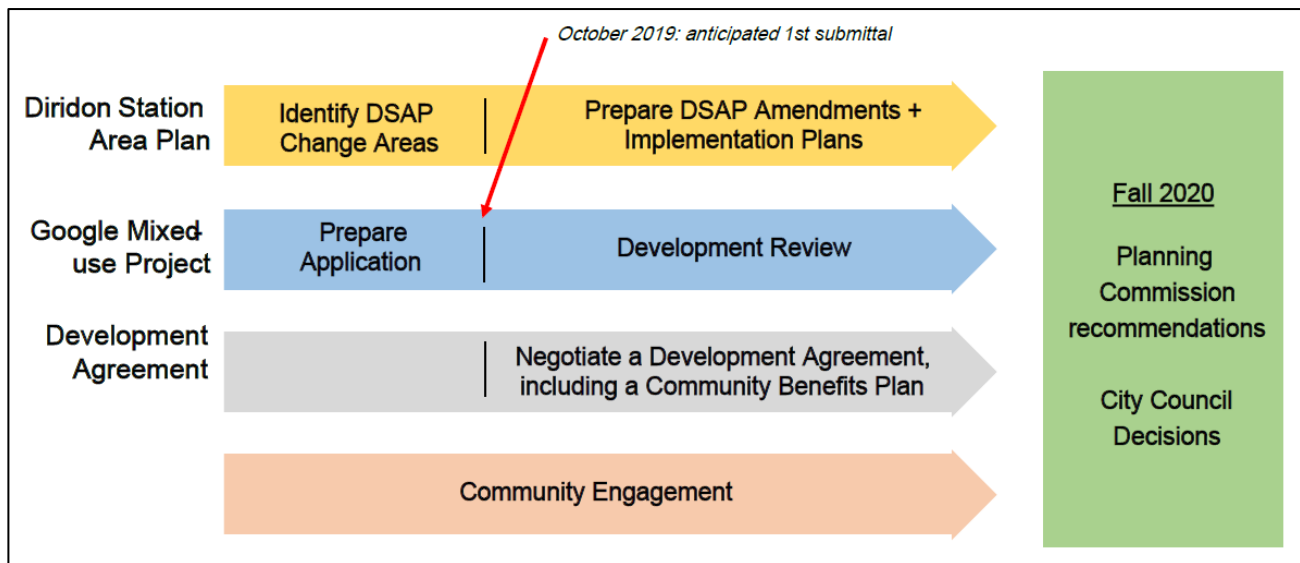
In 2018, the focus of the Google project was on community engagement, working towards shared goals, and the sale of several publicly owned lands. On December 4, 2018, City Council accepted the Memorandum of Understanding and Purchase and Sale Agreements. As described further under later questions, the 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.

The next phase of work began early in 2019, as Google began preparation of site plans. Google has developed a conceptual mixed-use framework that they are sharing with the City and the community prior to submitting an official application to the City for development review.

With feedback from City departments and the community, Google will refine the site plan for submission to the City’s Planning, Building and Code Enforcement (PBCE) Department, which will start the regular review process for their development project. The City is expecting the first submittal to occur in October, 2019. As part of the review process, staff will analyze the project for consistency with City policies, evaluate its potential environmental effects, engage the public to share information and gather feedback, and work with Google to make changes to the project in response to this work. Concurrently, the City will negotiate a Development Agreement that will include a Community Benefits Plan. The ultimate goal is to develop a project that serves the best interests of the City and its residents.

Also as part of Phase II, the City will initiate amendments to the Diridon Station Area Plan to consider new factors since Plan adoption in 2014—such as the lack of a baseball park, the potential for taller building heights, and Google’s envisioned mix of land uses and public space concepts. The City is also preparing studies and implementation plans that would cover the entire area and address parking, infrastructure financing, and affordable housing.

**Anticipated Timeline of the DSAP Amendment and Google Project (2019-2020)**



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 could then begin applying for building permits. It is expected that the project would 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 on 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 and Purchase and Sale Agreements that City Council approved on Dec. 4, 2018.

#### **+ 4. What is the Diridon Station Area Basic Infrastructure Impact Fee, and will Google pay this fee?**

In August, 2019, City Council adopted staff’s recommendation for establishing an initial impact fee for new development within the specific boundaries of the Diridon Station Area, in order to ensure adequate funding for basic City infrastructure to support the new developments. Infrastructure that the City may build using this fee includes basic streets, sanitary sewers, storm drainage and flood control, and plazas/open space.

These fees are not part of the community benefits package to be negotiated with Google as part of a Development Agreement. These fees are to support the level of development envisioned in the 2014 Diridon Station Area Plan for the critical transit-oriented development area around Diridon Station. All new development will pay the fee, including other office, residential, and hotel projects.

The maximum fees add no more than one percent to the development budget for any of the kinds of development. The burden on project budgets ranges from a 0.4 percent increase for the high-rise condominium prototype to a 1.0 percent increase for the midrise office prototype.

Additional fees and financing tools will be proposed in the future as additional needs are identified. The City will prepare a Comprehensive Financing Plan as additional area-serving infrastructure, maintenance, and service needs are identified as part of the DSAP amendment process..

#### **+ 5. What will the City do to prevent residential and business displacement around the Google project and elsewhere in the city?**

##### **Citywide Anti-Displacement Strategy for Residents**

The City is concerned with residential displacement that occurs when a household leaves its home for reasons beyond its control. This includes rising rent and demolition of existing housing.

The San José City Council has taken steps to address displacement. The Council acted to strengthen its Apartment Rent Ordinance and enacted the Tenant Protection Ordinance to help tenants stay in their homes and shield them from the impact of rapidly rising rent. The City’s Ellis Act Ordinance was enacted to prevent naturally occurring affordable housing from being demolished, and to provide households with relocation benefits if displacement does occur. In addition, the City has set aside millions of dollars to purchase and rehabilitate existing affordable housing. However, the City hears that residents are still impacted by displacement and is working to close the gap so that all residents are able to stay in the neighborhoods they consider home.

The City Council will consider a comprehensive, residential anti-displacement strategy at the end of this year. The strategy will be informed by extensive community and stakeholder input. The strategy will take into consideration planned growth under the City’s General Plan, including new jobs that would be created by the Google project and other proposed developments. For more information, please visit: <http://www.sanjoseca.gov/displacement>.

## Affordable Housing Implementation Plan for the Diridon Station Area

As part of the comprehensive DSAP amendment and Google project review process, the City will also prepare an Affordable Housing Implementation Plan for the Diridon Station Area. The purpose will be to identify pathways for achieving a requirement for 25% of all new housing built in the Diridon Station Area to be affordable and to incorporate affordable housing preservation and low-income resident protection strategies, consistent with the adopted DSAP, MOU, City Council direction, and community input.

The Housing Plan will be used to inform the housing policies and strategies in the amended DSAP and Google's mixed-use development project, including the Development Agreement and Community Benefits Plan. It may also inform housing policies in other City plans at the Downtown or citywide level, or by other public agencies such as VTA. The Housing Plan will refer to and build upon the Citywide Anti-Displacement Strategy, the Diridon Station Area Civic Engagement Report (2018), and [VTA's analysis of affordable housing and displacement for the BART corridor](#).

### Citywide Anti-Displacement Strategies for Businesses

The City Council directed staff to "explore strategies and financing tools to mitigate small business displacement" as part of a package of directives related to the Google MOU/land sale on December 4, 2018. The City recognizes the potential for public and private investments in the Diridon area and other BART station areas to contribute to involuntary displacement of small businesses.. Since then, staff began working on developing strategies to avoid or mitigate development-related displacement of small- to medium-sized businesses.

The City of San José takes any threat to our home-grown businesses very seriously.

- 90% of all businesses in the City are considered small – with fewer than 35 employees.
- Small businesses employ one-third of the workforce in San José.
- About half of small business are owned by immigrants.
- Owning a business contributes to community stability and supports economic vitality and asset building.

The City's definition of "business displacement" is: property development that creates economic or legal pressure on the most vulnerable, least-resourced businesses, resulting in business relocation and/or failure.

So far, the City's small business anti-displacement team has:

- Analyzed neighborhoods across the city to determine the areas most vulnerable to displacement
- Conducted personal interviews with business owners in areas likely to experience significant development
- Created action plans with non-profits that provide services and resources to small businesses and can foster business resilience, developing programmatic capacity
- Selected Alum Rock as the pilot area, and begun development of a resilience-building program to serve businesses there.

The business anti-displacement plan will be presented in a City Council Study Session on September 16, 2019. Next steps are securing the services of a business resilience consultant and beginning to implement the plan in the pilot area this fall. Staff will also assess the small business context of the Diridon Station Area and make policy recommendations as part of the DSAP amendment process, building upon the community and stakeholder input received to date.

#### **+ 6. What land did Google buy?**

In June of 2017, the City and Google entered into an Exclusive Negotiation Agreement for the sale of about 20 acres of City-owned lands to Google, including about six acres formerly owned by the Successor Agency to the Redevelopment Agency (SARA), the four-acre Fire Training site, and 10-acre "ABC" parking lot next to the SAP Center. In December 2018, City Council approved the sale of the SARA and Fire Training sites, as well as an option/Negotiating Rights Agreement for Google to buy the ABC lot. In addition to the Purchase and Sale Agreements, City Council approved a Memorandum of Understanding (MOU) with Google. The MOU sets forth the guiding principles to collaborate on a future comprehensive, mixed-use development. For more detail on these documents and the properties involved, see the previous version of these FAQs <https://www.diridonsj.org/archive>

#### **+ 7. 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.

#### **+ 8. 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.

#### **+ 9. 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?**

Google has prepared a conceptual mixed-use framework that they are sharing with the City and community to get feedback in summer 2019. The City is preparing to receive an application from Google in fall 2019. Once Google submits an application, the official development review process will begin. Leading up to and during this review process, staff will work with Google to develop a project that meets the shared goals and expectations in the MOU. The MOU and associated City Council direction call for ongoing community engagement to keep the public informed and involved in the process.

Ultimately, City Council will have decision-making authority over the project, and will be comparing it to the goals outlined in the MOU. Construction of the project will require several discretionary actions, such as General Plan Amendments, Rezoning, Development Permit, Vesting Tentative Maps, and a Development Agreement. 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.

Collectively, the Development Agreement, City Council approval authority, public involvement, and development review process are intended to hold Google accountable to the expectations laid out in the MOU.

#### **+ 11. How will community benefits be addressed?**

A potential Google project could bring many benefits to the City, such as job opportunities for residents, new housing near transit, increased tax revenue, more transit riders, and investments in neighborhood amenities such as trails and public spaces. The Development Agreement with Google (see previous question) will include a Community Benefits Plan. This is anticipated to include a financial contribution towards projects and programs for the benefit of San José residents, beyond the general benefits of the project itself and beyond standard city requirements.

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

#### **+ 12. What has the City done to discover and address community concerns about this proposed development, and has Google been involved?**

San José launched a community engagement process much earlier than is typical for development projects to gather feedback on community aspirations and concerns. From February through December, 2018, the City of San José managed an extensive community 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.

The process has centered on meetings of the Diridon Station Area Advisory Group (SAAG), which includes 38 community members appointed by the City Council. To ensure a broad range of participation, the community engagement process has also included a variety of other 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 almost 60 events/meetings/pop-up booths, a website (link), online surveys and social media, accounting for close to 1,500 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.

Through 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](#).

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 Plan - link)

In 2019, the City has continued to hold SAAG meetings to share information and gather feedback on the Diridon projects, including updates on the Diridon Station Area Plan amendment process and Google's mixed-use development project.

### **+ 13. How does the recent City Council direction on airport-related height limits affect the Diridon Station Area Plan and future development?**

Until February 2019, the City's practice for regulating building heights in the Downtown core and Diridon Station Area was based in part on the One Engine Inoperative (OEI) take-off paths established by airlines for each of their flights. In June 2017, the City Council directed staff to update the City's 2007 Airport Obstruction Study and include an economic analysis to identify the trade-offs between maintaining the OEI-based limits and the potential increased building heights. The study determined that using FAA building height limits instead of the OEI-based limits would be safe and would not significantly impact



flight operations when aircraft take-off to the south, which happens, on average, 13% of the time. In February 2019, City Council accepted staff's recommendation to allow buildings in both the Downtown Core and Diridon Station Area up to height limits determined to be safe by the FAA.

This City Council decision to eliminate the OEI-based height limits makes it possible to increase the maximum building heights in the Diridon Station Area by 70'-150' over existing height limits, depending on the location. However, this City Council decision did not approve specific changes to the zoning code, General Plan, or DSAP, which ultimately control the allowable height of new buildings. These changes will happen as part of the City-initiated process of amending the Diridon Station Area Plan and through review of the Google project. While proximity to the airport is a significant limiting factor for building heights Downtown, there are other factors that the City takes into account when setting building height limits, such as scale compatibility with adjacent land uses and the potential to cast shadows over key public spaces.

Staff will study potential changes to building height limits as part of the City-initiated DSAP amendment process, beginning this fall (2019). Staff will consider compatibility issues to make recommendations on the appropriate places to increase height limits and to what extent. Council has directed staff to explore a potential incentive zoning program whereby residential and commercial developers may have increased affordable housing or other requirements in exchange for additional height.

The City expects that the Google mixed-use development project will involve requests for increased building heights, beyond existing regulations and up to the FAA limits for much of their project site. Staff will analyze the proposed heights, along with other proposed development standards, and make a recommendation. The City Council has final authority over all regulatory changes, including height limits. The framework for calculating the value of a Community Benefits Plan, as set forth in the MOU with Google, will take into account the added value created by increasing the allowable building heights (see question 11 for more information).

Property owners interested in any changes to height limits or other development standards are encouraged to contact the City's Planning, Building and Code Enforcement (PBCE) Department for more information. The City will also conduct community engagement as part of the DSAP amendment and Google development review processes to share information and gather feedback about potential height changes.

#### **+ 14. What is the Diridon Integrated Station Concept Plan, and how does it relate to the Diridon Station Area and Google Project?**

The Diridon Integrated Station Concept Plan is a collaborative effort to expand and redesign Diridon Station. Electrified Caltrain, BART, and High-Speed Rail service will add to the trains, buses, and light rail that currently serve San José Diridon Station. Implementation of the Diridon Station Area Plan (including the Google project) would bring tens of thousands of new jobs and residents to the area. With these changes, Diridon Station is poised to become one of the busiest intermodal stations on the West Coast. The City of San José and its Partner Agencies - California High-Speed Rail Authority (CHSRA), Caltrain, Santa Clara Valley Transportation Authority (VTA) - are working together on the Station Concept Plan to develop a world-class center of transit and urban life that provides smooth connections between modes and integration with the surrounding neighborhoods. Achieving this goal

will be critical for supporting the transit-oriented development envisioned under the Diridon Station Area Plan (DSAP), which the City adopted in 2014.

Given the important relationship between the station and land use, the DSAP includes a section on a future concept for Diridon Station based on previous planning assumptions. The Station Concept Plan process is generating a new spatial layout for the station and track approaches that will replace the concept included in the DSAP. The Station Concept Plan process is considering the relationship with the surrounding area – including the effects on existing buildings and residents, future development, street grid, connectivity across the tracks and with the station, and the potential for public space and amenities. Coordination among the Diridon Station Area Plan amendment, Google development review, Downtown Transportation Plan, and ongoing Station Concept Plan processes will be essential to meeting shared goals for the area.

The City and its partners have conducted three rounds of public engagement on the Station Concept Plan, including presentations to the City’s SAAG. The City will continue to ensure coordination with the public engagement efforts for the Station Concept Plan, as the City advances the DSAP Amendment and Google project review process (including a shared website: [www.diridonsj.org](http://www.diridonsj.org)). Details on the Diridon Integrated Station Concept process are available here ([www.diridonsj.org/disc](http://www.diridonsj.org/disc)).

#### **+ 15. Why did some City staff and elected officials sign Non-Disclosure Agreements in Spring of 2017? Are they still operative? Has the City met Public Records Act requirements?**

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 occasionally 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.

On August 16, 2019, the Superior Court found that the City complied with the law in fulfilling the Public Records Act request by the First Amendment Coalition/Working Partnerships. For additional information, see the [court decision](#) and this summary [statement from the City Attorney](#).

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.

**+ 16. Why did the City sell the public lands before the Google project is known and approved?**

A full answer is available in a previous version of these FAQs <https://www.diridonsj.org/archive>

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