



THE CITY OF SAN DIEGO

November 21, 2025

Honorable Maureen F. Hallahan
Presiding Judge
San Diego Superior Court
1100 Union Street, 10th Floor
San Diego, CA 92101

Re: San Diego County Grand Jury Report, *Never Been Challenged, City of San Diego Development Impact Fee Program Redux*

Honorable Judge Hallahan,

Pursuant to California Penal Code Section 933.05(c), the City of San Diego provides the attached response from the City Council and Mayor to the applicable findings and recommendations included in the above referenced Grand Jury Report.

If you require additional information, or have any questions, please contact Luz Anaya Luna, Director of Legislative Affairs, at lanayaluna@sandiego.gov.

Sincerely,

A blue ink signature of Todd Gloria, written in a cursive style.

Todd Gloria
Mayor
City of San Diego

A blue ink signature of Joe LaCava, written in a cursive style.

Joe LaCava
Council President
City of San Diego

Enclosure:

1. City of San Diego Response to San Diego County Grand Jury Report Titled "Never Been Challenged, City of San Diego Development Impact Fee Program Redux"
2. City Council Resolution R-316506

**City of San Diego Response to
San Diego County Grand Jury Report Titled
“Never Been Challenged, City of San Diego Development Impact Fee Program Redux”**

Pursuant to California Penal Code Section 933(c), the City of San Diego provides the following response from the Mayor and City Council to the applicable findings and recommendations included in the above referenced Grand Jury Report.

RESPONSE TO FINDINGS:

Finding 1: *The City has not filed DIF Annual Reports in accordance with § 66006(b) for the last four fiscal years including FY 2021 through FY 2024.*

Response: The Mayor and City Council disagree in part with the Grand Jury’s finding.

The City has consistently published its consolidated Development Impact Fee (DIF) Funds Reports (the primary attachment to the DIF Annual Report providing the substantive financial and project data) by March of the following calendar year—approximately 270 days after the close of each fiscal year. The DIF Annual Reports for Fiscal Years 2021 through 2024 were subsequently prepared and presented to the City Council, but the City acknowledges that they were not compiled within the 180-days set forth in California Government Code § 66006(b). This timing reflects the complex and resource-intensive process of consolidating and reconciling fund balances across numerous accounts and ensuring accuracy and consistency in reporting across a citywide portfolio of capital projects and funding sources. The time and resource-intensive nature of reporting on over 50 separate funds is one of many reasons why the City moved from a community-specific DIF structure to a Citywide DIF structure with just four DIF fund categories through the Build Better San Diego initiative. While community-specific DIF accounts will remain in place during the years-long transition period, reporting will be greatly simplified once the transition is complete.

Each year, the City produces a DIF Annual Report that substantively includes the information required under Government Code § 66006(b), with the express intent of complying with state requirements. Specifically, the City’s DIF Annual Reports are in full compliance with Government Code § 66006(b) subsections (A) regarding providing descriptions of the type of fee in the account, (B) the fee amount, (C) beginning and end balances, (D) amount of fees collected and interest earned, (G) descriptions of each interfund transfer or loan made and associated public improvement expense, and (H) refunds made, and in substantial compliance with subsections (E) and (F), as outlined below:

Subsection (E): While the City’s DIF Annual Reports identify the public improvements funded with DIF revenues, they do not currently include the percentage of total project costs funded by DIF. The City acknowledges this omission and will include this data in future reports.

Subsection (F): The City achieves substantial compliance by publishing all projects to the [Capital Improvements Program \(CIP\) webpage](#). Additionally, the CIP [Budget](#) is incorporated by reference into each DIF Annual Report and includes a list of standalone

projects funded by DIF as well as status and schedule information for those capital projects. All project attributes including scope, budget and schedule are published on the [CIP webpage](#).

The City remains committed to enhancing transparency and is actively working to improve internal coordination and explore options to streamline the reporting process to better align with statutory timelines. The [DIF Annual Report for Fiscal Year 2024](#) is currently available.

Finding 2: *The City has been chronically late publishing Annual DIF Reports in violation of MFA § 66006(b) since FY 2015.*

Response: The Mayor and City Council agree with the Grand Jury's finding.

The City of San Diego acknowledges that it has not consistently met the 180-day deadline outlined in California Government Code § 66006(b) for publishing Annual DIF Reports since FY 2015. The City is a large jurisdiction managing over \$60 million in annual DIF revenue, with hundreds of individual project accounts across over 40 communities.

Before the report can be finalized, the Department of Finance and the Finance Section within City Planning must complete a detailed consolidation and reconciliation of all DIF funds. This process is complex and time-intensive due to the volume of transactions, the number of community-specific DIF accounts that remain, and the need for accuracy across a broad capital improvement portfolio.

As previously noted in the response to Finding 1, preparing the consolidated DIF Funds Report is a complex, time and resource intensive process, which required more than 180 days to complete to ensure accurate and consistent reporting. The transition from 50 separate funds to four Citywide DIF fund categories through Build Better SD aims to help streamline this process moving forward.

The City remains committed to improving internal processes and coordination between departments to enhance the timeliness of future reporting and align with the statutory requirements of the Mitigation Fee Act (MFA).

The City Planning Department and Department of Finance are actively working together to find ways to streamline procedures to achieve the 180-day reporting timeline. It is estimated that these efforts will better ensure timely compliance with this relatively tight 180-day requirement for the FY 2026 report. The departments are also interested in pursuing amendments to the MFA to provide additional time for this reporting requirement – at least for larger jurisdictions.

Finding 3: *The City does not comply with MFA §§ 66006(b)(1) and 66006(b)(1)(E) annual and § 66001(d)(1)(D) five-year reporting requirements. Reporting detail, including yearly fund balances, expenditures, and fees collected, and the five-year reporting requirements do not provide timely, objective, substantive and accurate data that meets all MFA requirements.*

Response: The Mayor and City Council disagree with the Grand Jury's finding.

The City of San Diego acknowledges the importance of complying with all reporting requirements under the MFA. The City has historically published annual reports that

include yearly fund balances, expenditures, and fees collected, consistent with California Government Code § 66006(b)(1).

Beginning with the FY 2023 Annual DIF Report, the City enhanced its reporting to include information required under § 66001(d) related to the five-year findings. This includes identification of unexpended funds held for five or more years, a description of the purpose for which the fee was collected, and a determination as to whether there remains a reasonable relationship between the fee and the purpose for which it was originally imposed. These improvements represent steps the City has taken to ensure compliance with MFA § 66001(d).

The City Planning Department remains committed to continuing to improve the transparency, accessibility, and consistency of its DIF reporting and will continue to coordinate with the Department of Finance and the City Attorney's Office to ensure full compliance moving forward.

Finding 4: *The City's Community Plans and Financing Plans are outdated – some in excess of 10 years, or more.*

Response: The Mayor and City Council agree with the Grand Jury's finding.

The City agrees that many Community Plans and their corresponding Financing Plans are outdated, with some last updated more than a decade ago. With 52 community planning areas, it would be infeasible, time-consuming, and costly for the City to update each financing plan individually and on a recurring basis due to the City's limited capacity and resources. To address this challenge and modernize infrastructure funding, the City adopted a new approach through the implementation of the Parks Master Plan (2021) and Build Better SD (2022). These efforts established four Citywide nexus studies for [Parks](#), [Mobility](#), [Fire](#), and [Library](#), which have taken the place of individual Public Facilities Financing Plans (PFFPs) for each community. The nexus studies are based on information taken from different sources, including the General Plan, Community Plans, the Parks Master Plan, the Mobility Master Plan, the San Diego Public Library Master Plan, the Climate Action Plan, and the Municipal Code. Similar to the PFFPs, the four nexus studies provide the basis for the calculation of the Citywide DIF rates.

Existing funds in Community DIF accounts will continue to be expended for the purpose for which they were collected, in accordance with the adopted Financing Plans for each community and the MFA. All new development applications are now charged under the Citywide DIF structure (unless state law otherwise requires the City to still charge the Community DIF) and revenues are allocated in accordance with the Citywide nexus studies. Citywide DIF revenue can also be leveraged to supplement insufficient community-specific DIF funds to deliver the infrastructure identified in the financing plan.

In communities with DIF fund balances, City staff has received input from planning groups, community members and Asset Managing Departments to identify infrastructure priorities and projects that can utilize DIF funding while ensuring that DIF funds are only being expended on projects that serve the purpose for which they were collected. As a result of this proactive approach, the unallocated fund balance for

Community DIFs has been reduced by approximately 34%, from \$251.4 million at the end of fiscal year 2021 to \$166.6 million at the end of fiscal year 2024.

The initial Citywide nexus studies were adopted by City Council in August 2021 and August 2022 and are currently undergoing updates. The updated nexus studies are targeted for City Council consideration in early 2026, and will continue to provide a more equitable, streamlined, and citywide approach to infrastructure planning and investment. Going forward, the efficiencies gained by updating four nexus studies rather than dozens of community-specific financing plans will allow for much more regular updates to ensure that the DIF rates reflect current infrastructure needs and costs. It is important to note that the only purpose of updating a PFFP is to establish the basis for a new or revised community-specific DIF. Because the City has transitioned to the Citywide DIF structure, there is no longer a rationale for updating PFFPs—the Citywide nexus studies establish the basis for calculating fees and have replaced the PFFPs. However, due to SB 330, the City is required to continue collecting community DIF through FY 2029 if a project qualifies under SB 330 and if the applicable community DIF rate is lower than the Citywide DIF rate. In such cases, the community DIF collected under SB 330 requirements is still deposited into community-specific DIF accounts and expended in accordance with the applicable PFFPs.

Regarding updates for Community Plans, the City has made significant progress in recent years. The City has adopted the following specific plans since 2008:

City Prepared

- Balboa Station Area Specific Plan (2021)
- Morena Corridor Specific Plan (2019)
- San Ysidro Historic Village Specific Plan (2016)

Property Owner Prepared

- Otay Mesa Southwest Village (in process)
- Riverwalk (2020)
- Otay Mesa Central Village (2017)
- Quarry Falls (2008)

The City has adopted the following community plans since the General Plan was updated in 2008:

- Otay Mesa Community Plan (2014)
- Encanto Neighborhoods Community Plan (2015)
- Southeastern San Diego Community Plan (2015)
- Ocean Beach Community Plan (2015)
- Navajo Community Plan – Grantville Focus Plan Amendment (2015)
- Golden Hill Community Plan (2016)
- North Park Community Plan (2016)
- San Ysidro Community Plan (2016)
- Uptown Community Plan (2016)
- Midway Pacific Highway Community Plan (2018)
- Old Town San Diego Community Plan (2018)

- Mission Valley Community Plan (2019)
- Kearny Mesa Community Plan (2020)
- Barrio Logan Community Plan (2021)
- Mira Mesa Community Plan (2022)
- University Community Plan (2024)
- Uptown – Hillcrest Focused Plan Amendment (2024)

The City is in the process of updating the following community plans:

- College Area Community Plan
- Clairemont Community Plan
- Mid-City Communities Plan
- Rancho Bernardo Community Plan
- Otay Mesa – Nestor Community Plan

Since 2008, the City of San Diego has adopted six specific plans, two focused plan amendments and 15 community plans, with five additional updates in process.

Finding 5: *There are instances where administration charges exceed the target percentages documented in each community PFFP or IFS. For example, one DIF account has been charged 18%. This exceeds the City's established maximum for administrative charges.*

Response: The Mayor and City Council agree with the Grand Jury's finding.

The City acknowledges the importance of adhering to administrative cost limits. This goal is facilitated by the transition to Citywide DIF moving forward, which includes the 5% cap on administrative expenses established for the Citywide DIF funds.

Since the implementation of Citywide DIFs, the City Planning Department has worked closely with the Department of Finance to proactively manage administrative expenditures by establishing annual administrative budgets for each Build Better SD fund at the start of the fiscal year. These budgets are carefully developed to ensure administrative charges remain within the 5% aggregate revenue cap and are not created for any fund projected to exceed that limit.

The City similarly applies this approach to the community-based DIF funds, applying the same monitoring and budgeting methodology. Specifically, the City tracks the aggregate administrative rate, defined as aggregate administrative expenses divided by aggregate revenue, for each fund. When a community-based fund approaches the 5% cap, the City takes steps to suspend further administrative charges to avoid exceeding the limit.

The City acknowledges that prior to adopting Citywide DIFs, spikes in administrative expenses occurred in connection with updates to PFFPs or Impact Fee Studies, where staff expenses would be greater due to the updates. Specifically, these spikes in administrative expenses occurred to the Ocean Beach DIF due to the update to the 2015 Ocean Beach PFFP, to the Uptown DIF due to the 2017 Uptown Impact Fee Study update, and to the Mission Valley DIF due to the 2020 Mission Valley Impact Fee Study.

In such cases, it was expected that future development activity and revenue would gradually normalize the administrative rate. However, the adoption of Citywide DIF altered revenue flows, as most new development is now charged Citywide DIF, reducing

future revenue into legacy community-based DIFs. As a result, the past assumption that revenue would eventually offset temporary overages is no longer valid.

While the City took measures to train staff on proper time entry and to monitor administration rates closely, it is acknowledged that in some cases, Internal Order numbers for administrative charges remained open, which in limited instances, inadvertently allowed new charges to be posted even after a fund reached its cap. However, this situation has been addressed with the following additional oversight and controls which were instituted over the past few years and will be completed this Fall:

- Internal Orders are closed for administrative accounts tied to community-based DIF funds that have reached the 5% cap or that no longer receive revenue, so that those internal orders cannot be billed to in error.
- Administrative rates continue to be monitored across all DIF funds to ensure compliance.
- Further administrative charges are prevented from hitting funds with no available balance. This was accomplished by closing the applicable accounting internal orders, so they can no longer be used.

Finding 6: *Community-based DIF funds have been spent by the City to develop the Citywide Build Better SD DIF program, in violation of § 66001(g).*

Response: The Mayor and City Council disagree with the Grand Jury's finding.

The City does not concur with the finding that use of community-based DIF administrative funds to support the development of the Citywide Build Better SD DIF program was in violation of California Government Code § 66001(g).

The activities in question—primarily the preparation of nexus studies and policy documents necessary to implement Build Better SD—were administrative actions undertaken to transition the existing community-based DIF system to the Citywide DIF system while ensuring that the costs of infrastructure identified in community-specific financing plans were updated to reflect current costs. These efforts were consistent with the City's historical practice of updating community-level nexus studies and financing plans and were reasonably necessary to support continued administration of the DIF program.

Government Code § 66014(b) explicitly allows DIF to include costs “reasonably necessary to prepare and revise the plans and policies that a local agency is required to adopt before it can make any necessary findings and determinations.”

Government Code § 66016(c) authorizes a local agency to recover the costs it incurs in conducting meetings related to the adoption of new or updated fees, which by extension includes the development of nexus studies that support those actions.

Community-specific administrative funds were used to support the development of the Citywide Nexus Studies because these studies served the same fundamental purpose as updating community-based DIF nexus studies and PFFPs—they furthered the update, improvement, and long-term continuity of the City's DIF funds. These actions were necessary to allow for continued administration of the community-based DIF funds

since a new strategy was needed to ensure that the community-based DIF funds could be expended more efficiently for the purpose for which they were collected.

Community DIF administrative funds were appropriately used to support the development of the Citywide Nexus Studies because these studies replaced the former community-based impact fee studies. Maintaining and updating more than 50 separate community studies was administratively inefficient and resource-intensive. Transitioning to four consolidated Citywide Nexus Studies established a streamlined and standardized framework for more effective and timely administration of DIF funds, consistent with the purpose for which they were collected. Had resources been expended to continue updating the 50 separate studies, the more likely outcome would have been continued delays in expending funds, increased risk of refunds, and ultimately less community infrastructure delivered. By contrast, the Citywide Nexus Studies provide a more efficient foundation to direct funds toward projects, resulting in greater investment in community infrastructure.

With the adoption of Citywide DIFs, administrative costs associated with future nexus study updates are allocated to the applicable Citywide DIF fund.

Finding 7: *The City used fees collected and deposited in twenty-two of the fifty-two legacy DIF accounts, totaling \$720,159.87, titled “DIF Rebuild,” for administrative use to create the Build Better SD program.*

Response: The Mayor and City Council agree with the Grand Jury’s finding.

The City acknowledges that administrative funds from 22 legacy community-based DIF accounts were used to support the development of the Citywide Nexus Studies under Build Better SD. This work was a direct continuation of the City’s long-standing practice of updating community-specific nexus studies and PFFPs and was conducted in furtherance of administering the DIF program overall.

As noted in the response to Finding 6, California Government Code § 66014(b) and § 66016(c) authorize the use of DIF revenues to support costs reasonably necessary to prepare and revise plans and policies required for the lawful adoption and implementation of fee programs, including the development of supporting nexus studies. The use of these administrative funds was legally permissible and aligned with past practices to maintain legal compliance and program continuity.

Finding 8: *The cost of developing the Build Better SD program structure should have been borne by the City’s General Fund.*

Response: The Mayor and City Council disagree with the Grand Jury’s finding.

The City disagrees with the assertion that the cost of developing the Build Better SD program structure should have been borne by the General Fund. Build Better SD involved the preparation of Citywide Nexus Studies, which served to update and modernize the City’s DIF program. This work was no different than updates of community-based nexus studies and PFFPs, which have also been funded through administrative portions of DIF revenues.

As noted in the response to Finding 6, California Government Code § 66014(b) and § 66016(c) authorize the use of DIF revenues to support costs reasonably necessary to

prepare and revise plans and policies required for the lawful adoption and implementation of fee programs, including the development of supporting nexus studies. Because the Citywide Nexus Studies supported the administration of the existing DIF program, the use of DIF administrative funds was appropriate.

Finding 9: *The GJ investigation concluded that despite warning signs, the City has failed to take appropriate actions to correct problems or take corrective action in administering the DIF program.*

Response: The Mayor and City Council disagree with the Grand Jury's finding.

The City disagrees with the Grand Jury's conclusion that it has failed to take corrective action in administering the DIF program.

While the City acknowledges that DIF Annual Reports have not consistently met the 180-day publication timeline outlined in the MFA, the City Planning Department and the Department of Finance have continued to prioritize the production of accurate and comprehensive reports. These reports require significant coordination and data reconciliation across multiple departments and funding accounts, reflective of the City's size and complexity.

Although the Annual DIF Report does not provide a detailed breakdown of all funding sources used for each capital project, it references the City's CIP Budget, which typically includes project-level data for large standalone projects such as estimated construction start and end dates, total estimated costs, and the funding source breakdown—including DIF contributions. For group projects such as traffic signals, curb ramps, etc., the estimated schedule and cost are available on the City's CIP [project tracker](#). While the tracker does not currently show the amount of DIF funds appropriated to each project, City Planning will coordinate with the Engineering and Capital Projects Department (E&CP) to explore opportunities to include this information in the future. This cross-referenced approach has been intended to promote transparency and alignment with state requirements.

Beginning with the FY 2023 DIF Report, the City enhanced its reporting to include additional detail for each fund account with unspent balances exceeding five years. This includes specific project allocations intended to reduce those balances and estimated dates by which expenditures will occur—demonstrating further compliance with California Government Code § 66001(d).

As noted in Finding 5, the City also takes steps to ensure that administrative charges associated with DIF funds remain within the 5% aggregate revenue cap (as identified in either the resolutions adopting the DIFs or the applicable PFFP or Impact Fee Study). The City Planning Department closely monitors these allocations, and administrative percentages are reviewed and reported as part of the DIF report annually to ensure they remain within the allowable threshold. The use of administrative funds is restricted to activities that directly support the DIF program, including fee calculation, accounting, reporting, fee development, and project coordination.

Additionally, the City's 2021 transition from community-specific DIF programs to a Citywide DIF structure under Build Better SD represents a significant improvement to program administration which will streamline reporting going forward. This shift allows for more regular updates to nexus studies, greater flexibility in allocating funds,

and improved alignment with citywide equity and growth goals—all in full compliance with the MFA.

As shown in the FY 2024 DIF Annual Report, only four community-based DIF accounts have unappropriated balances that have remained in the account for over five years: North University City (DIF and FBA), Del Mar Mesa, and Carmel Valley. In each of these cases, the City has identified eligible projects and is actively appropriating funds to ensure expenditures are consistent with Government Code § 66001. For example, North University City has an unexpended balance of approximately \$29 million, of which \$20 million is already appropriated to CIP projects with defined construction end dates, and the remaining \$9 million is anticipated to support the Regents Greenway Project. Del Mar Mesa has an unexpended balance of approximately \$9 million, which is being allocated to the Del Mar Mesa Trails Project through City Council approval as part of the FY 2024 Annual DIF report and appropriations. Carmel Valley has an unexpended balance of approximately \$35 million, of which \$33 million is already appropriated to projects in the current PFFP, and the remaining \$1.2 million is anticipated to be allocated to additional park projects identified in the community. The City is actively working to identify eligible capital improvements to allocate these funds appropriately.

These collective efforts reflect an ongoing commitment to improve the management and reporting of DIF funds in accordance with the MFA and to ensure that infrastructure investments are made equitably, transparently, and responsibly.

RESPONSE TO RECOMMENDATIONS:

Recommendation 1: *Initiate, within 90 days, an outside, independent, performance, and financial audit of all City community-based and city-wide DIF Accounts as required by MFA § 60023(h), the scope of which is recommended in this Report.*

Response: **The not yet been implemented, but will be implemented in the future.**

Pursuant to California Government Code section 66023, the City has requested that a financial audit be performed by the Office of the City Auditor (OCA), in accordance with Generally Accepted Auditing Standards, to address the three items below. The City will identify the necessary funding for this audit.

- Whether any fee or charge levied by a local agency exceeds the amount reasonably necessary to cover the cost of any product, public facility (as defined in Section 66000), or service provided by the local agency;
- When the revenue generated by a fee or charge is scheduled to be expended; and
- When the public improvement is scheduled to be completed.

The City Auditor has indicated that once the City identifies the necessary funding, OCA will propose this audit for inclusion on the annual audit work plan to the Audit Committee, as required by the City Charter.

Separately, and as part of the City's broader commitment to transparency and accountability in the administration of DIF programs, the City Planning Director has already requested that the OCA conduct an independent performance audit of both community-based and Citywide DIF accounts. This requested performance audit will be evaluated by OCA as part of its FY 2027 Risk Assessment and Annual Workplan,

subject to available resources. The City Auditor indicates that as part of determining the scope of a potential audit, OCA will consider including the areas recommended by the Grand Jury, as well as potential additional areas of risk in the audit.

Also note, the audit of the City's Annual Comprehensive Financial Report (ACFR) performed by the City's outside auditor each fiscal year, audits the City's financial statements for all funds, including the DIF funds. Through this engagement, the Auditor provides an opinion on whether the financial statement balances and activity for the fiscal year are accurately presented in accordance with Generally Accepted Accounting Principles.

Recommendation 2: *Publish all results of the outside independent audit on the City's website withing 90 days of completion and notify the public to that effect.*

Response: The recommendation has not yet been implemented, but will be implemented in the future.

Reports issued by the Office of the City Auditor can be viewed online at <https://www.sandiego.gov/auditor/reports>. When the requested audit is complete, publication of the audit findings and public notification are part of OCA's standard procedures. Note that on rare occasions, audit results may be issued confidentially to protect the public interest and these audit results are not available to the public.

Results of the ACFR are available publicly at <https://www.sandiego.gov/blog/comprehensive-fianancial-annual-report>.

Recommendation 3: *Publish the FY 2024 Annual DIF Report in full compliance with all requirements of the MFA within 90 days of this report.*

Response: The recommendation has been implemented.

The [FY 2024 Annual DIF](#) report has been published. In addition, the [FY 2024 DIF Funds Report](#), which details revenue collected, expenditures, and fund balances, was published in March 2025.

As noted in Finding 2, the City of San Diego is a large jurisdiction with over \$60 million in annual DIF revenue. The process for preparing the Annual DIF Report is very complex and time-intensive, including coordination across the Department of Finance, E&CP, and City Planning's Finance Section to accurately consolidate and reconcile balances across numerous accounts citywide. Beginning with the FY 2023 report, the City has incorporated findings for funds held for over five years in compliance with California Government Code § 66001(d). The FY 2023 Annual DIF Report also references the CIP Budget document, which identifies the specific CIP projects receiving DIF allocations. City Planning remains committed to fulfilling all MFA reporting requirements and continuing to improve the reporting process.

Recommendation 4: *Immediately place a freeze on the expenditure, loan, or transfer of community-based "lockbox" DIF funds until such time as all recommendations and issues detailed in this Report have been corrected and the results of the outside independent audit requested, pursuant to § 60023(h), is complete, published, and corrective action has been completed.*

Response: The recommendation will not be implemented because it is not warranted.

The City of San Diego continues to comply with the requirements of the MFA and maintains oversight of all DIF funds, including community-based DIF funds. All expenditures from these funds are subject to existing legal, financial, and administrative review processes to ensure alignment with adopted PFFPs and approved CIP projects.

Placing a blanket freeze on expenditures, loans, or transfers would unnecessarily delay the delivery of critical infrastructure improvements in communities across the City and may conflict with contractual obligations and Council-adopted budget actions.

Recommendation 5: Amend Council Policy No. 000-31 Capital Improvement Program Transparency to include:

- The City's annual budget hearings shall include focus on the priority for maximizing the use of DIF funds.
- Staff reports submitted at budget hearings shall include DIF based projects, as this requirement directly finds basis for the five-year reporting requirements of the MFA.
- Staff reports on the accomplishments for the current fiscal year and the next fiscal year's proposed CIP budget shall include DIF based projects, as this requirement directly finds basis from the five-year reporting requirements of the MFA.
- Amend the five-year CIP Budget Document to include DIF funded capital infrastructure projects for funds held longer than five-years and present a projection of additional funding sources required over the next five fiscal years.

Response: The recommendation will not be implemented because it is not warranted.

Council Policy 000-31 was comprehensively updated in December 2022 and currently establishes the City's standards for enhancing transparency and public access to information related to the CIP. The policy supports the public's ability to understand funding sources, project prioritization, and delivery timelines across the full range of City infrastructure investments.

DIF are just one of many funding sources used to fund the CIP and typically account for only 5 to 10 percent of the overall CIP budget in any given year. As noted in the response in Finding 9, the City's annual CIP Budget already provides detailed project-level information, including anticipated start and completion dates, total estimated project costs, and a full breakdown of funding sources—including DIF, where applicable, for large stand-alone CIP projects. Details on group projects can be found on the City's CIP [project tracker](#), to which City Planning intends to explore adding the amount of DIF funds appropriated to each project.

While the CIP Budget and staff presentations at budget hearings include projects funded by DIF, the statutory requirements of the MFA are addressed separately through the City's Annual DIF Report, which is presented to the City Council each year. This ensures compliance with California Government Code § 66006(b), including disclosure of expenditures, unexpended balances, project listings, and five-year fund retention justifications for DIF funds where required.

For these reasons, the City finds that additional amendments to Council Policy 000-31 are not necessary to achieve the goals outlined in this recommendation.

Recommendation 6: Amend Council Policy No. 800-14, Prioritizing Capital Improvement Program Projects, to include:

- Commitment to the timely spending of DIF funds within a five-year timeframe required by the MFA and strict reporting regarding accounting of, and justification for, holding any funds longer than five-years.
- Commitment of the City recognizing the importance of the mandatory spend or refund requirements of the MFA and a policy for proactive refunding funds that cannot be justified to be held longer.
- Limits on administration fees that can be charged to DIF funds accounts both annually and cumulatively through the life of each fund.
- Enforcement of annual reporting requirements, both substantively and specifically in meeting the 180 days after Fiscal Year end reporting deadline.
- Necessity for the regular updates of all Nexus studies and financing plans for both the city-wide and community-based DIF funds accounts. For the community-based funds this is critical in meeting the five-year reporting requirements until such time as the City has fully transitioned to the City-wide funds collection.
- Commitment to prioritizing capital improvements that were the basis and justification for DIF funds collection, ensuring those infrastructure needs are addressed first in the annual CIP process and recognizing the DIF funds must be considered the first funding source for projects to be included in the CIP.

Response: The recommendation will not be implemented because it is not warranted.

Council Policy 800-14 was updated in December 2022 to strengthen the City's process for prioritizing CIP projects through an objective evaluation framework. The policy guides the CIP Review and Advisory Committee (CIPRAC) in recommending project priorities based on equity, need, and infrastructure performance across all departments and funding sources. Its purpose is not to govern the administration of individual funding sources, such as DIF, but rather to support transparent and data-driven CIP investment decisions.

DIF is one of several funding sources supporting the City's CIP, comprising approximately 5–10% of the total program in any given year. All MFA requirements—including reporting, justification for funds held over five years, and refund provisions—are addressed through the Annual DIF Report, which is adopted annually by the City Council in accordance with California Government Code § 66006(b).

It is also important to note that the City's CIP process first identifies and prioritizes projects based on need, and only then are appropriate funding sources evaluated and aligned. Prescribing that DIF be used as the “first funding source” or that DIF-justified infrastructure must be prioritized separately undermines the integrity of the established prioritization process and may lead to funding misalignments, delays, or inequities in project delivery.

The time and resource-intensive nature of reporting on over 50 separate funds is one of many reasons why the City moved from a community-specific DIF structure to a Citywide DIF structure with just four DIF fund categories – Mobility, Parks, Fire-Rescue and Libraries – through Build Better SD. The DIF rate for each of the four funds

are established through corresponding nexus studies, which have taken the place of the PFFPs. With the adoption of Build Better SD, the City has shifted to a consolidated and citywide funding framework and is now well positioned to update the four nexus studies on a regular and ongoing basis to reflect current infrastructure needs and costs. This work is already underway, with a target adoption date by the City Council in early 2026.

Given that existing policies, reports, and processes already address the goals of this recommendation—and that Council Policy 800-14 is not the appropriate vehicle for administering specific funding source requirements—the City finds that further amendments to the policy are not warranted to achieve the outcomes identified in the recommendation.

Recommendation 7: *Amend the San Diego Municipal Code to require Community Plans and associated PFFPs and IFs to be updated at a minimum of every five years to coincide with the five-year finding requirement.*

Response: The recommendation will not be implemented because it is not warranted.

The City has transitioned away from updating community-specific PFFPs and Impact Fee Studies, as these have been replaced by Citywide Nexus Studies for Parks, Mobility, Fire-Rescue, and Library facilities. These Citywide Nexus Studies form the basis for the new Citywide DIFs, which are applied to all new development applications moving forward.¹

Citywide DIF revenue is collected and expended in accordance with the corresponding Citywide Nexus Studies, ensuring consistency with the MFA and alignment with citywide infrastructure priorities.

As updates to PFFPs and Impact Fee Studies would only be needed to justify the collection of new community-specific DIF fees, such updates now would be fully incongruent with and unnecessary given the City's transition to the Citywide DIF structure. Furthermore, amending PFFPs and Impact Fee Studies is time-consuming and resource intensive, which both motivated the transition to Citywide DIF and contributed to past overages on administrative charge limits. For existing fund balances in community-based DIF accounts, the funds will continue to be expended in accordance with the adopted PFFPs for those communities. As such, there is no need to amend the Municipal Code to require periodic updates to community-specific PFFPs or Impact Fee Studies. Additionally, it is not appropriate to add requirements for City administrative functions to the Municipal Code; these are better addressed through policies and internal procedures.

Recommendation 8: *Put in place accounting safeguards that cap administration fee charges to DIF accounts consistent with generally applicable San Diego Municipal Code limits and justified by evidence that the fees are reasonable and do not collect more than the reasonable cost of service. This shall*

¹ Livable San Diego filed a lawsuit challenging the validity of the Citywide DIFs. The trial court upheld the Citywide DIFs finding that the City complied with the Mitigation Fee Act in adopting them. The California Court of Appeal subsequently upheld the lower court's decision in an opinion dated October 10, 2025.

include provisions to provide ongoing visibility to management of funds spent to date for each DIF funds account.

Response: The recommendation has been implemented.

As noted in Finding 5, the City's practice is to cap administrative charges to DIF funds at 5% of aggregate revenue for all DIF funds, including community and citywide DIFs. The City has implemented a number of safeguards to assure that administrative charges do not exceed 5%, or the applicable administrative percentage cap, as follows:

- When the Citywide Park DIF (2021) and Citywide Library, Fire and Mobility DIFs (2022) were adopted, a consistent 5% administrative cap was established in the respective City Council resolutions.
- Aggregate DIF revenue and administrative charges are tracked by fund.
- At the time annual budget allocations for DIF administrative charges are presented to the Department of Finance for approval, a summary of the aggregate administrative rates is provided to the Department of Finance to demonstrate that the aggregate administrative rates for each DIF fund remain within the 5% cap.
- Administrative charges are applied solely to recover the reasonable costs of program administration, including fee development, accounting, reporting, planning, and coordination of eligible capital projects. These administrative charges are routinely reviewed during updates to nexus studies and the preparation of the City's Annual DIF Report.

In addition, the City provides ongoing visibility into each DIF fund account through the consolidated DIF Funds Report and the Annual DIF Report, which is adopted by the City Council and made publicly available. The Annual DIF Report includes fund balances, expenditures, interest earnings, administrative allocations, and project-level spending data. Further, internal financial management systems allow for real-time tracking of revenues and expenditures by account, which supports compliance monitoring and transparency for City departments.

Given that administrative fees are capped, justified, and reported in compliance with governing laws and policies, and that existing tools provide regular oversight and visibility, the City finds this recommendation has already been addressed and further action is not necessary.

Recommendation 9: *Re-evaluate nexus compliance for all DIF funds held for longer than five years. Projects in which the nexus can no longer be justified shall be refunded pursuant to MFA requirements.*

Response: The recommendation has been implemented.

The City complies with the requirements of the MFA, including the provision under California Government Code § 66001(d) requiring that funds held for more than five years be evaluated to ensure the continued existence of a valid nexus. In instances where a nexus can no longer be justified, the City is obligated to refund such funds.

While some community-specific DIF funds have had balances in the account for over five years, the majority of these funds are already allocated to projects in various phases of planning, design, or construction. In the Fiscal Year 2024 Annual DIF Report, the

required findings section addressed funds that have remained unexpended for more than five years, in compliance with the MFA (California Government Code § 66001(d)). Specifically, this section requires that, for any fee remaining unspent five years or more after collection, the local agency must make findings every five years to: (1) identify the purpose of the fee; (2) demonstrate a reasonable relationship between the fee and the purpose for which it was collected; and (3) provide a plan for the expenditure of the funds, including an anticipated timeline. Additionally, Government Code § 66001(d)(2) requires these findings to be made publicly available in an annual report. Accordingly, the City's DIF Annual Report identifies the planned use of these older fund balances and includes estimated project completion dates to demonstrate when the unexpended funds are expected to be spent. As mentioned in the response to Finding 9, in the most recent reporting cycle, only four DIF fund accounts have balances that remain unallocated for more than five years, with the necessary findings identified in the Annual Report. City Planning staff regularly coordinate with the Department of Finance and E&CP to identify eligible projects that meet the criteria for these remaining community-based DIF funds so that the funds can be expended in a timely manner in compliance with the MFA.

Furthermore, with the City's transition to the Citywide DIF structure through Build Better SD, the issue of long-term unallocated fund balances has been largely addressed. The new citywide system allows for greater flexibility and more timely allocation of funds to infrastructure projects in areas with the greatest needs and greatest growth.

The City will continue to update the Citywide nexus studies on a regular basis to maintain consistency with the legal requirements of the MFA, ensure DIFs reflect current infrastructure needs and costs, and ensure that funds are spent in a timely and legally compliant manner.

Recommendation 10: *Task the City's Planning Department to establish necessary processes and procedures to ensure compliant management of DIF funds and timely generation of DIF Annual Reports to comply with the MFA requirement for publication within 180 days of each fiscal year end.*

Response: The recommendation has been implemented.

The City complies with the substantive requirements of the MFA, including preparation of the DIF Annual Report that discloses fund balances, revenue, expenditures, and justifications for any unspent funds held longer than five years, as required under California Government Code § 66006(b).

As noted in the response to Finding 2, as a large jurisdiction with a complex capital program, the City requires significant time and coordination across multiple departments to consolidate and reconcile data for over 50 DIF accounts accurately and completely. These challenges motivated a transition to Build Better SD, which will ultimately simplify the reporting process with just ten DIF funds.

The City has consistently published its consolidated DIF Annual Funds Reports by March of the following calendar year (approximately 270 days after fiscal year-end). The City will endeavor to achieve publication of future reports within the 180-day period identified in the MFA, to the extent possible given available resources and while maintaining the accuracy and integrity of the reporting.

Recommendation 11: *Initiate a return of the \$720,159.87 in funds that were expended to develop Build Better SD to their respective community DIF accounts.*

Response: The recommendation will not be implemented because it is not warranted.

The administrative costs associated with the development of Build Better SD—specifically the citywide nexus studies—were appropriately funded using available administrative funds from community-based DIF accounts. As previously noted in Finding 6, these costs are consistent with the administrative purpose authorized under California Government Code § 66014(b), which allows for the recovery of reasonably necessary costs, including developing nexus studies.

The citywide nexus studies are a continuation of the same planning and administrative functions historically funded through community DIF administrative allocations, including updates to PFFPs. These updates support the effective administration of both community-based and citywide DIF programs and ensure compliance with the MFA.

Accordingly, no reimbursement or transfer of funds is required. The City will continue to ensure that all DIF expenditures, including administrative costs, comply with applicable requirements.

Recommendation 12: *Ensure that moving forward the Build Better SD administration and Nexus study updates are paid from the City's General Fund.*

Response: The recommendation will not be implemented because it is not warranted.

As noted in the response to Finding 6 and throughout, California Government Code § 66014(b) and § 66016(c) authorize the use of DIF revenues to support the preparation of nexus studies and program updates like Build Better SD, which directly inform how DIF funds are charged, collected, and allocated.

Using DIF administrative funds to support these activities is consistent with best practice and with statutory allowances, provided the charges do not exceed the administrative capacity limits established in the resolutions governing each DIF fund. Requiring the General Fund to bear these costs would shift a program-specific expense to the broader tax base and reduce resources available for citywide services.

Moving forward, the City Planning Department will continue to ensure that Citywide nexus study updates and program administration costs are funded by the applicable Citywide DIF funds. Community-specific administrative DIF funds will continue to be used to administer those community-specific funds.

Recommendation 13: *N/A*

Response: This recommendation was not included in the final report; therefore, a response is not provided.

Recommendation 14: *Direct the Planning Department to develop and initiate an education and training program for all City Management and staff employees who are charged with administering the City's DIF programs.*

Response: The recommendation has been implemented.

As noted in Finding 5, City Planning has a dedicated and experienced team responsible for administering the City's DIF programs. This includes calculating and charging fees, allocating funds to eligible capital projects, and preparing the Annual DIF Report in accordance with the requirements of the MFA (California Government Code § 66000 et seq.).

The staff and management team are qualified to navigate the complex legal and procedural frameworks that govern impact fee programs. Internal coordination meetings are held regularly to review current practices, assess program performance, and discuss any changes to state legislation—including amendments to the MFA—that may affect the City's DIF programs.

This ongoing coordination, training, and knowledge sharing ensures that the team remains up to date and in compliance with applicable laws and policies. As such, this recommendation has been fully implemented.

City Planning staff continue to track any legislation that might impact the implementation of the MFA and work closely with the City Attorney's Office to obtain legal guidance and ensure full compliance. As described in Finding 5, the team's expertise has been developed through a combination of ongoing training, mentorship, and hands-on administration of the City's DIF programs. This includes coordination with Department of Finance and E&CP staff, and regular internal knowledge-sharing to incorporate lessons learned from audits, annual reporting, and process improvements.

RESOLUTION NUMBER R- **316506**
DATE OF FINAL PASSAGE **NOV 04 2025**

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO APPROVING THE RESPONSE TO 2024/2025
SAN DIEGO COUNTY GRAND JURY REPORT TITLED
“NEVER BEEN CHALLENGED, CITY OF SAN DIEGO
DEVELOPMENT IMPACT FEE PROGRAM REDUX.”

RECITALS

The Council of the City of San Diego (Council) adopts this Resolution based on the following:

A. On May 30, 2025, the 2024/2025 San Diego County Grand Jury (Grand Jury) filed a report, titled “Never Been Challenged, City of San Diego Development Impact Fee Program Redux” (Report) that raises concerns about the City of San Diego’s compliance with the Mitigation Fee Act, including delayed and incomplete reporting, outdated community financing plans, and insufficient internal controls over Development Impact Fee (DIF) expenditures. The Report calls for an independent audit, improved transparency, and stronger administrative safeguards and process improvements to enhance accountability and public trust.

B. The Report included nine findings and thirteen recommendations, of which all are directed to both the Mayor and City Council. The Grand Jury Report lists fourteen recommendations; however, recommendation thirteen was not included in the final published Report and, therefore, no response is provided for recommendation thirteen.

C. Under California Penal Code section 933(c), within 90 days after the filing of the Report, each public agency which the Grand Jury reviewed, and about which it issued the Report, must comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency.

D. The City requested and was granted a 90-day extension to respond, with the response now due to the Presiding Judge of the San Diego Superior Court by November 26, 2025.

E. The Office of the Independent Budget Analyst (IBA) has proposed a response to the Report as set forth in IBA Report No. 25-33, dated October 13, 2025, for the Mayor and Council's consideration. The IBA has conferred with the Mayor and his staff, who have approved the proposed response applicable to the Mayor, as well as with various City departments in the development of the proposed Council response.

F. On October 23, 2025, the Council's Active Transportation and Infrastructure Committee recommended approval of the IBA's proposed joint response applicable to the Mayor and Council and voted to forward it to the full Council for consideration.

G. The Office of the City Attorney prepared this Resolution based on the information provided by City staff including information provided by affected third parties and verified by City staff, with the understanding that this information is complete and accurate.

H. Under San Diego Charter section 280(a)(1), this Resolution is not subject to veto by the Mayor because this matter is exclusively within the Council's purview and does not affect the administrative service of the City under the Mayor's control.

ACTION ITEMS

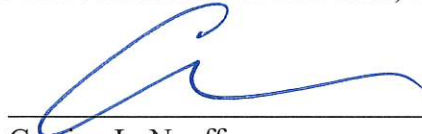
Be it resolved by the Council of the City of San Diego:

1. The Council approves and adopts the joint Mayor and Council response to the 2024/2025 San Diego County Grand Jury Report titled "Never Been Challenged, City of San Diego Development Impact Fee Program Redux" as set forth in the proposed response applicable to the Council in IBA Report No. 25-33, dated October 13, 2025.

2. The Council President is authorized and directed, on behalf of the Council of the City of San Diego, to execute and deliver the above-described response to the Presiding Judge of the San Diego County Superior Court no later than November 26, 2025.

APPROVED: HEATHER FERBERT, City Attorney

By



Corrine L. Neuffer
Chief Deputy City Attorney

CLN:cm
October 23, 2025
Or.Dept: IBA
Doc. No. 4230114

I certify that the Council of the City of San Diego adopted this Resolution at a meeting held on
NOV 04 2025.

DIANA J.S. FUENTES
City Clerk

By



Deputy City Clerk

Passed by the Council of The City of San Diego on NOV 04 2025, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Henry L. Foster III	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Kent Lee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage NOV 04 2025.

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

(Seal)

TODD GLORIA
Mayor of The City of San Diego, California.

DIANA J.S. FUENTES
City Clerk of The City of San Diego, California.

By Kristell Medina, Deputy

Office of the City Clerk, San Diego, California

316506

Resolution Number R-_____