

# TRANSMITTAL

To: Council	Date: May 16, 2024	Council File No.
From: Chief Legislative Analyst		14-1411-S5
<p>On June 14, 2023, the Transfer of Floor Area Rights (TFAR) Public Benefit Payment Trust Fund (Trust Fund) Committee instructed the Chief Legislative Analyst to provide a report with recommendations for the distribution of funds held in the Trust Fund. The attached report provides such recommendations and any actions of the Trust Fund Committee will be in a subsequent report to Council under separate cover.</p> <p>Fiscal Impact Statement: There is no impact on the City's General Fund from this action.</p>		

# REPORT OF THE CHIEF LEGISLATIVE ANALYST

---

DATE: May 14, 2024

TO: Transfer of Floor Area Public Benefit Payment Trust Fund Committee

FROM: Sharon M. Tso *smtso* Council File No: 14-1411-S5  
Chief Legislative Analyst Assignment No: 23-11-0577

SUBJECT: Transfer of Floor Area Rights Public Benefit Payment Trust Fund Distribution

## SUMMARY

On June 14, 2023, the Transfer of Floor Area Rights (TFAR) Public Benefit Payment Trust Fund (Trust Fund) Committee (Committee) instructed the Chief Legislative Analyst (CLA) to provide a report with recommendations for the distribution of funds held in the Trust Fund. The Department of City Planning (City Planning) reported at the time that the Trust Fund balance was **\$18,110,906.53**, of which \$2,084,336.20 was reserved for past allocations not expended or disbursed and \$16,026,570.33 was available for new public benefit projects.

Subsequent to the June 2023 meeting, the CLA and City Planning conducted a further review and reconciliation of the Trust Fund to confirm the amount of funds available for new public benefit projects exclusive of any reservations held for past allocations not expended or disbursed. The reconciliation process resulted in a revised Trust Fund balance of **\$20,685,416.80** that includes uncommitted cash plus funds reserved for past allocations not expended or disbursed. A portion of funds held as reserved have been identified for reversion, resulting in an uncommitted cash balance of **\$19,809,879.05**. This is the revised amount available for new public benefit projects within the eligible geographic areas. Details regarding the reconciliation process are contained in this report.

The Committee requested options to determine allocations to Council Districts eligible to receive funds. This report provides an analysis of various distribution formulas along with a recommended distribution formula that would provide participating Council Districts with a specific amount available so that they can assess which projects or programs to recommend for an allocation from the Trust Fund.

## RECOMMENDATIONS

That the Transfer of Floor Area Rights (TFAR) Public Benefit Payment Trust Fund Committee (Trust Fund Committee):

1. APPROVE the distribution amounts provided in Distribution Method 3, a combined fixed and land percentage approach, including allocations to Council Districts 1, 8, 9, 10, 13, 14, and an allocation for Citywide purposes, from funds available in the Transfer of Floor Area Rights Public Benefit Payment Trust Fund (Trust Fund);
2. REQUEST that participating Council Districts provide the Chief Legislative Analyst (CLA) a list of projects and/or programs seeking an allocation from the Trust Fund that meets the distribution amount available to each Council District;

3. INSTRUCT the CLA to prepare a report to the TFAR Trust Fund Committee with recommendations to allocate the funding currently available in the Trust Fund toward specific recommended eligible projects or programs as recommended by the participating Council Districts.

**BACKGROUND**

In accordance with Ordinance No. 181574 (Ordinance) amending Article 4.5 of Chapter 1 and Section 16.05 of the Los Angeles Municipal Code (LAMC), and Chapter 45 of the Los Angeles Administrative Code relating to TFAR, funds received from the use of TFAR in the Central City Community Plan area of Downtown Los Angeles and held in the Trust Fund are to be allocated toward projects or programs that serve a public purpose as follows:

- 1) After receipt of non-binding recommendations by the TFAR Trust Fund Committee;
- 2) Within five years after receipt of such funds; and
- 3) For use on projects or programs providing a Public Benefit as set forth in Section 14.5.9 of the LAMC.

A project or program using TFAR Trust Funds may serve a Public Benefit by: providing for affordable housing; public open space; historic preservation; recreational, cultural, community and public facilities; job training and outreach programs; affordable child care; streetscape improvements; public arts programs; homeless services programs; or public transportation improvements. Furthermore, the Trust Fund payment received by an individual Planning Case must be used toward eligible projects or programs that reside within a two-mile radius of the location where the TFAR is being used, known as the Receiver Site.

Since 2018, seven individual Planning Cases have made payments to the Trust Fund which consist of Receiver Sites that reside within Council District 14 (CD 14). Table 1 lists the seven Planning Cases, the location of the Receiver Sites, the date and amounts paid into the Trust Fund, and the Council Districts within the two-mile radius of the Receiver Site that are eligible for an allocation of those funds. It should be noted that the payments for Planning Case 1, 2, and 3 below were made prior to 2021 Council District Redistricting (Redistricting) so the pre-Redistricting Council District boundaries were used to identify the eligible Council Districts. Payments 4, 5, 6, and 7 were made post-Redistricting so the current Council District boundaries were used to determine the eligible Council Districts.

**Table 1 – New TFAR Planning Cases**

	<b>Planning Case</b>	<b>Receiver Site</b>	<b>Deposit Date</b>	<b>Deposit Amount</b>	<b>Eligible Council Districts</b>
<b>1</b>	ZA-2016-15-SPR-ZV-TDR	215 W. 14 <sup>th</sup> Street	6/14/19	<b>\$451,241.34</b>	1, 8, 9, 10, 13, 14
<b>2</b>	CPC-2016-1950-TDR-SPR*	744 S. Figueroa Street	11/23/20	<b>\$2,753,701.20</b>	1, 8, 9, 10, 13, 14
<b>3</b>	CPC-2016-4675-TDR-VCU-MCUP*	121 S. Spring Street	7/14/21	<b>\$2,000,000.00</b>	1, 9, 13, 14
<b>4</b>	ZA-2016-3816-ZV-TDR-SPR	433 S. Main Street	1/3/23	<b>\$561,943.89</b>	1, 9, 13, 14
<b>5</b>	CPC-201-3816-ZV-TDR-SPR*	1000 S. Hill Street	1/12/23	<b>\$8,141,385.00</b>	1, 8, 9, 13, 14
<b>6</b>	DIR-2019-7676-TDR-TOC-SPR-WDI	1317 S. Grand Ave.	9/5/23	<b>\$1,079,962.20</b>	1, 8, 9, 10, 13, 14
<b>7</b>	DIR-2021-1011-TDR-TOC-SPR-WDI-VHCA	1411 S. Flower Street	9/5/23	<b>\$1,640,641.81</b>	1, 8, 9, 10, 13, 14
		<b>Total</b>		<b>\$16,628,875.44</b>	

\*Donor Site – CD 9

The Developer of the Receiver Site is required to make a Transfer Payment to the Trust Fund in circumstances where property owned by the City of Los Angeles serves as the source of the TFAR, known as the Donor Site. The Los Angeles Convention Center in Council District 9 (CD 9) has served as the Donor Site in three of the seven Planning Cases that have made TFAR payments since 2018 as shown in Table 1. Donor sites are designated with an asterisk (\*). It should be noted that approximately \$12.9 million, or 78 percent, of the total payments from the seven Planning Cases was a result of floor area the applicants acquired from the Los Angeles Convention Center. So, CD 9 and 14 combined, are responsible for all of the payments generated and deposited into the Trust Fund.

**2023 Trust Fund Balance and Reconciliation**

In its June 2023 report, City Planning reported that approximately \$1.4 million could not be reconciled from the Trust Fund. At the Committee’s request, the CLA and City Planning conducted a second review and reconciliation of the Trust Fund that involved a review of a City Financial Management System report dated August 9, 2023, and bookkeeping records kept by the City Clerk. All sources of revenue, Council approved allocations, and account transfers were also thoroughly reviewed. Table 2 provides a detailed breakdown of the Trust Fund balance and reconciliation.

**Table 2 – TFAR Trust Fund Balance and Reconciliation**

<b>TRANSFER OF FLOOR AREA RIGHTS (TFAR) PUBLIC BENEFIT PAYMENT TRUST FUND</b>		
<b>Revenues/Expenditures</b>	<b>Amount</b>	
Total Revenue	\$	45,740,909.59
Total Expenditures to date	\$	(25,055,492.79)
<b>Total Cash Balance as of 9/5/2023</b>	<b>\$</b>	<b>20,685,416.80</b>
<u>Reserved for past allocations not expended or disbursed:</u>		
2018 CD1 Alley Beautification	\$	(14,980.00)
2018 CD9 Woodlawn Ave Median	\$	(105,374.75)
2018 CD14 6th Street PARC	\$	(1,000,000.00)
2018 CD9 Big Belly Trash Cans	\$	(100,000.00)
2018 Planning Admin	\$	(819,356.00)
Encumbrance CRCD Contract	\$	(655,183.00)
<b>Subtotal Reserved Allocations</b>	<b>\$</b>	<b>(2,694,893.75)</b>
<u>Revert and Reallocate to the Trust Fund:</u>		
2018 La Opinion Affordable Housing	\$	1,000,000.00
2018 Planning Admin	\$	819,356.00
<b>Subtotal Funds to Revert/Reallocate</b>	<b>\$</b>	<b>1,819,356.00</b>
<b>Total Revised Uncommitted Cash Balance</b>	<b>\$</b>	<b>19,809,879.05</b>

Revenue and Expenditures

The TFAR Program has generated \$45,740,909.59 in revenue since its inception. From this revenue, \$25,055,492.79 has been expended from the Trust Fund on public benefit projects in accordance with past

Council actions leaving a cash balance of **\$20,685,416.80**. All new revenue and interest earned are considered uncommitted as Council has not acted to allocate those funds. This includes \$16,628,875.44 in revenue received from June 2018 through September 2023, and \$913,772.11 in interest earned from June 2018 through June 2023.

Reservation of Funds

As part of the reconciliation process, five projects and one program (Planning Administration) that received an allocation from the Trust Fund in the past were identified as having funds not expended or disbursed. The implementing City departments for the projects have confirmed that the funds will be expended, so those funds should be held as reserved. Combined, the projects and program total \$2,694,893.75 in funds not expended or disbursed and the amount has been deducted from the Trust Fund Cash Balance.

Reallocation and Reversion of Funds

In 2018, the Los Angeles Housing Department was allocated and received \$1,000,000 from the Trust Fund for the La Opinion Affordable Housing Project in CD 9. In 2019 and 2020, the La Opinion Affordable Housing funds were reprogrammed to another eligible non-housing related use (C.F. 19-0202 and 19-0202-S1, respectively), but the funds held by LAHD did not revert to the Trust Fund. Currently, \$1,000,000 has been appropriated from the Trust Fund to the reprogrammed use identified as Coalition for Responsible Community Development (CRCDD) in Table 2, of which \$344,817 has been expended and \$655,183 remains unexpended. Council action is needed to revert the funds the \$1,000,000 held by LAHD to the Trust Fund to offset the \$1,000,000 appropriated to CRCDD from the Trust Fund.

Also in 2018, City Planning was allocated \$819,356 to administer the TFAR Program. City Planning indicates that after reviewing their administration budget, the cost of administering the TFAR Program has been lower than expected and funds still remain from their 2014 TFAR Program administration budget. City Planning reports that additional funds are not needed at this time and they are recommending that the 2018 funds be returned to the Trust Fund and be made available for new public benefit projects.

Uncommitted Cash Balance Gap

The second part of the reconciliation process was to determine if there was a gap in the Total Revised Uncommitted Cash Balance of \$19,809,879.05 from the post 2018 new revenue sources classified as uncommitted funds. As Table 3 shows, there is a gap of \$447,875.50 that could not be reconciled after deducting all new revenue sources from the Uncommitted Cash Balance. As previously stated, the June 2023 City Planning report identified approximately \$1.4 million that could not be reconciled.

The Committee may consider including these funds in its allocation process or request that a further review of the Trust Fund be conducted. For the purpose of providing distribution options for the Committee, staff has included the positive \$447,875.50 gap in the Uncommitted Cash Balance as being available for distribution and allocation to the eligible Council Districts.

**Table 3 – Trust Fund Uncommitted Cash Balance Gap**

<b>Total Revised Uncommitted Cash Balance</b>	<b>\$ 19,809,879.05</b>
Uncommitted revenue:	
New deposits since 2018	\$ (16,628,875.44)
Interest earned since 2018	\$ (913,772.11)
2018 Planning Admin Reallocated	\$ (819,356.00)
2018 La Opinion Affordable Housing	\$ (1,000,000.00)
<b>Unreconciled Gap Difference</b>	<b>\$ 447,875.50</b>

**PAST TRUST FUND DISTRIBUTIONS BY COUNCIL DISTRICT**

At its June 2023 meeting, the Committee requested that the CLA provide information on options for the allocation of funds, including a review of past allocation methodologies. To determine a method for distributing the total amount available in the Trust Fund, CLA reviewed the 2014 and 2018 Council-approved Trust Fund distribution percentages. In both 2014 and 2018, the Trust Fund Committee took into consideration the important role CD 9 and CD 14 serve in generating the payments that are deposited into the Trust Fund. That resulted in each receiving a greater percentage of funds available while the other Council Districts within the impact area each received an equal percentage of the remaining funds.

On October 24, 2014, Council approved recommendations made by the Trust Fund Committee to allocate approximately \$4.47 million that were available in the Trust Fund (C.F. 14-1411) that resulted in the distribution percentages shown in Table 4.

**Table 4 – 2014 TFAR Trust Fund Allocations**

<b>2014 TFAR Trust Fund Allocations</b>		
Council District 1	\$237,500	5.31%
Council District 9	\$1,666,548	37.25%
Council District 13	\$237,500	5.31%
Council District 14	\$1,666,548	37.25%
City Planning	\$665,518	14.88%
<b>Total</b>	<b>\$4,473,614</b>	<b>100%</b>

Table 4 distributions include an administrative budget of approximately 15 percent to City Planning. In accordance with Section 5.416 of the Los Angeles Administration Code, up to 15 percent of the available Trust Funds can be allocated assist with the implementation and oversight of the TFAR Program. As the Donor and Receiver Sites, CD 9 and 14 each received 37.25 percent of the funds. As a result of the allocation to City Planning for administrative budget and CD 9 and CD 14 program purposes, that left 10.62 percent of the funds available to the remaining eligible districts. The remaining funds were distributed equally between Council Districts 1 and 13. Council Districts 8 and 10 were also eligible to receive a portion of the remnant funds but opted not to participate during this particular funding cycle.

In 2018, the TFAR Trust Fund Committee approved a revised allocation formula. The Committee first deducted five percent of the total funds available for administrative purposes and set aside \$2 million that would be available toward a Citywide project or program, including, but not limited to, affordable housing or homelessness programs within the boundaries of the TFAR Program. Table 5 below shows the results of those two deductions along with the addition of interest monies earned. The remaining balance was then distributed among the participating Council Districts as shown in Table 6, again with a larger allocation to CD 9 and CD 14 as the Donor and Receiver Sites, respectively. On July 3, 2018, Council approved recommendations made by the Trust Fund Committee to allocate approximately \$14.7 million that was available in the Trust Fund (C.F. 14-1411-S3).

**Table 5 – 2018 Trust Fund Balance**

<b>2018 Trust Fund Balance</b>		
Total Deposits, 2014-2018		<b>\$16,387,117.59</b>
City Planning Allocation (5%)	\$819,355.88	-\$819,355.88
Citywide Program/Project	\$2,000,000.00	-\$2,000,000.00
		\$13,567,761.71
Interest Earned	\$317,361.00	\$317,361.00
Balance Available for Distribution		<b>\$13,885,122.71</b>

**Table 6 – 2018 Trust Fund Allocations**

<b>2018 TFAR Trust Fund Allocations</b>		
Council District 1	\$971,958.59	7.0%
Council District 8	\$971,958.59	7.0%
Council District 9	\$4,998,644.18	36.0%
Council District 10	\$971,958.59	7.0%
Council District 13	\$971,958.59	7.0%
Council District 14	\$4,998,644.18	36.0%
<b>Total</b>	<b>\$13,885,122.71</b>	<b>100.0%</b>

**OPTIONS FOR 2023 TRUST FUND DISTRIBUTIONS BY COUNCIL DISTRICT**

As shown in Tables 2 and 3, the total uncommitted cash balance of the Trust Fund is **\$19,809,879.05**, which consists of the following amounts and sources:

- **\$16,628,875.44** in revenue received from seven Planning Cases since June 2018
- **\$913,772.11** in interest earned since June 2018
- **\$819,356** from the 2018 Planning Administration reallocation
- **\$1,000,000** from the 2018 La Opinion Affordable Housing reallocation
- **\$447,875.50** in unreconciled funds received prior to June 2018

The CLA is recommending that **\$16,628,875.44** be used for distribution to the eligible Council Districts and the balance of **\$3,181,003.61** be set aside for a Citywide project or program, including, but not limited to, affordable housing or homelessness programs within the boundaries of the TFAR Program, as shown in Table 7. A similar Citywide set aside was done in 2018.

As required by the TFAR Ordinance, funds held in the Trust Fund must be used to serve a public purpose within a two-mile radius of each Receiver Site. A two-mile radius is only available for each of the seven Planning Cases shown in Table 1. The remaining amounts consist of various and comingled revenue sources making it difficult to identify the geographic area where they can be spent. Utilizing those funds for a Citywide project or program that falls within the combined boundaries of the TFAR Program provides for an adequate use of the funds.

**Table 7 – 2023 Uncommitted Trust Fund Balance**

<b>2023 Uncommitted Cash Balance</b>	<b>\$ 19,809,879.05</b>
2023 Citywide Project/Program Allocation	\$ (3,181,003.61)
<b>2023 Uncommitted Bal. Avail. to CDs</b>	<b>\$ 16,628,875.44</b>

**Distribution Method 1: Fixed Percentage Approach (2018 Allocation Method)**

In 2018, CD 9 and CD 14 each received 36 percent of the funds that were available (72 percent combined) and the remaining 28 percent was divided equally (7 percent each) to the other eligible Council Districts. This distribution method was used in consideration of the important role CD 9 and CD 14 play in generating the revenue that goes into the Trust Fund. Table 8 provides the results of using a fixed percentage approach, similar to the 2018, but with the current available Trust Fund balance.

**Table 8 – Fixed Percentage Approach (2018 Distribution Method)**

<b>2023 Trust Fund Allocations</b>		
	<b>Fixed %</b>	<b>Total</b>
Council District 1	7.0%	\$ 1,164,021.28
Council District 8	7.0%	\$ 1,164,021.28
Council District 9	36.0%	\$ 5,986,395.16
Council District 10	7.0%	\$ 1,164,021.28
Council District 13	7.0%	\$ 1,164,021.28
Council District 14	36.0%	\$ 5,986,395.16
<b>Total:</b>	<b>100.0%</b>	<b>\$ 16,628,875.44</b>

**Distribution Method 2: Land Percentage Approach**

The cumulative land percentage approach determines the amount of funding available to each eligible Council District if the distribution method was solely based on the amount of land percentage held by the Council Districts in each Receiver Site. As previously noted, pre-Redistricting boundaries were used in this process for the first three payments received and post-Redistricting boundaries were used for the subsequent four payments received. The majority percentages of land are held by CD 1, CD 9, and CD 14 (93 percent combined) as shown in Table 9.

**Table 9 – Land Percentage Approach**

<b>2023 Trust Fund Allocations</b>		
	<b>Land %</b>	<b>Amount</b>
Council District 1	31.9%	\$ 5,308,434.95
Council District 8	2.0%	\$ 331,251.56
Council District 9	19.3%	\$ 3,216,479.54
Council District 10	0.6%	\$ 101,340.74
Council District 13	4.4%	\$ 729,094.55
Council District 14	41.7%	\$ 6,942,274.10
<b>Total:</b>	<b>100.0%</b>	<b>\$ 16,628,875.44</b>

**Distribution Method 3: Combined Fixed and Land Percentage Approach (Recommended)**

The CLA is recommending that a combined fixed and land percentage distribution method be used for the 2023 Trust Fund allocations because it provides a more equitable distribution of funds to the Council Districts most impacted by the TFAR Program. The seven Planning Cases/Receiver Sites all reside within the boundaries of CD 14. The Donor Site for three of the seven Planning Cases is in CD 9 and generated 78 percent of the funds available in the Trust Fund. Another important factor to consider in this process is the impact of the development of each Receiver Site to the surrounding community. As shown in Table 9, the cumulative land percentage of CD 1 in all seven Planning Cases is 31.9 percent, the second highest percentage next to CD 14 having 41.7 percent, and both having 73.6 percent combined. The cumulative land percentages shown factor in the pre-Redistricting boundaries for the first three TFAR payments and post-Redistricting boundaries for the subsequent four TFAR payments. Redistricting resulted in CD 1 having a greater presence in the Downtown Los Angeles area which impacted the land percentage in the post-Redistricting Planning Cases.

A combined fixed and land percentage distribution method would not only recognize CD 9 and CD 14 for their important role in generating the revenue in the Trust Fund, but it would also recognize the impact the

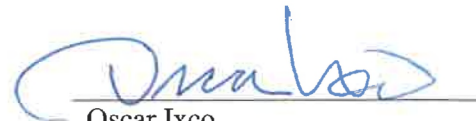
TFAR Program has on the surrounding business and residential community, particularly in CD 1. Table 10 shows CD 9 and CD 14 each receiving a fixed percentage of the Trust Fund balance and CD 1 receiving a percentage based on their cumulative land percentage in comparison to CD 9 and CD 14's combined land percentage. The combined cumulative land percentage of CD 9 and CD 14 is 61.1 percent. By dividing CD 1's cumulative land percentage, 31.9 percent, by the balance of 38.9 percent, the result is 82 percent. Another interpretation of the dollar amount this formula results in for CD 1 is that it represents approximately 28 percent of the Trust Fund balance. The amount of funds received by CD 8, CD 10, and CD 13 uses the same formula as CD 1 and is reflective of their cumulative land percentage of the seven Planning Cases.

**Table 10 – Combined Fixed and Land Percentage Approach**

<b>2023 Trust Fund Allocations</b>			
	<b>Fixed %</b>	<b>Land %</b>	<b>Total</b>
Council District 1		82.0%	\$ 4,638,695.24
Council District 8		5.1%	\$ 289,459.15
Council District 9	33.0%		\$ 5,487,528.90
Council District 10		1.6%	\$ 88,555.06
Council District 13		11.3%	\$ 637,108.19
Council District 14	33.0%		\$ 5,487,528.90
<b>Total:</b>	<b>66.0%</b>	<b>100.0%</b>	<b>\$ 16,628,875.44</b>
	34.0%	Balance	

**FUTURE TRUST FUND ALLOCATION APPROVAL**

Approval of the distribution amounts would provide Council Districts and City Planning an opportunity to evaluate the projects and programs that would best be served by the amount of funds available to them. Those projects or programs will require assessment to ensure that they conform to Section 14.5.9 of the LAMC. A formal request for all allocations from the Trust Fund will be presented under separate cover at a future Trust Fund Committee meeting.

  
 Oscar Ixco  
 Analyst