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Item No.: 16-0393.51 & 18-0394
Deputy: Comm. from the BPW



BOARD OF PUBLIC WORKS

DEPARTMENT OF PUBLIC WORKS
CITY OF LOS ANGELES



PUBLIC WORKS TRUST FUND NEXUS STUDY & POLICY DEVELOPMENT

PRESENTATION TO THE

PUBLIC WORKS & GANG REDUCTION COMMITTEE

LOS ANGELES CITY COUNCIL

August 15, 2018

PRESENTED BY:

DR. FERNANDO CAMPOS, EXECUTIVE OFFICER

Presentation Outline

- ❖ Public Works Trust Fund (PWTF) Overview
- ❖ Purpose of Nexus Study
- ❖ Bronner Group, LLC: Nexus Study Findings
- ❖ Rules and Guiding Principles to Consider
- ❖ Fund Disposition Options:
 - \$5.9 Million from Study
 - Future Funds (\$6.1 Million To Be Examined)
- ❖ Areas for Improvement
- ❖ Proposed Recommendations and Next Steps



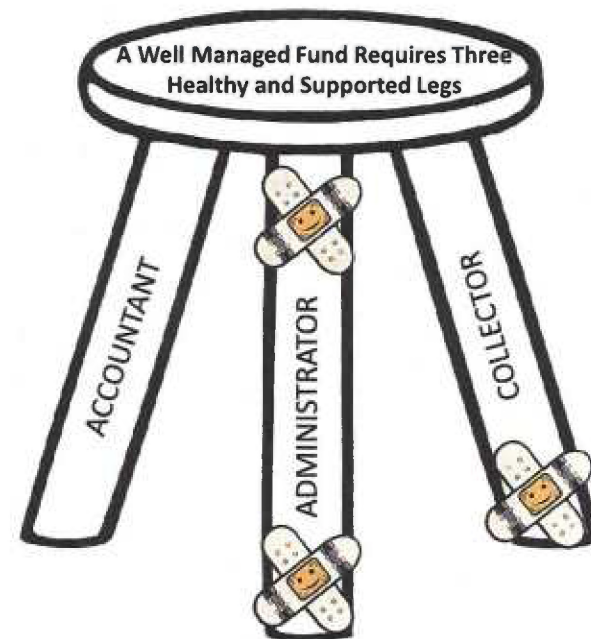
Benefits of Fund Management and Purpose of the Nexus Study

1. **Enhance** Public Works Infrastructure via Fund Management, Deposit Examination, and Project Support
2. **Identify** 1989 CA Mitigation Fee Act (MFA) Application and Case Law Review
3. **Conduct** Benchmark Study
4. **Find and Determine** a possible Nexus or Reasonable Relationship between:
 - a) The deposit's *original purpose/location*, and
 - b) The potential use of funds for *same or "like-kind"* public works projects within a *reasonable geographical location*.
5. **Develop** Fund Use Options for Board, Mayor, and City Council Consideration
6. **Examine** Special Projects Account No. 4873 Deposits (\$12 million/360 Deposits)

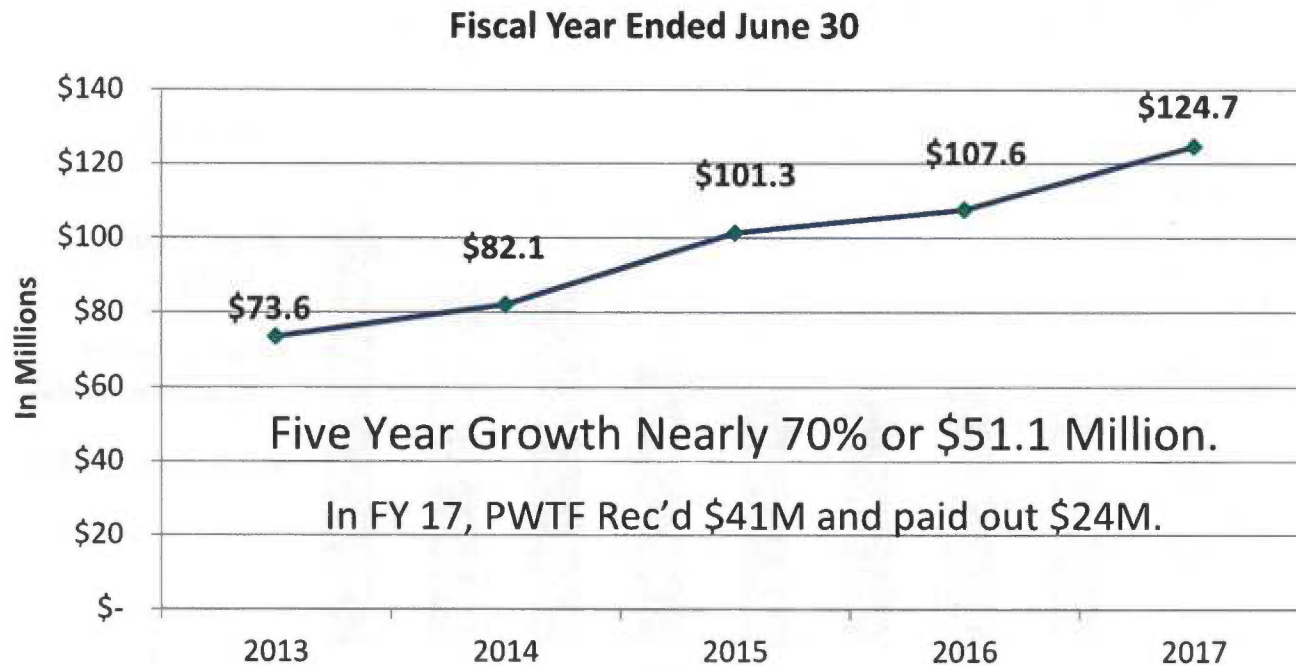


Governance and Oversight

- **PWTF Operates Like a Bank or Escrow Account**
 - Deposits are for a Specific Purpose Made by Permittees
 - Other Receipts from Violations, Fees, Settlements, Surcharges, and Donations
- Close **Oversight** and Bi-Monthly Meetings
- **Money Reconciliation**
 - Monthly at 15-21 Days Post Month Close
 - Quarterly Transfer of Revenue to General Fund
- Tripartite **Internal Controls**:
 - Accountant Role;
 - Collector Role; and
 - Administrator Role.
- **Financial Reporting** - Liability of City
 - Part of Comprehensive Annual Financial Report



PWTF Fiscal Year End Fund Balances (FY 2013 – 2017)



Top 3 Accounts Comprise 75% of PWTF Balance (Fiscal Year Ended June 30)



PWTF NEXUS STUDY



BOARD OF PUBLIC WORKS

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CITY OF LOS ANGELES



PUBLIC WORKS TRUST FUND NEXUS STUDY & POLICY DEVELOPMENT

PRESENTATION TO THE

PUBLIC WORKS & GANG REDUCTION COMMITTEE

LOS ANGELES CITY COUNCIL
JUNE 6, 2018

PRESENTED BY:
Bronner Group, LLC.



About BRONNER

- National multi-disciplined, professional services company
- Delivers management services, technology consulting, workforce training, and assurance services
- Dedicated exclusively to the public sector
- Certified Women Business Enterprise and Disadvantaged Business Enterprise
- Office in Los Angeles and other cities

Introduction

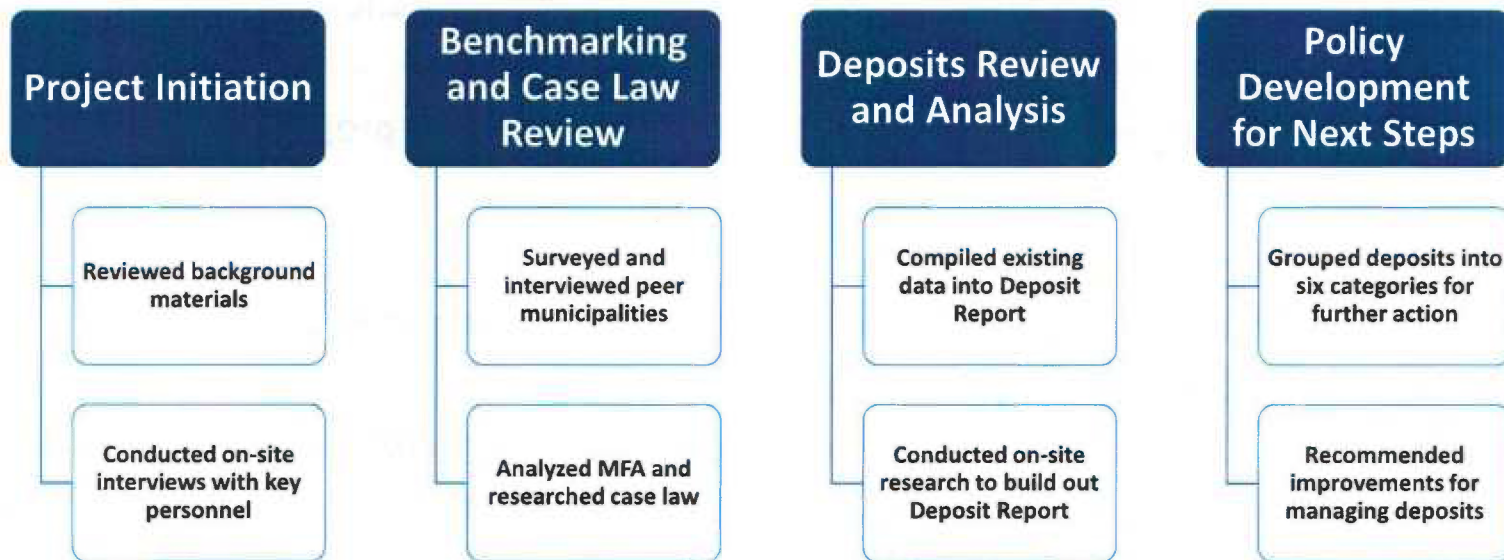
Objectives:

- To determine how the Mitigation Fee Act (MFA) impacts the utilization of Public Works Trust Fund (PWTF) deposits
- To identify the nexus (reasonable relationship to original project type and location) for potential use of PWTF deposits

Deliverables include:

1. Benchmarking Study and Case Law Review – Mitigation Fee Act
2. Deposits Review Report with details on deposits
3. Policy Options for Board of Public Works (BPW) Actions
4. Observations and Recommendations on processes

BRONNER Project Overview



MFA Benchmarking and Case Law Review

- ❑ Collected survey data from 23 cities and counties throughout California
- ❑ Conducted 8 in-depth interviews with key survey respondents
- ❑ Reviewed 13 legal cases citing the Mitigation Fee Act (MFA)

*If subject to MFA, the following compliance requirements must be adhered to.
If not subject to MFA, they are best practices:*

1. Establish nexus or “reasonable relationship” for use of funds.
2. Report on status of deposit every five years.

Deposits Review

Preliminary Analysis

Based on an unencumbered balance of \$11,980,757.49, the deposits were first segregated by value for initial review in order to prioritize larger deposits.

\$100,000 and more	\$6,746,972	56%
\$50,000 - \$99,999	\$1,386,622	12%
\$10,000 - \$49,999	\$3,130,403	26%
Under \$10,000	\$716,760	6%
	\$11,980,757	

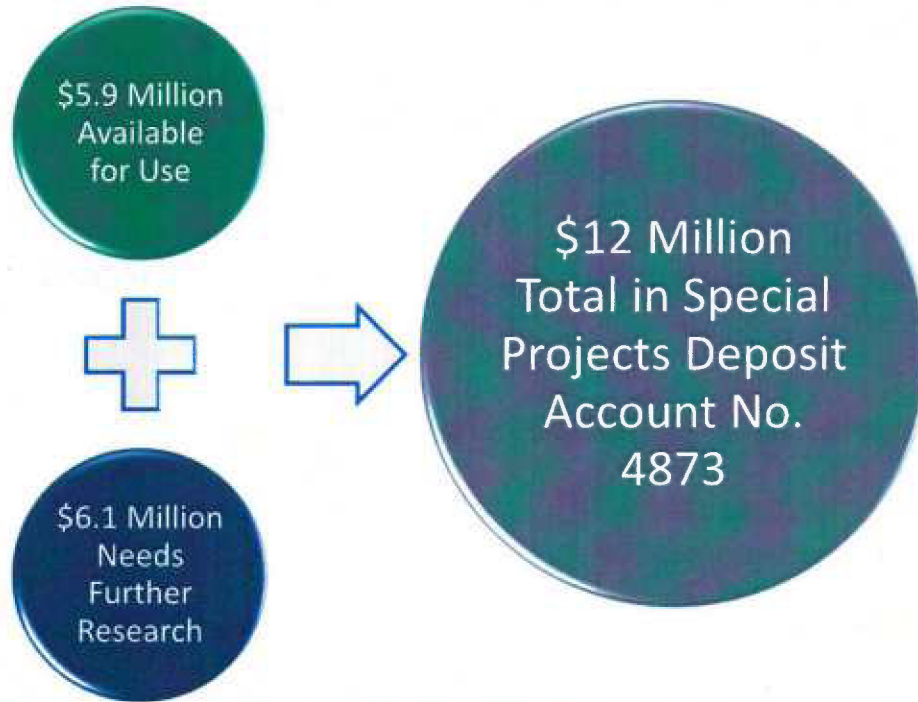
Types of Deposits Identified in Special Projects Deposit Account

BRONNER did not find deposits associated with development impact fees that require compliance with MFA requirements.

BRONNER found three types of deposits that do not require compliance with MFA requirements:

- Permit fees collected as refundable deposits**
- Permit fees collected as in-lieu of construction deposits (refundable, and non-refundable)**
- Funds transferred from the settlement of defaulted bonds**

Deposit Review Results



Deposits Analysis By Council District

Council District	Unencumbered Balance	Available for BPW Action	Further Research Needed
1	\$ 508,024.00	\$ 307,024.00	\$ 201,000.00
2	\$ 618,550.85	\$ 436,698.00	\$ 181,852.85
3	\$ 449,719.19	\$ 133,050.90	\$ 316,668.29
4	\$ 1,038,176.98	\$ 653,391.09	\$ 384,785.89
5	\$ 772,658.36	\$ 199,931.67	\$ 572,726.69
6	\$ 605,048.02	\$ 289,871.84	\$ 315,176.18
7	\$ 482,954.72	\$ 105,665.95	\$ 377,288.77
8	\$ 21,250.00	\$ 1,100.00	\$ 20,150.00
9	\$ 20,211.00	\$ 7,542.00	\$ 12,669.00
10	\$ 123,988.00	\$ 100,000.00	\$ 23,988.00
11	\$ 1,583,714.47	\$ 698,850.57	\$ 884,863.90
12	\$ 1,943,639.58	\$ 1,039,030.20	\$ 904,609.38
13	\$ 264,955.80	\$ 112,660.00	\$ 152,295.80
14	\$ 1,455,304.51	\$ 226,463.81	\$ 1,228,840.70
15	\$ 1,485,786.29	\$ 1,059,041.07	\$ 426,745.22
Unknown	\$ 606,775.72	\$ 525,550.33	\$ 81,225.39
TOTALS	\$ 11,980,757.49	\$ 5,895,871.43	\$ 6,084,886.06

The different levels of deposits is due to differences in development activity and fees collected.

Policy Options: Deposit Groups for BPW Use

Policy Option A
\$487,950

Available to Use "At Will"

Next Step: Use for any PW project in any location; or for administration of PWTF

Criteria:
No project type identified
No location identified
Under \$10,000
or deposited before 1987

Policy Option B
\$1,533,531.73

Use on Any Project

Next Step: Use for any PW project in location associated with that deposit

Criteria:
No project type identified
No address identified
Non-refundable deposit

Policy Option C
\$20,000

Use in Any Council District

Next Step: Use in any location for PW project related to that specified with deposit

Criteria:
No project type identified
No location identified

Policy Option D
\$3,854,389

Use on Specified Project Type and Specified Location Nexus

Next Step: Use for stated purpose and location

Criteria:
Project type identified
No address identified
Project complete

Policy Option E – Refund; Policy Option F – Research

Policy Option E \$30,000

Refund to Current Owner

Next Step: Determine current owner of property at specified address and refund

Criteria:

Project completed or not needed
Specific address identified

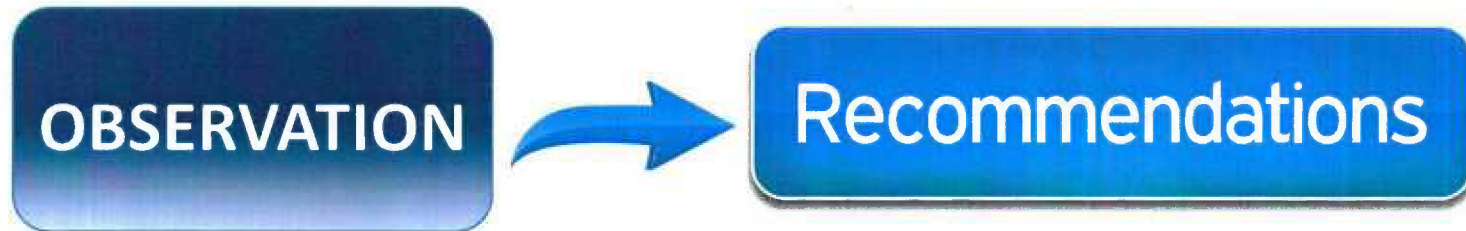
Policy Option F \$6,084,886

Requires Further Research

Next Steps: Need to research project files to determine decision making criteria

Recommendation is for LA DPW to hire staff to conduct research and manage deposits on go-forward basis. Position can be paid for with Special Project Deposit Account funds or other sources.

Observations and Recommendations



Weakness in process used to track permit fee deposits

Evaluate more comprehensive technology solutions to:

- **Improve process**
- **Ensure accuracy of deposit intake and management**

Observations and Recommendations



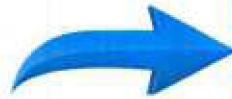
Need to improve adherence to MFA requirements

Follow procedures outlined in MFA as requirements or best practice including:

- **Segregating different types of deposits into distinct accounts**
- **Documenting/updating plan for deposits every five years**

Observations and Recommendations

Deposits are missing documentation needed to determine status of project



Recommendations

Need to research project files to determine decision making criteria

Recommendation is for LA DPW to hire staff to conduct research and manage deposits on go-forward basis. Position can be paid for with Special Project Deposit Account funds or other sources.

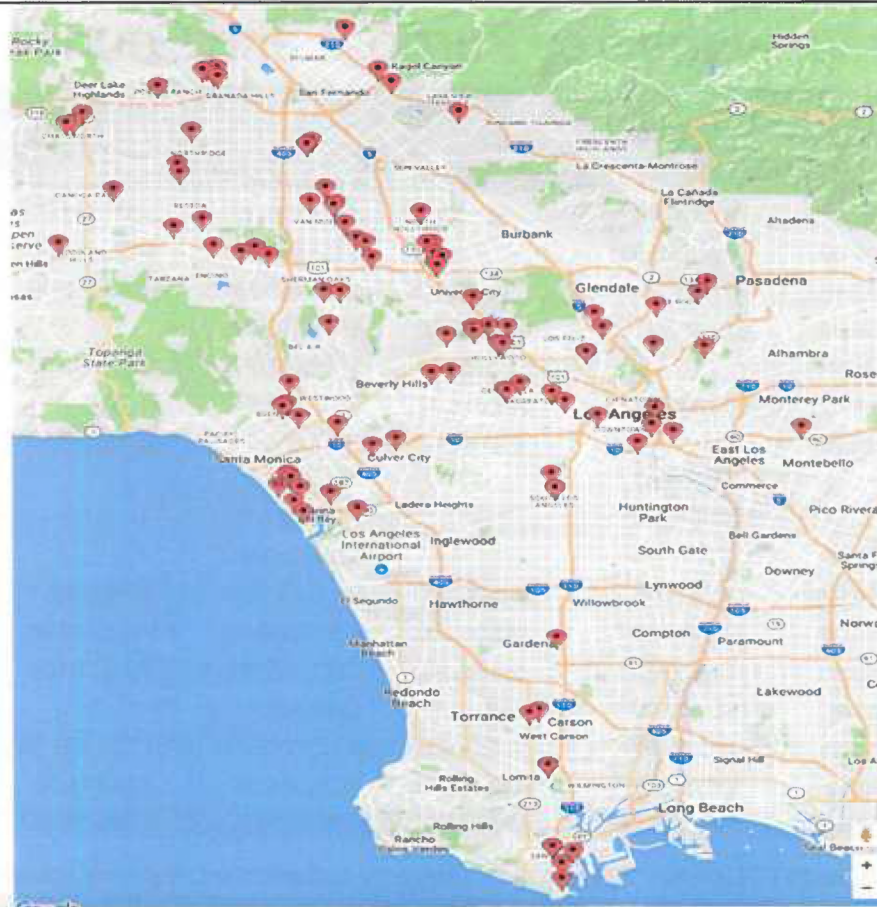
End of Bronner Group, LLC. Presentation Portion

Rules and Guiding Principles to Consider

1. Use for **specific purpose at specific location** or refund, when applicable.
2. If no specific purpose or location, nor refund is due, then make a **“reasonable relationship” or “nexus” determination** prior disposition of funds.
3. If original project is ongoing, then use for that specific project. If not ongoing, then use on **similar or “like-kind” purpose** at original location, or within the Council District as the geographical boundary.
4. If original project or like purpose project within the geographical nexus/boundary has been completed, then **reimburse the City’s cost**.
5. If above options do not applies (i.e., project type or location are unknown), then use to fund projects that have a **close geographical nexus using Council District boundary**.
6. **Pre-1989 deposits have greater flexibility** to determine reasonable relationship by a governing body.



Mapping of Deposits Recommended for Disposition



Another Viewpoint by Purpose and Council District

Council District	General Improvement	Street Improvement	Sidewalk ¹ , St. Lights ² , Trees ³ , Route Study ⁴	Unknown Purpose	Total	Adopted Budget: Pavement Preservation	Adopted Budget: CIEP	Uncommitted
1	\$13,000.00	\$291,924.00	\$2,100.00 ¹		\$307,024.00	\$304,924.00		\$2,100.00
2		\$144,698.00	\$292,000.00 ²		\$436,698.00	\$436,698.00		-
3		\$133,050.90			\$133,050.90	\$133,050.90		-
4		\$603,856.09	\$8,535.00 ^{1,2,3}	\$41,000.00	\$653,391.09		\$427,896.00	\$225,495.09
5	\$45,370.30	\$136,676.47		\$17,884.90	\$199,931.67	\$195,932.00		\$3,999.67
6		\$197,868.07	\$4,400.00 ¹	\$87,603.77	\$289,871.84		\$289,782.00	\$89.84
7		\$103,915.95		\$1,750.00	\$105,665.95	\$103,916.00		\$1,749.95
8			\$1,100.00 ¹		\$1,100.00		\$1,100.00	-
9			\$7,542.00 ¹		\$7,542.00			\$7,542.00
10		\$100,000.00			\$100,000.00		\$100,000.00	-
11		\$678,850.57		\$20,000.00	\$698,850.57	\$698,850.57		-
12	\$500.00	\$952,280.20	\$56,250.00 ⁴	\$30,000.00	\$1,039,030.20	\$173,530.00	\$700,000.00	\$165,500.20
13		\$105,160.00	\$6,500.00 ¹	\$1,000.00	\$112,660.00	\$111,660.00		\$1,000.00
14	\$15,475.83	\$209,187.98	\$1,800.00 ¹		\$226,463.81		\$226,463.81	-
15		\$343,612.89	\$7,100.00 ¹	\$708,328.18	\$1,059,041.07	\$1,055,491.00		\$3,550.07
Unknown		\$17,600.00	\$20,000.00 ³	\$487,950.33	\$525,550.33	\$84,141.00		\$441,409.33
Total *	\$74,346.13	\$4,018,681.12	\$407,327.00	\$1,395,517.18	\$5,895,871.43	\$3,298,193.47	\$1,745,241.81	\$852,436.15

*Total Aggregate Balance of \$5,895,871.43 includes \$487,950.33 for administrative/fund mgmt.; therefore, actual net available is \$5,407,921.10.



What Can and How Do We Improve Our Process?

Area of Improvement	Solutions (Corrective Action)
1. Process Weakness in Tracking Fee Deposits <ul style="list-style-type: none"> ❖ Disjointed Coding, Segregating, Tracking, Refunding, and Using Fees ❖ Multiple Points of Contacts (i.e., cashier, coder, tracker, accountant) ❖ Lack of Communication between Bureaus and Accounting Office 	1. Invest and Leverage in Technology <ul style="list-style-type: none"> ❖ Assess and Improve Process for Recording Information ❖ Eliminate Manual Processes ❖ Monitor/Track Loans and Establish Cash Flow
2. Lack of adherence to MFA requirements	2. Establish MFA Procedures and Controls <ul style="list-style-type: none"> ❖ Develop Reporting Timeline (annual and 5 Yr.) ❖ Separate different types of deposits into distinct accounts
3. Additional Research on \$6 Million in Special Project Account No. 4873.	3. Dedicate Resource (New Position for Active Long-Term Fund Management) <ul style="list-style-type: none"> ❖ Enhance Public Works Infrastructure via Fund Management, Deposit Examination, and Project Support



Resources to Maintain and Improve Fund Management

- Active Fund Management (Fund is Organic, Ever-Changing)
- Need for One Dedicated Position – Senior Management Analyst I (Class Code 9171-1)
 - Position is Revenue Seeking and Supporting
 - May Be More Feasible and/or Economical to Insource (i.e., Stability, Longevity, Less Costly)
- Future Work is Non-Temporary in Nature and Better Performed by Full Time Staff
- Governance and Oversight
 - Compliance with State Law
 - Shift Paradigm from Passive to Active Management
 - Mitigation Fee Act Application
 - Separation of Account Deposits
 - Evaluation for Effectiveness and Efficiencies
- Long Term Need
 - Fill in Existing Data Management and Analysis Gap
 - Cash Flow and Financial Analysis (i.e. exploration of trends and patterns)
 - Data Collection
 - Management Reports
 - Identify Efficiencies on Construction Related Permits (See CAO Report – CF 16-0393-S1)
 - Deposit Inspection and Exoneration



Key Recommendations Summary:

- **CONCUR** *with Board of Public Works to:
 - **RECEIVE AND FILE** Nexus Study;
 - **ADOPT** the PWTF Use Rules & Guidelines;
 - **AUTHORIZE** the fund use and transfer of \$5,895,871.43 (Per Policy Options);
 - **AUTHORIZE** one resolution authority Senior Management Analyst I (Code 9171-1) at the Board of Public Works to work on the continuous management of the PWTF; and
 - **REQUEST** the City Council to equitably distribute the remaining (\$412,950.33) in unknown project funds after administrative costs (\$75,000) have been deducted.

If the PWGR Committee considers to act on the CAO's Report, then:

- **AMEND AND CONCUR** with the Personnel and Animal Welfare Committee communication to add one resolution authority Senior Management Analyst I (Class Code 9171-1) at the Board of Public Works; and
- **AMEND** recommendation 2 to strike out "subject to CAO approval."

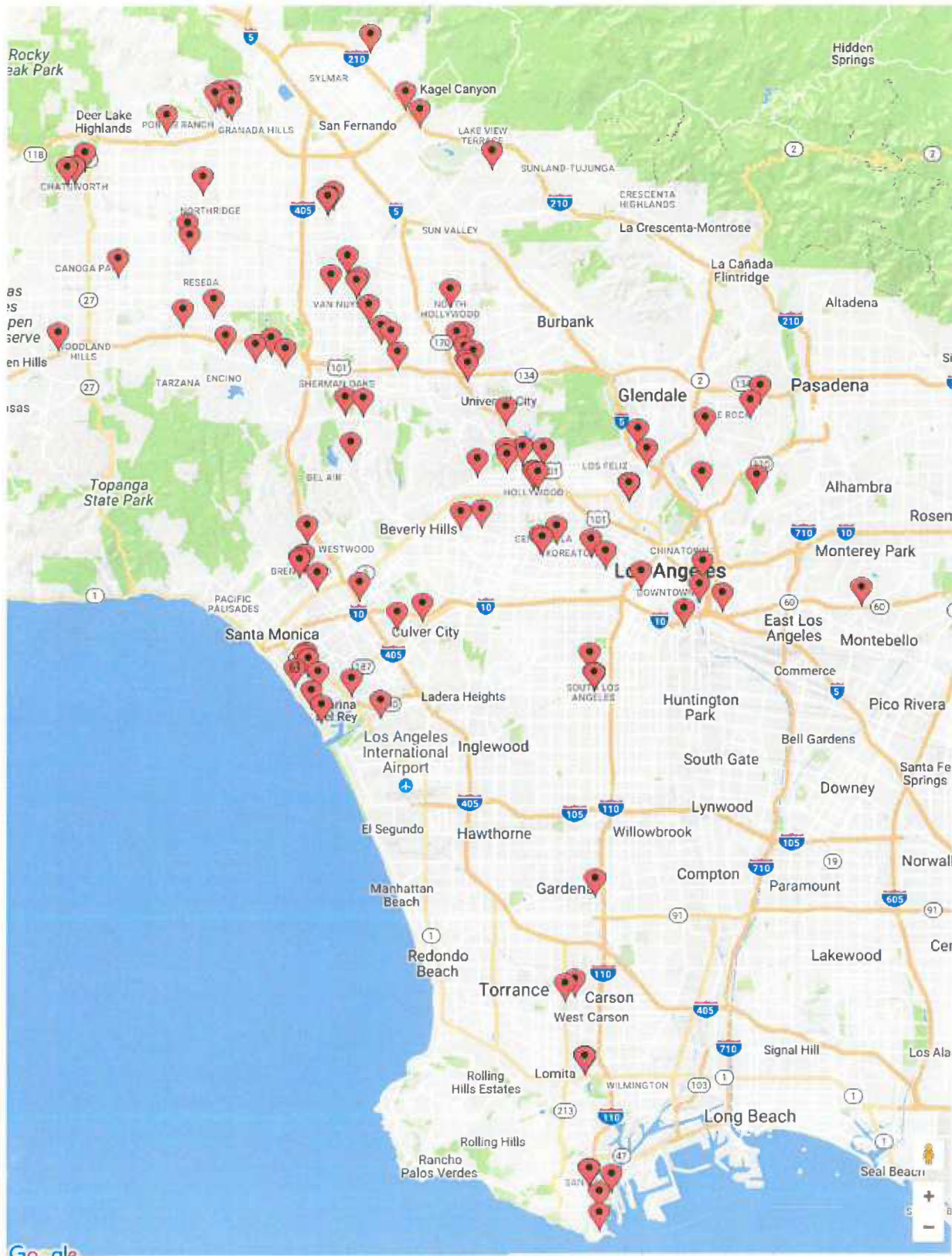


*Details can be found in report

PWTF NEXUS STUDY

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ATTACHMENT 2
PUBLIC WORKS NEXUS STUDY AND POLICY DEVELOPMENT
MAP OF AVAILABLE-TO-USE DEPOSITS*



* Pinpoint locations of deposits may not be exact. Locations of deposits with unknown or unspecified project addresses are mapped within the Council District for display purposes only. One pinpoint may represent multiple deposits. Six deposits with unknown project locations and Council Districts are not displayed.

Another Viewpoint by Purpose and Council District

Council District	General Improvement	Street Improvement	Sidewalk ¹ , St. Lights ² , Trees ³ , Route Study ⁴	Unknown Purpose	Total	Adopted Budget: Pavement Preservation	Adopted Budget: CIEP	Uncommitted
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