

**Board Report**

File #: 2015-1795, **File Type:** Informational Report**Agenda Number:** 14.

**FINANCE, BUDGET AND AUDIT COMMITTEE
JANUARY 20, 2016****SUBJECT: BUSINESS INTERRUPTION FUND IMPLEMENTATION IN AREAS OF LITTLE TOKYO DIRECTLY IMPACTED BY REGIONAL CONNECTOR TRANSIT PROJECT CONSTRUCTION****ACTION: RECEIVE AND FILE STATUS REPORT****RECOMMENDATION**

RECEIVE AND FILE status report on the **implementation of Metro's Pilot Business Interruption Fund (BIF) for small "mom and pop" businesses** directly impacted by Metro construction activity within the Little Tokyo area of the Regional Connector transit rail project.

ISSUE

In October 2014 Metro's Board of Directors authorized the CEO to establish a pilot program for a special Business Interruption Fund (BIF) for "mom and pop" businesses located along the Crenshaw Line, the Little Tokyo area along the Regional Connector and Phase I of the Purple Line Extension (Attachment A). Pursuant to the Board's direction, Metro developed the program framework, strategy and administrative guidelines through an intensive collaborative process; and "soft" launched the pilot program in February 2015.

In keeping with the Board's objective and the administrative guidelines of the pilot program, Metro and the contracted fund administrator, Pacific Coast Regional Small Business Development Corporation (PCR), are administering the pilot program including outreach and engagement of eligible "mom and pop" businesses directly impacted by Metro transit rail construction activities along the Crenshaw/LAX line, Phase I of the Purple Line Extension, and the Little Tokyo area of the Regional Connector Project. Metro has continued to provide financial assistance to directly impacted eligible businesses within each transit project area demonstrated through the award of one hundred (100) BIF grants with a total value in excess of \$1.8 Million.

In response to a request from Director Solis, this report provides a high-level summary of the pilot program development including program, policy and capacity considerations, with special focus on program implementation within the Little Tokyo area directly impacted by construction of the Regional Connector Project.

DISCUSSION

(1) Overview of BIF Program Development

Recognizing the clear nexus between surface construction activities and reduced business activity, Metro staff convened a cross function team comprised of Vendor/Contract Management, Risk Management, Management Audit Services, Construction and Engineering, Planning, Communications along with the Office of the Chief Executive Officer and County Counsel to develop a strategy for the implementation and administration of the BIF. Several actions were initiated and methods leveraged throughout the program development process including but not limited to: review of Houston Metro's Business Assistance Fund Program; legal services of Nossaman, LLP as dedicated counsel to provide oversight for the development of business loss claims administration guidelines and procedures; meetings with the Design Build Contractors from two of the transit rail projects; and Measure R policy analysis and funding assessment. In addition, Metro staff sought the advice of staff from the City of New Orleans, United States Department of Housing and Urban Development (HUD), Wells Fargo Bank's community investment group and others to gather lessons learned and best practices in disaster relief, emergency response and administration of emergency gap financing programs.

Furthermore, recognizing the importance of maintaining a fiscally prudent yet efficient program that provides financial assistance to directly impacted "mom and pop" businesses while maintaining a nexus to Metro's construction activity to avoid making a gift of public funds, participation in the BIF is limited to businesses located immediately adjacent to a rail corridor whose business revenues decrease as a result of construction activities from specified Metro construction projects occurring in front of the business or on the block in which the business is situated. Metro engaged the business loss claims management services of GCR, Inc. for an assessment of the BIF Administrative Guidelines including a comprehensive analysis of potential business impairments and anticipated business participation levels for the BIF along the Crenshaw/LAX Line, Purple Line Extension, Phase I and the Regional Connector Project, including the Little Tokyo area and the recent addition of 2nd and Broadway.

Metro staff presented the program recommendations for BIF administration, resources, funding capacity, and the draft program guidelines to Metro's Board of Directors in November 2014. With Board approval, the pilot program was "soft launched" in February 2015.

(2) BIF Program Analysis of Eligible Businesses

GCR led the BIF analysis and assisted Metro in estimating the number of potentially eligible businesses along the transit rail projects and analyzed anticipated BIF participation rates and grant amounts. The estimated number of "mom and pop" businesses within the three transit project areas, the number of eligible businesses likely to participate in the BIF including the estimated annual number of BIF claims was determined through analysis of: Metro's BIF Administrative Guidelines, fund capacity, construction activity and inventory of businesses immediately (directly) adjacent to each transit rail project corridor including other probabilities and assumptions. Based upon the analysis, an estimated 7,851 businesses are located immediately adjacent to the specified construction project areas and potentially eligible for BIF participation; and an estimated 2,526 businesses are likely to participate in the BIF based on their business types and the assumed

impacts from Metro construction.

The following charts summarize details of the estimated number of businesses and annual claims:

Chart 1: Estimated Number of Eligible Businesses

	Number of Businesses by Area	Crenshaw/LAX	Little Tokyo	Purple	2nd & Broadway	Total
1	Total Businesses (from D&B)	808	293	6,633	161	
2	Total Businesses w/ ≤ 25 Employees	767	271	6,352	150	
3	Total Businesses w/ ≥ 25 Employees in Operation ≥ 2 Years	729	262	6,163	134	
4	Total Businesses w/0 Employees Reported and in Operation ≥ 2 Years	112	63	1,461	31	
5	Adjustment Factor Based on Streetview Analysis (Business Count)	136%	105%	112%	102.7%	
6	Adjustment Factor Based on Streetview Analysis (Ineligible Business Type)	15%	3%	4%	16.6%	
7	Adjustment for (5) - Total Businesses	991	275	6,903	138	
8	Adjustment for (6) - Total Anticipated Eligible Businesses	843	267	6,626	115	7851

Chart 2: Estimated Number of Eligible Businesses by Participation Level

Likelihood of BIF Participation	Crenshaw/LAX	Little Tokyo	Purple	2nd & Broadway	Total
High	225	117	850	18	1210
Low	387	90	2,998	64	3539
Moderate	225	58	2,739	28	3050
none	5	2	40	4	51
Total	843	267	6,626	115	7,851

Chart 3: Estimated Number of Potential Annual Claims

Area	Number of Participating Businesses	FY 2014-2015	FY 2015-2016	FY 2016-2017	FY 2017-2018	Total
Crenshaw/LAX	292	510	403	292	65	1,270
Purple Line	2,001	0	194	2,989	2,363	5,546
Little Tokyo Regional Connector	155	0	148	155	135	438
2nd & Broadway Regional Connector	98	N/A	149	39	0	188
Total	2,546	510	894	3,475	2,563	7,442

Note: Estimated number of potential annual claims includes consideration for the projected start date of design-build construction activity.

*Data source is GCR, Inc. Due to the long-term variability; GCR's estimates for the analysis extend only through fiscal year 2017-2018.

Understanding that construction activity does not affect all types of businesses equally, the methodology combined the analyses of businesses by NAICS code and the classification of eligible businesses by their likelihood of actually participating in the BIF, expressed as “number of participating businesses”.

(3) BIF Implementation Along Little Tokyo Area

A. Eligible Businesses

Recognizing the variations in the construction settings along Crenshaw/LAX, the Purple Line Extension and the Regional Connector Project, Metro identified the Little Tokyo area boundary based on the pre-defined and generally described area of: Temple Street on the north, 3rd Street on the

south, Los Angeles Street on the west, and Alameda Street as the eastern boundary. The attached maps identify the Little Tokyo area boundary for purposes of the BIF (Attachment B) and parcel locations identified as “immediately adjacent” to construction activities within the Little Tokyo area of the Regional Connector Project for more than 250 businesses potentially eligible for Metro’s BIF (Attachment C).

Specifically, the BIF analysis estimated 267 “mom and pop” businesses in the Little Tokyo area located immediately adjacent to the construction area are potentially eligible for BIF participation. Furthermore, more than 50% of the potentially eligible businesses are likely to participate in the BIF based on their business type and the assumed impacts of Metro construction (refer Charts 1, 2 and 3). Given the construction schedules and anticipated construction impacts, the number of “mom and pop” businesses in the Little Tokyo area participating in the BIF is projected to increase. It is estimated that more than 400 claims will potentially be filed by eligible businesses in the Little Tokyo area of the Regional Connector Project for financial assistance through Metro’s BIF. Per the BIF Administrative Guidelines qualifying businesses may file multiple requests for financial assistance through the BIF, up to a maximum award of \$50,000/year.

B. Communications and Outreach

BIF program information has been presented or provided to approximately 175 members of the Little Tokyo community. Metro staff and PCR have conducted outreach activities in support of the BIF in the Crenshaw/LAX and Little Tokyo areas since the program launch in February 2015. The formal introduction of the program to the Little Tokyo business community commenced in March 2015 followed by the participation of Little Tokyo’s business community leaders at Metro’s BIF press event held April 6, 2015. Thereafter, Metro and PCR staff introduced Metro’s BIF at the Little Tokyo Community Council meeting in April 2015 and outreach has continued through direct canvassing and business engagement of “mom and pop” businesses including representative business associations in the Little Tokyo area of the Regional Connector Project. Metro and PCR have employed various outreach and communication strategies within the community, including:

- Participation in a Little Tokyo construction/business tour facilitated by Metro’s Community Relations staff, community leaders from the Little Tokyo Community Council and Little Tokyo Business Association in April 2015;
- Hosting a series of BIF workshops at the Little Tokyo Library and Metro’s Community Relations Office beginning June 2015;
- Developed informational program materials, such as the BIF Fact Sheet, BIF program application and 4 Step Easy Guide to Apply, in multiple languages, including Korean, Japanese, Spanish and English;
- Assigned a dedicated BIF Business Advisor to provide direct one-on-one counseling and technical support to businesses applying for BIF financial assistance;
- Provided access to multi-lingual interpretation and translation services for BIF workshops and one-on-one sessions with BIF Business Advisors; and
- Ongoing participation in Metro’s Construction and Community Relations meetings, Little Tokyo community and business association meetings including collaboration with the Little Tokyo Small Business Assistance Center.

Metro and PCR program staff will continue to provide outreach, hands-on support and guidance to

“mom and pop” businesses in the Little Tokyo area. BIF advisors will continue to conduct direct canvassing to engage businesses in the community and will maintain on-site hours at Metro’s Community Relations Office in the Little Tokyo area in 2016. In addition, ongoing focus and prioritization will be afforded for the review and processing of BIF applications for “mom and pop” businesses in the Little Tokyo area of the Regional Connector Project. The attached table summarizes various BIF outreach activities within the Little Tokyo area. (Attachment D).

C. BIF Grant Application Metrics

Metro and PCR continue to advance activities for implementation of the BIF along the Crenshaw/LAX Line, Purple Line Extension, Phase I as well as the Little Tokyo area and 2nd and Broadway segment of the Regional Connector Project. The pilot program continues to achieve early milestones. Metro’s BIF has awarded one hundred (100) grants exceeding a total amount of \$1.8 Million to “mom and pop” business along Crenshaw/LAX, Purple Line Extension, Phase I and within the Little Tokyo area of the Regional Connector Project.

BIF eligibility and participation is directly correlated to construction schedules, activities and direct impacts. As major construction activities progress along the specified transit rail projects including the Little Tokyo area of the Regional Connector Project, we foresee an increase in the number of BIF applications and BIF grant awards over the span of the pilot program. In response to construction activities within the Little Tokyo area and direct construction impacts, the first series of BIF applications were received in Fall 2015. The first complete BIF application (supported by the required financial documents) was submitted and approved mid November 2015 and five BIF grants have been awarded in December 2015 to businesses in the Little Tokyo area.

The following is a summary of BIF Grant Application Metrics for the Little Tokyo area of the Regional Connector Project as of December 28, 2015.

- BIF applications submitted to date: **12**
 - BIF applications approved to date: 5
 - BIF applications pending financial documents: 2
 - BIF applications deemed not eligible: *5
 - BIF applications denied: 0
- BIF applications pending online; not submitted: **0**
- BIF claims approved and grants awarded: **5**
- BIF Grant Payments (total value): **\$173,428**

*BIF applications deemed not eligible were based upon: 4 businesses located outside of the eligible area for BIF at time of submission; and 1 business located within the eligible area for BIF; however not directly impacted by Metro construction activity at time of submission.

The following chart highlights the total number of BIF grant applications submitted monthly for the currently active transit rail projects and BIF program areas as of December 28, 2015.

Month	# of Applications Received		
	Crenshaw/LAX	Little Tokyo Area - Regional Connector	Purple Line Extension - Phase 1
Desing Build Construction NTP	September 2013	July 2014	January 2015
March 2015	37	0	0
April 2015	29	0	0
May 2015	18	0	0
June 2015	22	0	0
July 2015	15	1	0
August 2015	9	0	1
September 2015	3	1	1
October 2015	19	2	4
November 2015	33	6	3
December 2015	9	2	1
Total	194	12	10

Note: The date of the design build construction notice to proceed (NTP) may not be indicative of the actual start date of major construction activity required to demonstrate direct impact for the purposes of the BIF program.

(4) Additional Program Considerations

In keeping with the objective of developing a pilot program that is prudent yet provides a seamless process for “mom and pop” businesses to apply for and access financial assistance while ensuring a direct nexus to Metro’s construction activities and safeguarding public funds, Metro’s Pilot Business Interruption Fund was established through a strategic development process with attention to program, policy and financial capacity considerations for directly impacted businesses within three distinctly unique business communities and transit rail project areas. Understanding the importance of developing and delivering an innovative first-ever program for Metro, the BIF program and administrative guidelines were developed through a collaborative process supported by a comprehensive independent analysis, lessons learned in Houston Metro’s Business Assistance Fund program and best practices shared by other public agencies experienced in implementing emergency gap financing programs.

In the course of developing the pilot BIF program, Metro staff modeled its response to potential construction impacts in a similar manner as agencies respond to small business communities during emergency and disaster recovery, and as a result staff developed a program framework and guidelines that are equally applied and implemented along each of the transit rail project areas. The consistent application of the program assures equitable access to the financial assistance provided to eligible and qualifying businesses for BIF participation along each of the transit rail project areas, and ensures consistent standards for establishing a direct nexus to Metro construction activity. Furthermore, the BIF program is independent of Metro’s adopted mitigation plans and measures in the environmental documents for the transit rail projects, such as those applied to the Little Tokyo community of the Regional Connector Project. Metro’s pilot BIF was developed through Board authorization in 2014 independent of the adopted mitigation plans devised as result of environmental justice designation authorized in 2012 for the Little Tokyo community of the Regional Connector Project. Therefore, the ongoing implementation of Metro’s pilot BIF program should be recognized as an independent program for continued assessment. With BIF program funding currently authorized in the amount of \$10 Million annually, any potential expansion of BIF boundaries or

program guidelines, including broadening the definition of direct construction impact and nexus to Metro's construction activity, could impair Metro's ability to sustain BIF throughout the term of its pilot program.

NEXT STEPS

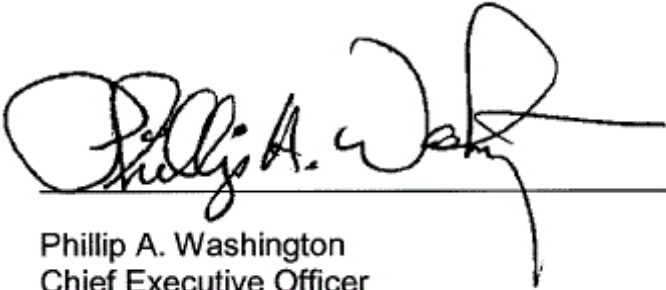
In an effort to uphold Metro's commitment to being a trusted community builder, partner and stakeholder, Metro staff will continue to assess the baseline data and performance of the pilot program with the objective of supporting directly impacted businesses' ability to remain viable throughout the construction period. Metro staff and PCR will continue to implement communication and outreach initiatives and develop resources in support of the diverse representation of the small business community in the Little Tokyo area and 2nd and Broadway segment of Regional Connector Project as well as along Crenshaw/LAX and Purple Line Extension, Phase I.

ATTACHMENTS

- Attachment A - Board Motion Authorizing BIF
- Attachment B - Little Tokyo Area Boundary Map
- Attachment C - Little Tokyo Area BIF Parcel Map
- Attachment D - Little Tokyo BIF Outreach Matrix

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Phillip A. Washington
Chief Executive Officer

Amendment to Item 57

Motion by Directors Molina, Dupont-Walker, Ridley-Thomas and Garcetti

Business Interruption Fund

September 18, 2014

WE, THEREFORE, MOVE that the Board direct the Chief Executive Officer to:

1. Establish a pilot program for a special **Business Interruption Fund** for mom and pop businesses located along the Crenshaw Line, within the Little Tokyo area along the Regional Connector, **and Phase I of the Purple Line Extension** immediately.

2. Define mom and pop businesses as those **meeting the following criteria:**
 - a. Having 25 employees or fewer;
 - b. **A minimal operational history of two years;**
 - c. **Being in good standing with local, state and federal tax requirements; and**
 - d. **Able to produce financial records (i.e. gross receipts, business license information, pay roll taxes and other pertinent financial information) demonstrating the loss of business revenue directly related to the period of construction disruption.**

3. Conduct a baseline survey of all businesses within the project areas.

4. **Identify and designate \$10,000,000 of Metro funds annually to be used for the implementation of the Business Interruption Fund. Funds shall be distributed through the project's administration and/or respective Business Solution Center.**
5. **Each business should be eligible for a maximum of \$50,000 annually, not to exceed 60 percent of their annual business revenue loss.**
6. Participation in the program would release MTA and the general contractor from further liability claims for business loss unrelated to specific incidents of damage and would be voluntary.
7. **Direct the Chief Executive Officer to work with Los Angeles County and local cities to seek all appropriate legislation that would temporarily reduce or waive taxes and fees imposed on impacted businesses during transit-related construction activities and work with the Los Angeles County Assessor's Office to immediately initiate outreach activities to businesses impacted by transit-related construction activities in order to inform them of the Assessor's Office Proposition 8/Decline-in-Value Review process.**
8. Report back to Construction Committee monthly, **beginning in October**, with an implementation plan **and report back to the Board of Directors in September 2015 with an evaluation of the program including utilization levels and recommendations for program modification.**

Little Tokyo Boundary



Little Tokyo's boundaries are generally described as: Temple St on the north, 3rd St on the south and Los Angeles St on the west to Alameda St as the eastern boundary.

Regional Connector Transit Project

Business Interruption Fund Adjacent Parcels: Little Tokyo Area



Parcel mapping designed by GCR Inc. for purposes of Metro's BIF.

BIF Outreach Matrix
Little Tokyo Area of Regional Connector Project

#	Event/Meeting	Location	Date	Attendees
1	BIF Introduction Meeting - Little Tokyo Business Association (LTBA) & Asian Pacific Islander Small Business Program (APISBP)	Metro Headquarters	3/31/2015	Metro & PCR
2	Little Tokyo Area, Regional Connector Construction/ Community Tour - LTBA and APISBP Directors	Walking Tour - Little Tokyo Area	4/10/2015	Metro & PCR
3	Little Tokyo Community Council - BIF Program Introduction	Japanese American National Museum	4/28/2015	Metro & PCR
4	Little Tokyo Regional Connector Project Update Meeting	100 W 1st. Street- Deaton Auditorium	6/3/2015	PCR
5	Little Tokyo Business Improvement District (BID) Community Meeting	St. Francis Xavier Japanese Catholic Church	6/17/2015	Metro & PCR
6	BIF Workshop - Little Tokyo	Little Tokyo - Library Branch	6/30/2015	Metro & PCR
7	Eat, Shop, Play - Little Tokyo	Mitusu Sushi & Grill	7/15/2015	PCR
8	BIF Workshop - Little Tokyo	Little Tokyo - Library Branch	7/20/2015	Metro & PCR
9	The National League of Cities - The Big Ideas for Small Business Summit	Mangrove Office 432 E Temple	9/22/2015	Metro & PCR
10	BIF Workshop - Little Tokyo	Little Tokyo - Library Branch	11/10/2015	Metro & PCR
11	Little Tokyo Business Association (LTBA) Board of Directors Meeting	Union Bank Building	11/19/2015	Metro & PCR
12	Little Tokyo and Regional Connector Briefing	Supervisor, Metro Director Solis' Office	11/23/2015	Metro
13	Little Tokyo Community Council Regular Monthly Community Meeting	Japanese American National Museum	11/24/2015	Metro & PCR
14	Shoofly Community Meeting	Japanese American National Museum	11/30/2015	Metro & PCR
15	BIF Workshop - Little Tokyo	Metro Community Relations Office	12/18/2015	Metro & PCR