Board Report

File #: 2018-0803, **File Type:** Contract **Agenda Number:** 26.

CONSTRUCTION COMMITTEE
FEBRUARY 21, 2019

SUBJECT: METRO PILOT BUSINESS INTERRUPTION FUND (BIF)

ACTION: APPROVE RECOMMENDATIONS

RECOMMENDATION

AUTHORIZE the Chief Executive Officer (CEO) to:

A. AWARD a two-year base period, firm fixed price Contract No. PS56079000 with Pacific Coast Regional Small Business Development Corporation (PCR) to serve as the fund administrator for Metro's Pilot Business Interruption Fund (BIF) in the amount of $1,585,246 with two, one-year options, in the amounts of $720,882 and $650,306, respectively, with an optional start-up of $391,576 for the inclusion of future new rail lines in this pilot, for a total amount of $3,348,010;

B. EXPAND the Pilot Business Interruption Fund to include eligible small "mom and pop" businesses directly impacted by construction of the Purple Line Extension, Section 3; and

C. RECEIVE AND FILE the status report of the Pilot Business Interruption Fund (BIF).

ISSUE

In October 2014, Metro's Board issued Motion 57 (Attachment A) that 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. Since the adoption of the Motion and the implementation of the BIF, Metro has expanded the program to include "mom and pop" businesses within the 2nd/Broadway segment of Regional Connector including Section 2 of the Purple Line Extension. Metro has continued to provide financial assistance to directly impacted eligible businesses through the contracted professional services of Pacific Coast Regional Small Business Development Corporation (PCR), a Community Development Financial Institution (CDFI) and Small Business Development Center (SBDC) serving as the BIF fund administrator.

The authorization of the professional services contract supports the ongoing implementation of the BIF as approved by Metro's Board of Directors.

BACKGROUND

Upon Board authorization in 2014, Metro staff convened a cross-function team to develop a strategy for the implementation and administration of the BIF. Staff initiated several actions such as: conducted peer agency review of Houston Metro's Business Assistance Fund Program, retained the services of dedicated counsel to provide oversight for the development of business loss claims guidelines and procedures, conducted a meeting with the Design Build Contractors for Crenshaw/LAX and Regional Connector transit projects, identified two approaches for the administration and implementation of the BIF; and conducted a Measure R policy analysis and funding assessment.

The BIF had a soft-launched in February 2015 and formally launched in April 2015. In December 2015, Metro's Board authorized the expansion of the BIF to include "mom and pop" businesses directly impacted by unprecedented full street closures with a duration greater than six continuous months such as the 2nd/Broadway segment of the Regional Connector; and Metro's Board authorized the expansion of the BIF to include Section 2 of the Purple Line Extension in December 2016. The pilot program has been operational for four-years of the authorized eight-year term.

DISCUSSION

As a result of staff's efforts, the agency has provided financial assistance and support to more than 300 "mom and pop" businesses directly impacted by transit rail construction. As of December 13, 2018, Metro has awarded 794 grants exceeding the total amount of $18.5 million to "mom and pop" businesses throughout the project areas. The early successes of the pilot program are demonstrated in the measures of effectiveness of which 93% of businesses have remained in operation six months post grant award; 86% one-year post grant award; and 82% two years post grant award. Moreover, Metro has helped retain more than 1,200 jobs in the diverse business corridors through the award of BIF grants to "mom and pop" businesses.

This report provides a high-level update on the BIF in relation to small business outreach and engagement, overall performance and utilization including ongoing monitoring and oversight; and preparations for the pilot program assessment.

A. Small Business Outreach and Engagement

Staff, along with PCR, continues to implement various outreach activities and methods to inform and educate small businesses about the BIF, provide direct support throughout the application process and link businesses to other small business support services such as Metro's Crenshaw/LAX Transit Project Pilot Business Solution Center (BSC); Metro's Little Tokyo Community Relations Office and/or the Little Tokyo Small Business Center co-located at Metro's Community Relations office including

PCR's Small Business Development Corporation; and Metro's Eat-Shop-Play program.

Recognizing many small businesses are independent and/or family owned and operated, direct proactive outreach and canvassing continues to be the most effective means in engaging small "mom and pop" businesses along each transit project corridor; and providing them with direct support during the BIF application process. Therefore, the following outreach activities are ongoing:

- Metro and PCR continue to advance coordinated outreach and communication strategies to reach businesses in each of the transit rail corridors; such as:
  - Hosting BIF workshops at business locations
  - Partnering with Metro's BSC to co-host small business informational sessions and workshops
  - Collaborating with Metro's Eat-Shop-Play to implement innovative strategies to engage small businesses.
- PCR's Business Advisors continue direct canvassing and provide hands-on support and guidance to business owners.
- Metro staff continues to identify opportunities to collaborate with community leaders, business leaders and stakeholders for the implementation of customized outreach strategies; including participate in community and project meetings along each corridor.
- Staff also continues to leverage various platforms to publicize the pilot program and reach the business community such as: a dedicated BIF website, social media platforms such Facebook and Twitter including The Source and El Pasajero; and local print media publications.

The following table highlights outreach activities by project area.

BIF Outreach Activities by Project Area - Reporting as of CY 2018 Q3					
	Crenshaw/LAX Transit Project	**Purple Line Extension, Section 1**	**Purple Line Extension, Section 2**	**Little Tokyo Area, Regional Connector**	**2nd/Broadway Segment, Regional Connector***
Canvassing	85	90	35	16	34
Community Meetings/Events	77	32	20	49	4
Legislative Briefings	8	6	4	2	9
Workshops	19	17	1	10	7
Total	189	145	60	77	54

*Segment eligibility based on full street closure with duration greater than six continuous months.

B. Performance and Utilization

The level of commitment and effort of Metro staff to engage small businesses and achieve the Board of Director's objective to support "mom and pop" businesses directly impacted by transit rail construction is demonstrated through the measurable outcomes of the pilot program. Eligible "mom and pop" businesses in each transit project area have received BIF grants in accordance to the BIF Administrative Guidelines (Attachment B).

Following summary of BIF grant application metrics through December 13, 2018:

- BIF Applications Submitted: 1,036
  - BIF Applications Awarded: 794
  - BIF Applications Pending Completion: 142
  - BIF Applications Deemed Ineligible: 92
  - BIF Applications Denied: 2
- BIF Grant Payments (total value): $18,508,832.71

The following table summarizes the BIF application metrics by project area.

BIF Application Metrics by Project Area - Reporting as of 12/13/18					
	Crenshaw/ LAX Transit Project	**Purple Line Extension, Section 1**	**Purple Line Extension, Section 2**	**Little Tokyo Area, Regional Connector**	**2nd/ Broadway Segment, Regional Connector***
BIF Applications Submitted	621	226	41	104	44
BIF Grants Award	460	180	27	91	36
BIF Applications Pending Completi	97	29	13	3	0
BIF Applications Deemed Ineligible	58	16	0	10	8
BIF Applications Denied	2	0	0	0	0
BIF Grant Amoun Awarded	$10,380,384.01	$4,594,161.83	$736,587.60	$1,847,535.24	$950,164.03
Business Count	185	70	19	33	23

Businesses Receiving Multiple Grants	125	43	7	29	10
Average BIF Grant Payment	$22,566.05	$25,523.12	$27,281.02	$20,302.59	$26,393.44

*Segment eligibility based on full street closure with duration greater than six continuous months.

The following data summarizes the BIF Measures of Effectiveness.

BIF Measures of Effectiveness - Reporting as of CY 2018 Q3	Goal	Actual
Number of businesses referred to support services post grant award	75%	100%
Number of completed applications processed within 9 business days	100%	97%
Client satisfaction rating (via survey): <= 30 days after grant award	100%	87%
Number of businesses remaining in business post grant award/support for: 6 months (248 remain open out of 267)	100%	93%
Number of businesses remaining in business post grant award/support for: 12 months (187 remain open out of 220)	100%	86%
Number of businesses remaining in business post grant award/support for: 24 months (112 remain open out of 139)	100%	82%

C. Program Monitoring and Oversight

Over the course of performing oversight and monitoring of the pilot program, Metro staff continues to assess lessons learned and the overall performance of the program. Recognizing the importance to maintain a fiscally prudent yet efficient program that meets the objective of providing access to financial assistance to directly impacted “mom and pop” businesses while maintaining a nexus to Metro’s construction activity; staff continues to maintain the integrity of the program through adherence to the BIF Administrative Guidelines. The BIF is a first-ever pilot program for Metro hence staff continues to assess construction impacts through the coordinated construction verification process including assess the applicability of the program guidelines; and gain lessons learned that have led to adjustments to the pilot program. Throughout the implementation of the pilot, staff has maintained the integrity of the program through consistent and equitable application of the guidelines.

Following are examples of adjustments made to the pilot program through administrative

amendments to the BIF Administrative Guidelines:

- Definition of “mom and pop” businesses: Staff clarified the definition of “mom and pop” businesses as 25 or fewer total full-time employees.
- Commercial property owners: The BIF Administrative Guidelines were amended to include two examples for the calculation of award amount for commercial property owners.
- Maximum grant amount: The guidelines were amended to clarify the language pertaining to maximum allowable annual grant amount.
- Loss of goodwill compensation: In coordination with Metro Real Estate and County Counsel the guidelines were amended to include language pertaining to business owners that receive loss of goodwill compensation.

Furthermore, Metro’s BIF Administrative Guidelines also require an annual audit of the program to be conducted by Metro’s Management Audit Services Department (MASD). The objective of the audit is to determine compliance with the Administrative Guidelines including the Fund Disbursement Procedures. MASD has performed three annual audits in May 2016, September 2017 and October 2018. In addition, the Inspector General (IG) conducted a program audit in July 2018. Although the audits concluded that the pilot program has been administered in accordance to the BIF Administrative Guidelines and Fund Disbursement Procedures, staff continues to perform ongoing oversight of the program and per the recommendation of MASD recently identified opportunities to strengthen the fund administrators’ Standard Operating Procedures (SOPs).

D. Pilot Program Assessment

Recognizing the BIF is Metro’s first-ever pilot program to provide financial grant assistance to small “mom and pop” businesses directly impacted by transit rail construction, the ability to assess the demonstrated outcomes and impacts to the supported business corridors and the local economy is essential. The opportunity to facilitate a comprehensive assessment of the pilot program will occur upon the completion of the first transit rail construction project for which the BIF provided financial assistance to small businesses; which is the Crenshaw/LAX Transit Project. Staff recognizes the Crenshaw/LAX Transit Project as the “anchor” project for the pilot BIF in that it was the first project in operational state with “mom and pop” businesses experiencing direct impact upon the initial implementation of the program. In addition, as staff continues to assess the construction impacts to the small businesses through the construction verification process, “mom pop businesses” located along Crenshaw/LAX transit corridor have demonstrated an elevated degree of impact based on the construction activity which is demonstrated through the increased number of BIF applications and grantees along the transit rail alignment.

Metro staff will initiate a comprehensive case study assessment of the pilot program upon the completion of the “anchor” transit rail project. Through a comprehensive assessment staff seeks to demonstrate the measurable outcomes and effectiveness of the BIF through in-depth analysis of

economic and socio-economic indicators such as:

- Direct and indirect benefits: Recognizing the BIF compensates impacted businesses for loss of revenue, the compensation provided through the program is a direct benefit to businesses including the local and regional economy.
- Business resiliency: The program strives to help businesses, communities, and the local economy sustain the challenges of construction and remain operational to net the benefits of transit rail construction.
- Socio-cultural direct and indirect benefits: To understand the correlated benefits of the financial and supportive services provided through the program to diverse “mom and pop” businesses such as the South Los Angeles business community which is impacted by the Crenshaw/LAX transit project and includes the Little Tokyo community of the Regional Connector (which is an Environmental Justice community)among others.

Moreover, the comprehensive assessment of the pilot program will also serve as resource to support a policy determination regarding the future state of the BIF. Currently, the pilot program has Board of Directors authorization through October 2022.

DETERMINATION OF SAFETY IMPACT

Approval of this recommendation will not impact the safety of Metro’s patrons or employees.

FINANCIAL IMPACT

Metro Board of Directors directed staff to identify $10 million in eligible annual funds to support the annually funded pilot program for an estimated forecast of eight-year (8) term thus $80 million cost for the pilot program. The actual annual cost continues to be assessed based on the actual BIF claims for each existing BIF transit rail project. The administrative cost for the implementation of the pilot program are allocated from Measure R Administration funds, and the remaining for the grant fund are allocated from a combination of Proposition C 25% Direct funding (one third) and Measure R Transit Capital Improvement Sub-fund (two thirds) and/or appropriate sources as identified by Office of Management & Budget (OMB).

Impact to Budget

Measure R Administration funds were previously identified as eligible for this expense through prior Board of Directors authorization and approval. The annual appropriation of the funding source does not impact transit operations and/or capital projects/programs.

IMPLEMENTATION OF STRATEGIC PLAN GOALS

The implementation of the Pilot Business Interruption Fund aligns to strategic goal 3 - enhance

communities and lives through mobility and access to opportunity; and goal 5 - provide responsive, accountable, and trustworthy governance within the Metro organization.

ALTERNATIVES CONSIDERED

1. Utilize Metro staff to perform the fund administration services for BIF. This alternative is not recommended, because Metro does not have the required staffing availability, dedicated resources or expertise to serve as a financial administrator such as those possessed by a community development financial institution. In addition, the program is currently supported by one dedicated FTE that was authorized through the original Board authorization. Any future expansion and/or formulization of the pilot program will require additional Metro staffing.

NEXT STEPS

Upon Board approval, staff will execute the contract with Pacific Coast Regional Small Business Development Corporation and will continue to provide BIF status reports to Metro's Board of Directors.

ATTACHMENTS

Attachment A - Motion 57
Attachment B - BIF Administrative Guidelines
Attachment C - Procurement Summary
Attachment D - DEOD Summary

Prepared by: Paula Carvajal-Paez, Business Interruption Fund Manager, Diversity and Economic Opportunity, (213) 922-4258
Shalonda Baldwin, Deputy Executive Officer, Diversity and Economic Opportunity (213) 418-3265
Miguel Cabral, Executive Officer, DEOD (213) 418-3270

Reviewed by: Debra Avila, Chief Vendor/Contract Management Officer, Vendor/Contract Management, (213) 418-3051

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.**

Los Angeles County
Metropolitan Transportation Authority
One Gateway Plaza
Los Angeles, CA 90012-2952
213.922.2000 Tel
metro.net

Metro

Los Angeles County Metropolitan Transportation Authority
Business Interruption Fund

Administrative Guidelines
Updated 7/19/18

I. Introduction

The Board of Directors of the Los Angeles County Metropolitan Transportation Authority (Metro) on October 2, 2014, voted to immediately establish a pilot Business Interruption Fund (BIF) for "mom and pop" businesses located along three specified Metro construction projects; and on December 3, 2015, voted to expand the BIF for "mom and pop" businesses impacted by unprecedented full street closures with a duration greater than six continuous months along the Metro construction projects as defined below. On December 1, 2016 Metro's Board voted to expand the BIF to "mom and pop" businesses located along the Purple Line Extension, Section 2. Metro's goal through the BIF is to mitigate the financial impact of rail construction on small businesses. This goal shall be achieved by awarding small business grants to cover certain fixed operating expenses. The BIF, indeed, is a demonstration of Metro's commitment to being a trusted community builder, partner, and stakeholder.

Qualifying businesses for BIF awards shall be those with at least two years of operating history along one of the three specified Metro construction corridors; 25 or fewer total full-time employees; in good standing with local, state and federal taxing and licensing authorities; and able to produce financial records demonstrating a loss of business revenue directly related to the period of construction disruption. Owners of commercial properties will also qualify if they can demonstrate that current or future leases have been terminated as a result of certain Metro construction projects. Participation in the BIF will be limited to businesses whose revenues decreased as a result of construction activities from specified Metro construction projects. The BIF will not compensate businesses for interruptions or property damages caused by Metro contractors. These Administrative Guidelines and all other aspects of the Business Interruption Fund are subject to change throughout the course of the program.

II. General Provisions

A. Definitions

1. **Small "mom and pop" businesses** for the purposes of this program are defined as for-profit businesses or non-religious, non-profit businesses with 25 or fewer total full-time employees meeting the eligibility requirements (as specified in Section II.B).

2. **Relevant Metro Construction Projects** refers to the following:
   - The Crenshaw/LAX Line
   - The Regional Connector (Little Tokyo section and 2nd/Broadway segment)
   - Section 1 and Section 2 of the Purple Line Extension.

3. **Immediately adjacent to a rail corridor** refers to a business whose property line abuts or faces the rail corridor or a designated construction staging or construction storage area, including a business located in a mall or strip-mall that is similarly situated. A map of parcels in which such businesses are located is available.

4. **Construction period** refers to the period after Metro issued a Notice to Proceed to the construction project's Design Build Contractor in which activity related to a Metro rail construction project (as specified in Section II.A.2) occurred in front of a business or on the block in which a business is situated.

5. **Solvency** is defined as the ability to pay legal debts. Businesses in bankruptcy, as a documented result of Metro construction projects, are still considered solvent as long as they are reorganizing and have not filed Chapter 7 for liquidation.

6. **Revenue decrease and therefore impact** is defined as a decrease in business revenues throughout the quarter(s) containing construction periods (as defined in Section II.A.4) from a specified Metro rail construction project (as specified in Section II.A.2) occurred as compared to the same quarter(s) one year prior to the construction period. For commercial property owners, revenue decrease and impact may be defined differently and other special provisions may apply.

7. **Business** refers to entities registered with and defined by the Internal Revenue Service as a Sole Proprietorship, a Partnership, a Corporation, an S Corporation, or a Limited Liability Corporation.

8. **Non-profits** refers to organizations qualified as tax-exempt by the Internal Revenue Service.

9. **Commercial Property Owners** are defined as owners who rent or lease property for retail, office, or other non-residential use.

B. Eligible Businesses

Businesses eligible to receive awards from the BIF must meet all of the eligibility criteria listed below:

1. For-profit businesses or non-religious non-profit organizations (as defined in Section II.A.7 and Section II.A.8)
2. Businesses located immediately adjacent to a Metro rail construction project (as specified in Section II.A.2 and Section II.A.3) which experienced impacts during construction periods as defined in Sections II.A.4 and II.A.6.

3. Businesses that meet the following technical qualifications to participate in the program:
   - Businesses which have 25 or fewer total full-time employees as of the period covered by their claim or claims. Full-time employees (who work 35+ hours per week) are each counted as one;
   - Businesses which have been in continuous operation for at least two years (24 months) immediately adjacent to a specified Metro rail construction project (as specified in Section II.A.2);
   - Businesses with the ability to provide all relevant documents listed in Section IV.B and any other documents required by the BIF administrator's Required Documents Checklist, including all records necessary to verify eligibility and/or construction-related revenue losses.
4. Businesses which are solvent (as defined in Section II.A.5).
5. Businesses which are in good standing with all local, state, and federal taxing and licensing authorities.
6. Businesses which have experienced a revenue decline in the most recent quarter(s) since the construction period (defined in Section II.A.4) began as compared to the same quarter(s) one year prior to the beginning of the construction period (as specified in Section II.A.6).
7. Businesses which do not meet any of the criteria specified in Section II.C.

C. Ineligible Businesses

The following types of businesses are ineligible to participate in the Business Interruption Fund even if they meet other criteria outlined in Section II.B:

1. Non-profit businesses engaged in teaching, instructing, counseling or indoctrinating religion or religious beliefs.
2. Businesses generating over 60% of revenues from the sale of alcoholic beverages.
3. Businesses generating revenues from the sale of marijuana.
4. Businesses with any products or services of a sexual nature representing over 50% of their revenue.
5. National or regional chain retailers or outlets unless operated under a franchise agreement and which otherwise meet all eligibility criteria.
6. Owners of residential property or properties.
7. Businesses that relocate on the construction alignment after being displaced from a commercial property by Metro through Eminent Domain Action and compensated for said displacement and loss of goodwill pursuant to California Code of Civil Procedure section 1263.510 may not receive awards from BIF for losses of business revenue at their new location on the alignment.
   Note: Metro compensates business owners for the projected financial business loss related to the displacement through the loss of goodwill payment. Business owners release and hold harmless Metro against any and all future claims for compensation through the Acceptance and Release (Loss of Goodwill Claim).

D. Eligibility Requirements for Commercial Property Owners

1. Commercial property owners must meet all eligibility requirements listed in Section II.B.
2. BIF will not accept applications where the property was unoccupied at the beginning of the construction period (as defined in Section II.A.4) and the owner alleges they are unable to rent/lease property due to construction.
3. If a property is occupied, the owner must provide documentation from the tenant that they have ended or will end their lease due to a specified Metro rail construction projects (as specified in Section II.A.2).
4. If a tenant has indicated the intention to end a lease, a commercial property owner must demonstrate continuous efforts to acquire a new tenant through active listing and advertisement of the property.
5. Commercial property owners may not apply for an award if their tenant is also in the Program and is receiving reimbursement to cover rent.
6. A commercial property owner that is both a small business and a landlord (Lessor) may demonstrate dual eligibility up to the maximum program grant limits as specified in Section V.A.1 herein if the "mom and pop" small business is a separate legal entity (as defined in Section II.A.7 and Section II.A.8) and the business and commercial property owner meet the eligibility requirements as stated in Sections II.B.1-7 and II.D.1-6 herein. In the event of dual eligibility, separate applications are required for the small business and commercial property owner.

III. Financial Assistance

A. Eligible Expenses

Upon approval for a BIF award, the grantee must first use the payment to cover past due amounts for the following fixed operating expenses:

1. Utilities
2. Insurance
3. Rent or Mortgage payments
4. Payroll, or
5. BIF program manager may consider other types of documented business-related expenses.
6. Commercial property owners may only file a claim for mortgage, utilities, insurance and other expenses as determined by the BIF program manager.

Federal and State taxes are not deemed fixed operating expenses for the purposes of BIF grant payments.

IV. Application Process

A. Application Submission

1. Businesses may submit claims no more frequently than on a quarterly basis, and claim periods should be aligned to standard calendar quarterly increments (i.e. January-March, April-June, July-September, October-December). A business must submit a claim for the quarter that corresponds to the beginning of the construction period (as defined in Section II.A.4). Should the construction period (as defined in Section II.A.4) extend past the end of that quarter, a business may submit subsequent quarterly claims throughout the duration of the construction period provided the business has not already received the maximum allowable amount of $50,000 per calendar year or 60% of its annual revenue losses (as specified in Section V.A.1). A business whose annual revenue losses exceed the maximum allowable amount may not receive additional BIF grants in a subsequent year for any portion of the excess revenue losses that were not reimbursable in a prior year.

2. Businesses may submit a claim that corresponds to construction impacts that occur **after** the first 24 months of operating history immediately adjacent to a specified Metro rail construction project (as specified in Sections II.A.2 and II.B.3).

3. The business must submit an initial claim within **180 calendar days** from the end of the quarter in which the construction period occurred (as defined in Sections II.A.4 and Sections IV.A.1).

4. In the case of businesses with multiple owners, only one application for each claim may be submitted per business. The signatories to the application must include all owners of the business.

5. In the case of owners with multiple businesses at different locations, each business may submit a claim if it is a separate legal entity (as defined in Section II.A.7 and Section II.A.8) and meets the eligibility requirements (as defined in Section IV.B.1-10). Each separate business may be eligible for a BIF award for up to the maximum allowable amount (as specified in Section V.A.1); separate applications are required for each business.

6. Businesses that are relocated on the construction alignment after being displaced from a commercial property by Metro through Eminent Domain Action and compensated for said displacement through loss of goodwill pursuant to California Code of Civil Procedure section 1263.510 must disclose their acceptance of loss of goodwill upon submitting a BIF claim. Business owners that receive loss of goodwill compensation are ineligible for the BIF (as specified in Section II.C.7). A copy of the Acceptance and Release (Loss of Goodwill Claim) will be supplied by either the business owner or Metro's Real Estate Department. If a business owner that is displaced from a commercial property by Metro through Eminent Domain Action waives loss of goodwill compensation, the owner must provide a statement and/or

waiver from Metro's Real Estate Department as verification. In the event of a documented waiver of loss of goodwill, the owner's eligibility to participate in the BIF program will be based on the eligibility requirements (as defined in Section IV.B.1-10).

B. Applicants must be pre-qualified to participate in the program. In order to pre-qualify, a business will be required to provide the documents from the following list which are relevant to their particular business:

1. Business and personal federal tax returns from the most recently completed federal tax year.
2. California Employment Development Department payroll tax returns.
3. Verification of "good standing" status from the California Secretary of State.
4. Board of Equalization sales tax reports.
5. Current lease agreement(s)/rental agreement(s) and those from at least 24 months prior to application date (for both tenants and property owners).
6. Current property title(s) and deed(s) (for property owners).
7. Current verification from the Internal Revenue Service attesting to tax-exempt status (for non-profits).
8. Three months of bank statements covering the construction period (as defined in Section II.A.4) and the comparable period one year prior.
9. Copies of delinquent bills or debt payments due.
10. Any additional records requested by the BIF administrator to determine eligibility and/or loss of revenue concurrent with the construction period (as defined in Section II.A.4).

C. The above mentioned items will be used to determine both the eligibility of a business for an award from the BIF and an appropriate amount of a BIF award. Approval will be based upon a combination of factors including: confirmation of eligibility and pre-qualification, the financial stability and viability of the company as an ongoing concern, length of time in business, recent past financial performance, and the overall impact of the construction on the business. Management and technical assistance will be available through Pacific Coast Regional Small Business Development Corporation (PCR) serving as Metro's Fund Administrator and/or the respective Business Solution Center (BSC) in the compilation of requisite documents to determine financial viability.

D. Once an application is complete, including all supporting documentation noted elsewhere in these guidelines, the assigned BIF advisor will review and analyze it for completeness and, assuming impact can be demonstrated, will calculate a recommended BIF award and prepare a Grant Recommendation Form. This recommendation will be submitted to PCR's BIF review committee, comprised of two PCR senior staff members and PCR's president or another PCR board member, for a total of 3 members.

If the president or other PCR senior staff member performs the tasks of business advisor, they may not participate as a member of the BIF review committee but will have to be substituted by a PCR board member.

E. Any requests that do not meet the requirements outlined herein will not qualify for BIF assistance; but all businesses seeking aid will be offered the full menu of services offered by the BSC and/or PCR which include but are not limited to ongoing business technical assistance and referrals to small business loan programs.

F. Awards will be distributed by PCR in accordance with a Grant and Funds Disbursement Agreement to be agreed to and signed by both the business owner(s) and PCR.

V. Construction Impacts: Awards

A. Loss of Revenue

1. **Calculation of Award Amount:** A business that can demonstrate a decline in gross revenue during a construction period from a specified Metro rail construction project (as defined in Sections II.A.2, II.A.4, and II.A.6) may receive an award in the amount of its lost quarterly revenue. Awards to each business are limited to a maximum of the lesser of 60% of the business' total annual revenue loss or $50,000; if 60% of the annual loss is less than $50,000, the award shall be the amount of the actual loss up to $50,000. Three examples are shown below, each with the assumption of proper licensing, current taxes, proper location, minimum time in business, and otherwise meeting all other qualifying criterion.

   Example A. - XYZ Company's most recent 3-months of bank statements, internal financial statement, and/or sales tax receipts (since the construction period as defined in Section II.A.4 began) reveal revenues of $50,000 per month, or $150,000 for the quarter, which, when compared to the revenues from the same 3-month period in the previous year ($187,500) from last year's tax return (or financial statement), showed revenues down by 20%. This is summarized as follows:

Quarterly revenues during construction	$150,000
Less: Prior year's quarterly revenue	-$187,500
Revenue Reduction/Impact	< $37,500 > = 20% reduction

   Thus, XYZ Company has been impacted, and qualifies for a BIF award in the amount of $37,500.

   Example B. – Acme Market's most recent sales tax receipts would indicate sales of $400,000 for the 90 days since the construction period (as defined in Section II.A.4). The market's tax return, sales tax receipts and other evidence reveal that sales for the

same period last year were $600,000, which would represent a reduction of 33%, or $200,000 from one reporting period to the next.

Quarterly revenues during construction	$400,000
Less: Prior year's quarterly revenue	-$600,000
Revenue Reduction/Impact	< $200,000 > = 33% reduction

The market has thus been impacted in the amount of $200,000. However, Acme Market's BIF award amount would be limited to the maximum annual BIF award of $50,000.

Example C. – Construction began outside of ABC Cleaners in April 2014 and lasted through May 2014. ABC's most recent internally prepared financial statement and bank statements indicate revenues of $85,000 for the 2nd quarter of 2014, which is 26% below the quarterly revenues of $115,000 for the same quarter in 2013. This is summarized as follows:

Quarterly revenues during construction	$85,000
Less: Prior year's quarterly revenue	-$115,000
Revenue Reduction/Impact	< $30,000 > = 26% reduction

ABC Cleaners' BIF award amount for this quarter would be $30,000.

Additionally, construction continued outside of ABC Cleaners throughout the 3rd quarter of 2014. During this quarter, ABC's internally prepared financial statement and bank statements indicate revenues of $90,000, compared to $125,000 for the 3rd quarter of 2013. Thus, ABC's revenue losses for the 3rd quarter of 2014 are as follows:

Quarterly revenues in 3rd quarter 2014:	$90,000
Less: Prior year's quarterly revenue	-$125,000
Revenue Reduction/Impact	< $35,000 > = 28% reduction

Although ABC's revenue losses for this quarter are $35,000, awarding the business the full amount would exceed the $50,000 annual maximum, since it had previously received $30,000 for the second quarter. Accordingly, ABC Cleaners would receive an award of $20,000 and would not be eligible for any further awards in 2014.

Should construction activity continue in front of ABC Cleaners into 2015, the business would be eligible to apply for an additional BIF award for construction periods in that year. ABC Cleaners may submit subsequent quarterly claims throughout the duration of the construction period provided the business has not already received the maximum allowable amount for the annual period when the construction impact occurred.

A commercial property owner that can demonstrate a decline in gross revenue during a construction period from a specified Metro rail construction project (as defined in Sections II.A.2, II.A.4, and II.A.6) may receive an award in the amount of its lost quarterly revenue. Two examples are shown below, each with the assumption of proper licensing, current taxes, proper location, minimum time in business, and otherwise meeting all other commercial property owner qualifying criteria (as defined in Section II.D).

Example D. – Commercial Property Owner A has a tenant with an executed lease. The lease states the rent is $1,000 per month. Since Metro construction began (as defined in Section II.A. 4), the tenant has experienced revenue loss in the 4th quarter of 2017. The tenant was able to make a partial payment of $500 for the first month of the quarter but was unable to pay rent the last two months of the quarter. The property owner applies for the BIF to recoup lost rent revenue for that quarter. This scenario is summarized as follows:

Rent billed for 4th quarter of 2017	$3,000
Less: Rent revenue received	- $500
Revenue Reduction/Impact	< $2,500 > = 83% reduction

Thus, Commercial Property Owner A has been impacted, and qualifies for a BIF award in the amount of $2,500. In the example above, per Section II.D.5, commercial property owners may not apply for an award if their tenant is also in the Program and is receiving reimbursement to cover rent.

Example E. - Property Owner B has a tenant with an executed lease. The lease states the rent is $1,000 per month. Since Metro construction began (as defined in Section II.A. 4), the tenant experienced revenue loss due to ongoing construction impacts. As a result, the tenant broke its lease and left the premises at the beginning of the 4th quarter of 2017. The property owner tries unsuccessfully to re-rent the space vacated by the former tenant. The property owner applies for the BIF to recoup lost rent revenue for that quarter. This scenario is summarized as follows:

Rent billed for 4th quarter of 2017	$3,000
Less: Rent revenue received	- $0
Revenue Reduction/Impact	< $3,000 > = 100% reduction

Thus, Property Owner B has been impacted, and qualifies for a BIF award in the amount of $3,000. In the example above, per Sections II.D.3 and II.D.4, the commercial property owner must provide documentation from the tenant that it ended its lease due to a specified Metro rail construction project (as specified in Section II.A.2) and the commercial property owner must also demonstrate continuous efforts to acquire a new tenant through active listing and advertisement of the property.

2. **Calculation of Award Amount for Recurring Decline in Gross Revenue:** A business that can demonstrate recurring declines in gross revenue during multiple years of construction of a specified Metro rail construction project (as defined in Sections II.A.2, II.A.4, and II.A.6) may receive an award in the amount of its lost quarterly revenue (as defined in Section V.A.1) based on the pre-impact base year for the initial BIF award and payment.

B. Additional Considerations for Awards

1. Eligible businesses that have been acquired by new owners may qualify using a history of past performance by the previous owner, provided that the product/services offerings and pricing of such products and/or services have not materially changed after the acquisition.
2. Revenue losses attributable to physical property damage or business interruption caused by the actions of a Metro contractor are not compensable under the BIF.
3. The portion of a business' revenues derived from online sales will be factored into the determination of the overall BIF award amount for qualifying businesses.

VI. Appeals Process

a. A business denied BIF assistance may request reconsideration of their denial. Such requests must be in writing and include an explanation of why the denial should be reconsidered along with any supporting documentation. Requests must be sent to:

Pacific Coast Regional Small Business Development Corporation (PCR)
3255 Wilshire Blvd., #1501
Los Angeles, CA 90010

Attn: Angela B. Winston
Program Manager
Business Interruption Fund

b. The review will be conducted by the BIF Program Manager who will refer his/her recommendation to a committee to include a member of the Metro Ethics staff, and two members of the board of directors of PCR. Said members shall comprise the members of the Metro/PCR board review committee. The review shall be completed within **10 business days of receipt** of the request for reconsideration.

c. The decision of the Metro/PCR board review committee is final.

VII. Grantee Certification and Indemnification

Upon approval of a BIF award Grantees shall execute a Grant and Funds Disbursement Agreement that shall at a minimum certify, acknowledge and agree that:

- **a.** Participation in the BIF is voluntary.
- **b.** Metro is not responsible for closures by entities other than Metro.
- **c.** Metro is not responsible for scheduled business disruptions of less than one business day.
- **d.** Funds received from the BIF shall constitute income for tax purposes and are reportable.
- **e.** All BIF funds shall be used for the purpose(s) stated during the application process, and any deviation shall constitute a breach of this Agreement.
- **f.** Grantee's best efforts will be made to continue the business in its current location. Such efforts could include but not be limited to seeking assistance from the Metro Business Solution Center and/or PCR-SBDC.
- **g.** All financial records submitted by Grantee to obtain BIF aid are true and correct representations of grantee's financial performance; and there have been no material changes to such records since submitted that would diminish the Grantor's reliance on them for consideration of Grantee's BIF aid. If, subsequent to an award of BIF aid, Grantor discovers discrepancies, errors or misstatements in Grantees submitted financial records, this discovery shall constitute a breach of this Agreement by Grantee. In this case Grantor, in its sole discretion, shall pursue all of its legal remedies to secure full repayment of BIF aid.

VIII. Audit

An annual audit of the Program will be conducted by Metro in addition to Metro's ability to audit at any time.

REVISION HISTORY
Revision 1 – 2/5/15
Revision 2 – 4/17/15
Revision 3 – 10/28/15
Revision 4 – 1/26/16
Revision 5 – 8/17/16
Revision 6 – 4/1/17
Revision 7 – 3/23/18
Revision 8 – 7/19/18

PROCUREMENT SUMMARY

BUSINESS INTERRUPTION FUND ADMINISTRATION SERVICES/PS56079000

1.	**Contract Number**: PS56079000	
2.	**Recommended Vendor**: Pacific Coast Regional Small Business Development Corporation (PCR)	
3.	**Type of Procurement (check one):** ☐ **IFB** ☒ **RFP** ☐ **RFP–A&E** ☐ **Non-Competitive** ☐ **Modification** ☐ **Task Order**	
4.	**Procurement Dates**:	
	A. Issued: August 6, 2018	
	B. Advertised/Publicized: August 6, 2018	
	C. Pre-Proposal Conference: August 27, 2018	
	D. Proposals Due: September 10, 2018	
	E. Pre-Qualification Completed: December 21, 2018	
	F. Conflict of Interest Form Submitted to Ethics: September 10, 2018	
	G. Protest Period End Date: February 26, 2019	
5.	**Solicitations Picked up/Downloaded**: 10	**Bids/Proposals Received**: 1
6.	**Contract Administrator**: Lily Lopez	**Telephone Number**: 213-922-4639
7.	**Project Manager**: Paula Carvajal	**Telephone Number**: 213-922-4258

A. Procurement Background

This Board Action is to approve Contract No. PS56079000 issued in support of the Business Interruption Fund (BIF) Administration Services. The BIF provider needs to be a qualified Community Development Financial Institution (CDFI)/Small Business Development Center (SBDC) in order to provide professional services for administration and meeting the resource requirements (personnel and infrastructure); processing business eligibility, developing timeline and process for evaluation, selecting and awarding grant funds; providing reporting; and administering the fund account. Board approval of contract award is subject to resolution of any properly submitted protest(s).

The Request for Proposal (RFP) was issued in accordance with Metro's Acquisition Policy and the contract type is firm fixed price.

No amendment was issued during the solicitation phase of this RFP.

A pre-proposal conference was held on August 27, 2018, attended by 4 participants representing one company.

A total of 10 firms downloaded the RFP and were included in the planholders list.

One proposal was received on September 10, 2018. A market survey was conducted in order to ascertain the reason(s) for non-submittal. One response was received and the reason given for not submitting a proposal was not being able to provide the services or meet the requirements to provide the services.

B. Evaluation of Proposals

A Proposal Evaluation Team (PET) consisting of staff from Metro's Diversity and Economic Opportunity Department and Community Relations was convened and conducted a comprehensive technical evaluation of the proposal received.

The proposal was evaluated based on the following evaluation criteria (inclusive of minimum requirements on a pass/fail basis) and weights:

- Professional Experience 30 percent
- Workplan Approach and Methodology 30 percent
- Personnel Qualifications and Management Plan 20 percent
- Cost 20 percent

The evaluation criteria are appropriate and consistent with criteria developed for other, similar procurements for professional services. Several factors were considered when developing these weights, giving the greatest importance to both professional experience and workplan approach and methodology.

During the week of September 17, 2018, the PET completed its independent evaluation of the proposal. An oral presentation was held on October 3, 2018. At the conclusion of the oral presentation, the PET finalized the evaluations and determined Pacific Coast Regional Small Business Development Corporation (PCR) was qualified to render the required services.

Qualifications Summary:

Pacific Coast Regional Small Business Development Corporation (PCR)

PCR is a non-profit firm with demonstrated experience in assisting small business owners. PCR has a background in community-based economic development and experience providing financial support to small businesses. The BIF program requires a firm to be a certified Community Development Financial Institution (CDFI) and a designated Small Business Development Corporation (SBDC) in order to provide financial, educational and consulting services. PCR is both a CDFI and SBDC, and is qualified to administer and support the implementation of the BIF.

A summary of the PET scores is provided below:

1	Firm	Average Score	Factor Weight	Weighted Average Score	Rank
2	**PCR**				
3	Professional Experience	93.33	30.00%	28.00	
4	Work plan Approach and Methodology	96.33	30.00%	28.90	
5	Personnel Qualifications and Management Plan	98.35	20.00%	19.67	
6	Cost	100.00	20.00%	20.00	
7	**Total**		**100.00%**	**96.57**	**1**

C. Cost Analysis

The recommended price has been determined to be fair and reasonable based upon a technical analysis, a cost analysis, fact finding, and negotiations.

Due to the unique attributes of the project, Metro underestimated the level of effort that such a program would require. The proposed enhanced focused client support services is necessary to support the greater number of businesses along the various corridors.

Metro staff successfully negotiated a cost savings of $255,526 by reducing the duplication of efforts and clarifying the intent of the Scope of Services.

	Proposer Name	Proposal Amount	Metro ICE	Negotiated amount
1.	PCR	$3,603,536	**$3,188,857**	**$3,348,010**

D. Background on Recommended Contractor

The recommended firm, PCR, located in Los Angeles, California, and founded in 1977, provides assistance to small business owners by promoting community economic development, through the delivery of financial and educational services to underserved small business persons and communities. PCR is the incumbent on the existing BIF contract awarded in December 2014, and has performed satisfactorily in addition to being responsive to the community needs.

ATTACHMENT D

DEOD SUMMARY

METRO PILOT BUSINESS INTERRUPTION FUND / CONTRACT NO. PS56079

A. Small Business Participation

The Diversity and Economic Opportunity Department (DEOD) did not establish a Small/Disabled Veteran Business Enterprise (SBE/DVBE) goal for this procurement due to the lack of SBE/DVBE firms certified as Community Development Financial Institutions (CDFI) and accredited Small Business Development Center (SBDC) Consultants, as required for this project.

B. Living Wage and Service Contract Worker Retention Policy Applicability

The Living Wage and Service Contract Worker Retention Policy is not applicable to this contract.

C. Prevailing Wage Applicability

Prevailing wage is not applicable to this contract.

D. Project Labor Agreement/Construction Careers Policy

Project Labor Agreement/Construction Careers Policy is not applicable to this Contract. Project Labor Agreement/Construction Careers Policy is applicable only to construction contracts that have a construction contract value in excess of $2.5 million.

Metro Business Interruption Fund

Metro

PCR
Pacific Coast Regional
Small Business Development Corporation

Pilot Program Goal

- ***Metro's Goal: Help small "mom and pop" businesses continue to thrive throughout construction and post construction.***
- Financial assistance to small "**mom and pop**" businesses **directly** impacted by Metro transit rail construction along three project areas:
  - Crenshaw/LAX Transit Project
  - Purple Line Extension, Section 1
  - Regional Connector, Little Tokyo area & 2nd/Broadway segment
  - Purple Line Extension, Section 2

Metro

Program Evolution

- Metro's first ever pilot project
  - > Board authorization: October 2014
  - > BIF soft- launch: February 2015
  - > BIF formal launch: April 2015
  - > BIF expansion: December 2015
  - > BIF Expansion: December 2016

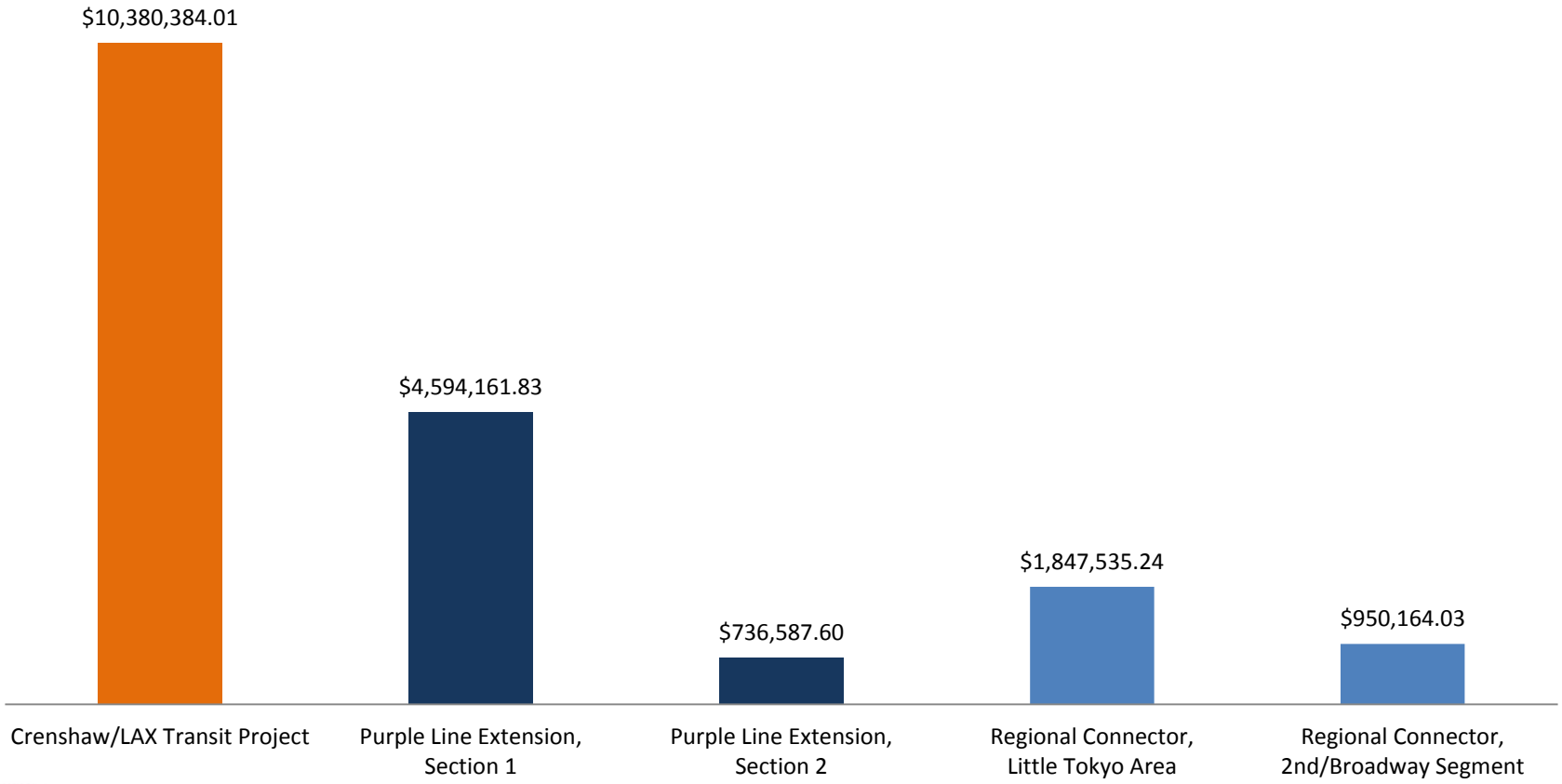
Metro

Facts at a Glance

- More than $18.5 million awarded to “mom and pop” businesses
- Over 700 grants awarded to more than 300 “mom and pop” businesses
- More than 1,200 jobs retained through the award of BIF grants to businesses
- 100% of business grantees referred to support services post grant award

Metro

Grant Award Summary



Metro

Measures of Effectiveness

93%

Businesses remaining open after six months of grant award **Goal: 100%**

86%

Businesses remaining open after 12 months of grant award **Goal: 100%**

82%

Businesses remaining open after 24 months of grant award **Goal: 100%**

Metro

Reporting as of CY 2018 Q3

Outreach & Engagement

"We remain committed to the success of Café Creole and look forward to increasing customers when the Crenshaw line opens. In the meantime, it is great to have the support from a program such as the BIF that looks out for small businesses." Eric Lanueville

Project: Crenshaw/LAX Transit Project

Metro

Lessons Learned

"Our business was impacted when 2nd Street was closed because of where we are located. We experienced some difficulties but we are thankful for the support we received from the BIF."
Cindy Shiono and Shinataro Shiono

Project: Little Toyko Area Regional Connector

Metro

Next Steps

- Execution of professional services contract for fund administrator
- Ongoing assessment of lessons learned
- Initiate case study assessment of pilot
  - Measurable economic and socio-economic impacts
  - Direct and indirect benefits
  - Business resiliency

Metro

Thank you

Metro