



## Board Report

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**CONSTRUCTION COMMITTEE  
APRIL 20, 2023**

**SUBJECT: BUSINESS INTERRUPTION FUND**

**ACTION: APPROVE RECOMMENDATIONS**

**RECOMMENDATION**

CONSIDER:

- A. RECEIVING AND FILING the Pilot Business Interruption Fund (BIF) Assessment;
- B. AUTHORIZING the Chief Executive Officer to expand the Pilot Business Interruption Fund (BIF) to the East San Fernando Valley Light Rail Transit Project; and
- C. APPROVING the Pilot Business Interruption Fund (BIF) program modifications (Attachment D).

**ISSUE**

At its February 2023 meeting, the Board approved Motion 32 by Directors Krekorian, Najarian, Horvath, Barger, Bass, and Dupont-Walker (Attachment A) that directs staff to assess the Pilot Business Interruption Fund (BIF) and report back with recommendations for how the BIF could be applied to address local business impacts created by the construction of the East San Fernando Valley Light Rail Project.

In accordance with the Board's Motion, this report provides an assessment of the Pilot Business Interruption Fund, along with lessons learned for improvement and an analysis for the expansion of the BIF to the East San Fernando Valley Light Rail Project (ESFV).

**BACKGROUND**

Metro is an essential component of the economic infrastructure of Los Angeles County as it connects people to jobs, services, and businesses. Transit rail construction can mean growth opportunities for cities; however, transit construction also can be challenging for small "mom and pop" businesses located along transit corridors, given the multi-year construction periods.

Recognizing the importance of supporting small businesses during construction as vital to ensure the

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economic sustainability of communities, at its October 2014 meeting, the Board approved Motion 57 by Directors Molina, Dupont-Walker, Ridley-Thomas, and Garcetti (Attachment B) that authorized the CEO to establish the Pilot Business Interruption Fund (BIF) for small “mom and pop” businesses located along the Crenshaw/LAX Transit Project, the Little Tokyo area of the Regional Connector and Section 1 of the Purple Line Extension. In December 2016, Metro’s Board of Directors authorized the expansion of the BIF to include small “mom and pop” businesses 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 expanded the program to include Section 2 of the Purple Line Extension. In February 2019, the Board voted to expand the BIF to the Purple Line Extension Section 3.

Through the pilot BIF, Metro provides financial assistance to directly impacted small “mom and pop” businesses through grants to cover certain fixed operating expenses and lost revenue due to direct construction impact. Metro’s goal is to help small businesses continue to thrive throughout construction and post-construction. The BIF is an important part of Metro’s construction mitigation program, which includes the Business Solution Center and Eat Shop Play, which supports communities that Metro expands into.

## **DISCUSSION**

Since Metro’s Board adopted the BIF, Metro has provided financial assistance to 445 small “mom and pop” businesses directly impacted by transit rail construction. As of March 31, 2023, Metro has awarded 1,490 grants for over \$37 million to “mom and pop” businesses throughout the project areas. The successes of the pilot program are demonstrated in the measures of effectiveness, of which 94% of businesses have remained in operation six months post grant award; 88% one-year post grant award; and 77% two-years post grant award. (Attachment C). For the Crenshaw/LAX Line: 74% of small businesses that received a BIF grant were still in operation when the Line opened in 2022 after eight years of construction and a pandemic.

### **BIF Success Factors**

Throughout its eight years of implementation, the BIF has been successful due to various factors, including the types of projects it has been applied to as follows:

- Metro’s transit rail projects with a construction budget over one billion dollars;
- Metro rail transit projects that are multi-year (4 plus years) with significant construction activities and or unprecedented full street closures with a duration greater than six continuous months;
- The authorization of the BIF came from Metro’s Board recognizing the significant impact construction may have on the small “mom and pop” businesses located on corridors. As such, the BIF grants are geared to small businesses that have been directly impacted by Metro’s construction projects;
- In delivering the BIF through defined program eligibility requirements and guidelines, Metro has ensured equitable access to financial resources for businesses in each of the transit rail project corridors; and

- Metro has learned that direct community outreach and in-person engagement by a third-party administrator is the most effective way for building community trust and engaging the community in the programs. This has led to delivering programs that meet the needs of the businesses impacted by construction by providing free technical capacity support in addition to the direct grant.

Potential BIF Expansion to ESFV LRT

Recognizing the potential for small businesses to be impacted by the construction of the East San Fernando Valley (ESFV) Light Rail Transit Project (Project), Staff has coordinated with Metro’s Program Management Department to understand the nature of construction in conjunction with the contracting method to utilize a Progressive Design-Build Contractor (PDB). For the purposes of this BIF Report, staff has assessed the program’s applicability solely for the southern segment and will re-evaluate the project alignment in conjunction with Program Management’s conclusion of the analysis for the northern segment of the ESFV Project.

1. ESFV Project Construction Schedule: The ESFV Project will extend from the Van Nuys Metro G-Line station to the Sylmar/San Fernando Metrolink Station, a total of 9.2 miles with 14 at-grade stations. In February 2023, Metro’s Program Management staff requested the Board to approve the contract for the PDB to begin phased work activities for the Southern Segment of the ESFV Project. The Southern Segment will be 6.7 miles long and include 11 at-grade stations along with a maintenance facility.
2. BIF Program Schedule: The PDB contract for the ESFV project will be delivered in two phases; Phase 1 to include pre-construction services and Phase 2 to include final design, construction, testing, and commissioning for the entirety of the project. Metro staff will ensure the BIF is up and running by the groundbreaking of major construction in compliance with the BIF Administrative Guidelines.

Staff has also researched the number of small “mom and pop” businesses that will fall along the project alignment. For the purposes of the BIF, a small “mom and pop” business is defined as a business with 25 or fewer full-time employees. Through the utilization of the Dun & Bradstreet database as of December 2022, staff has collected geographical data on the small businesses that fall along the collective zip codes that encompass the ESFV project. Furthermore, Metro’s Geographic Information System (GIS) Team has been able to use the longitude and latitude information to determine the placement of each individual small business within a quarter mile buffer of the project alignment. This data analysis reveals that 2,611 small businesses fall within a ¼ mile of the ESFV project alignment.

Project Zip Code’s	Small Business Location Buffer	Small Business* Count	Average Number of Employees	Average Sales Volume
91331, 91402, 91405, 91411, 91401	¼ Mile	2,611	5	\$312,024

Data Source: Dun & Bradstreet

\*Small Businesses are defined as 25 or fewer full-time employees

The number of potentially eligible small “mom and pop” businesses located along ESFV (2,611) exceeds the combined total of BIF grants awarded to date and exceeds the 2014 estimated number of potentially eligible businesses on both the Crenshaw LAX Transit Project (CLAX) and the Little Tokyo Area of the Regional Connector (LTRC). In 2014 it was estimated that 843 businesses were located along the CLAX and 267 along LTRC, demonstrating a 58% increase in small businesses that fall along the ESFV Corridor. To date, 239 small businesses along the CLAX have been awarded grants, and 33 small businesses have been awarded grants along the LTRC.

For program continuity and in recognition of the importance of maintaining a fiscally prudent yet efficient program that provides financial assistance to small “mom and pop” businesses. BIF Administrative Guidelines state that 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.

Key Program Takeaways

The BIF has generally been well received by grantees and serves an important purpose. Contractors also commend the program for reducing complaints about construction activity. Grantees have indicated that the program has supported their financial needs during business disruptions caused by construction. And also important, it has proven to be an effective tool in avoiding the displacement of legacy businesses.

Metro was one of the first agencies in the Nation to create and implement a BIF program and serves as a model for commercial displacement avoidance programs. A peer review of four prominent programs that featured similarities to the BIF program was conducted: the Santa Ana Business Interruption Fund, the Phoenix Valley Metro Fund, Sound Transit’s Rainier Valley Transit Oriented Community Development Fund, and the Houston Fund for Social Justice and Economic Equality.

Out of the aforementioned programs, Metro’s BIF has the highest annual funding cap at \$50,000 in grant funds, with the next highest providing \$30,000 in funds. Notably, one of the four small business grant programs reviewed, the City of Houston’s Fund for Social Justice and Economic Equity, is not specifically tied to construction impacts. The program is capped at \$65,000 over a three-year period with the requirement that funds be allocated towards the purchase of property, equipment, and other tangible assets.

Name of Agency	Program Date	Max Grant per Business	Total Grants Issued	Other Items
City of Santa Ana, CA	Current (2 <sup>nd</sup> year)	\$10,000	\$1,500,000	Street vendors (\$2,500) Independent Contractors (\$1,300). Grant includes businesses within 350 feet of the impacted street and construction zone.

Valley Metro, Phoenix, AZ	Current (2 <sup>nd</sup> year)	\$9,000	Granted over \$360,000 to 62 businesses in the first year	Annual Revenue Cap (\$750,000, previously \$500,000)
Sound Transit, Seattle, WA	2002 - 2008	\$25,000 - 30,000 depending on year	\$11,000,000 total over the entire program	
City of Houston, TX	2022	\$65,000	\$20,000,000	Grants are over a three-year period and apply towards the purchase of property, equipment and other tangible assets

According to the Natural Resources Defense Council, transit improvement projects have the potential to accelerate gentrification, leading to displacement of residents and loss of cultural identity in the affected neighborhoods. This often occurs due to an increase in property values and rents, which can make it difficult for small businesses and low-income residents to stay in their neighborhoods. While its primary function is to be a construction mitigation program, BIF has had a direct impact on the preservation of regional cultural identity within the communities that high-capacity transit expands into. BIF’s Measures of Effectiveness state that 88% of businesses have not closed nor moved one-year post-grant award (Attachment C).

Additional key takeaways focus on areas where Metro can further increase BIF support for impacted small “mom and pop” businesses. Metro has an opportunity to support businesses by increasing the maximum grant award from \$50,000 to \$60,000. Increasing the maximum grant award would allow for a greater number of grant awards to fully cover lost revenues. Another area where Metro can further increase BIF support and engage a larger number of potentially eligible small businesses is through the creation of a new grant award, presumptive eligibility. The presumptive eligibility grant application and award would be implemented via an application that allows small “mom and pop” businesses to self-certify their financial documentation and revenue loss as a result of Metro construction disruption. Additional information about each of these takeaways is provided in section B.

**B. BIF Program Modifications**

Through the BIF program analysis and subsequent stakeholder input, staff recommends the following amendments to the BIF administrative guidelines to allow for increased support for impacted small “mom and pop” businesses. The proposed modifications below would be implemented prospectively program wide (Attachment D).

**Increase Maximum Grant Award**

Metro staff proposes increasing the maximum annual BIF grant threshold from \$50,000 to \$60,000.

Historically, approximately 25% of grants awarded had revenue losses that exceeded the current annual maximum of \$50,000. Furthermore, approximately half of the aforementioned grants awarded

had revenue losses that would have been fully covered by a grant with an annual maximum of \$60,000.

As stated in Motion 57 (Attachment B), the Board allocated \$10 million of Metro funds on an annual basis to be used for the BIF's implementation on the current Board approved transit rail projects. With the current budgetary allocations and financial forecasting of the BIF's implementation along the current projects and ESFV LRT, staff believes that increasing the annual maximum of the BIF grant threshold from \$50,000 to \$60,000 will be viable and not require any changes to the current fund allocation.

### Presumptive Eligibility Grant Application and Award

The BIF eligibility criteria states that a business must be able to produce relevant financial documentation related to the period of Metro construction activity that occurred in front of their business (or on the block in which the business is situated). Financial documentation includes the current year's tax returns and any other records that demonstrate business revenue, including, for example, business bank statements, profit and loss statements, sales reports, etc. These documents are used in the financial analysis performed to determine the BIF grant award.

Throughout the BIF's implementation, there have been a number of small "mom and pop" businesses that have faced difficulty in collecting and producing the necessary financial documentation needed to apply to the BIF.

To mitigate this burden, Metro has implemented a best practice of providing hands-on support for businesses applying to the BIF, which will remain in practice. The BIF Fund Administrator, Pacific Coast Regional (PCR), provides free hands-on assistance to these businesses, including meeting small "mom and pop" business owners at their business location to collect documents in-person, being available via text message, and more. Metro's first-ever Business Solution Center along the Crenshaw/LAX Transit Project (CLAX BSC) provided additional hands-on assistance as well as direct referrals to tax preparers and bookkeepers and convened trainings focused on financial record management, including how to use QuickBooks. The expansion of the BSC to all up-coming light rail and bus rapid transit projects, including the East San Fernando Valley Project, authorized by the Metro Board of Directors in October 2019, will include this hands-on assistance and technical support for small businesses applying to the BIF.

While hands-on support is provided, staff recognize that the process of collecting and producing financial documentation remains a burden and potential barrier for some small "mom and pop" business owners. Anecdotally from PCR staff and the CLAX BSC team, even with hands-on support, many small business owners have often taken several months - and in rare instances years - to collect and provide the required financial documentation. Until all documents are provided, no grant funds can be issued, leaving the small business to shoulder the burden of their lost revenue. To mitigate this challenge, staff proposes implementing a new "Presumptive Eligibility" grant application and award for grants not to exceed \$1,500, as detailed below.

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The presumptive eligibility grant application and award would be implemented via an application that allows small “mom and pop” businesses to self-certify their financial documentation and revenue loss as a result of Metro construction disruption. By allowing small businesses to self-certify their financial loss, Metro would reasonably presume that any business adjacent to Metro’s transit rail construction experiences revenue loss as a direct result of construction activity.

The BIF Fund Administrator PCR reports that 23 businesses (18% of total ineligible businesses) have been deemed ineligible for the BIF due to insufficient financial documentation. Additionally, PCR has made a qualitative observation that businesses that do not have sufficient resources to gather necessary documentation or are reluctant to provide their tax returns or other financial records typically do not even initiate the application process and thus are not counted in program data. Metro staff concur with PCR’s qualitative observation, as staff has also addressed concerns and inquiries from small business owners related to program eligibility.

Staff is proposing that the BIF Administrative Guidelines be amended to include Presumptive Eligibility allowing small businesses to apply for a BIF grant by self-certifying their revenue loss due to Metro construction disruption and thereby not providing any financial documentation. Businesses who apply using Presumptive Eligibility would need to meet all BIF Program Eligibility requirements, including but not limited to:

- having 25 or fewer full-time employees
- being located within the eligible geographic area, which means immediately adjacent to a transit rail corridor
- being in operation for two continuous years

Presumptive Eligibility grants would have an annual maximum award of up to \$1,500 (2.5% of the proposed annual maximum BIF grant award of \$60,000). This amount has been deemed reasonable and fiscally prudent and approximately replicates The City of Santa Ana’s Business Interruption Fund grant amount for Independent Contractors. To date, about 2.6% of Metro’s BIF grants have been awarded for a total of up to or less than \$1,500. Lastly, a business that receives a Presumptive Eligibility grant award will not be dissuaded from applying for revenue losses sustained as a result of subsequent months of construction activity. In this case, a business will be able to apply for a full BIF grant provided that they produce all necessary financial documentation. Businesses would be eligible for the annual maximum grant award less than the Presumptive Eligibility amount received.

### **DETERMINATION OF SAFETY IMPACT**

Approval of this item will not impact the safety of Metro’s customers or employees.

### **FINANCIAL IMPACT**

Board approval of this recommendation does not impact the FY23 budget. The expansion of the Pilot BIF program to ESFV alignment will coincide with the commencement of major construction activity, which is projected in FY25. Funding for BIF in future fiscal years will be addressed through the annual budget development process by the BIF Program manager.

### Impact to Budget

Each year, Metro has identified funds from Measure R and/or other eligible funding sources to support the implementation of the Pilot BIF program for all applicable transit rail construction projects. Due to the anticipated conclusion of construction of the Crenshaw/LAX Transit Project and the Little Tokyo Area of the Regional Connector, staff is able to work within the current level of annual funding to support the BIF program as it expands to ESFV project.

### **EQUITY PLATFORM**

The BIF will provide financial assistance to the small “mom and pop” businesses impacted by the construction of the ESFV project. Through the collection and analysis of small business data provided by Dun & Bradstreet, staff has noted that 86% of small businesses that are within a ¼ mile buffer of the ESFV Project fall within an Equity Focus Community.

With the implementation of the BIF along the ESFV Project, staff will continue the necessary outreach for small businesses located along the project alignment. Through outreach activities, staff will continue business referrals to collaborative resources such as Metro’s Business Solution Center, Metro’s Eat, Shop, Play program and Metro’s Construction Relations department. Outreach will be inclusive of small “mom and pop” businesses with diverse backgrounds, as exemplified in the BIF marketing materials provided in multiple languages. Lastly, recognizing the direct impact small businesses have on their communities, staff has tracked the number of jobs retained by grantees. To date, over 1,300 jobs have been retained by small businesses that have received financial assistance from the BIF.

Upon Board approval of the Presumptive Eligibility opportunity for potentially eligible small businesses, staff will update the BIF Administrative Guidelines to reflect the changes in the application process. The process will include a requirement that any small business that applies for the BIF would have access to language translations or disability accommodation needs and will include multilingual and ADA accessible trainings and/or resources to ensure that small businesses have equal opportunity to fully understand the self-certification process.

### **IMPLEMENTATION OF STRATEGIC PLAN GOALS**

Approval of this item aligns to Metro strategic goal 3 - enhance communities and lives through mobility and access to opportunity.

### **ALTERNATIVES CONSIDERED**

The Board may choose not to move forward with the expansion of the BIF program on the ESFV project. This is not recommended as there are double the number of small businesses along this corridor than the combined previous BIF projects, and given the anticipated duration of construction, there would be an increase in commercial displacement without the BIF.

Staff also considered reducing the two-years in business eligibility requirement to one-year in business, however, this is not recommended as major construction activity for ESFV is not



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anticipated for another two years. Further, according to the Small Business Office of Advocacy, about two-thirds of businesses survive after two years, demonstrating that there is volatility in the first two years of a business. Lastly, requiring businesses to be open and operating for two continuous years also ensures that there will be sufficient records to perform the financial analysis required to receive a grant using the existing process.

Staff also considered expanding the geographic eligibility for the grant program. This is not recommended because there is not sufficient data to support the need to expand geographic eligibility. Program data demonstrates that 32% of ineligible applications (41 total) were deemed ineligible due to the business location not being within the geographic eligibility area.

### **NEXT STEPS**

Upon Board approval, staff will begin incorporating the BIF program modifications into the BIF Administrative Guidelines. All amendments to the guidelines will become effective no later than the start of FY2025, which ensures that all modifications are in place prior to the start of heavy construction of the ESFV Project anticipated to begin in 2025. All program modifications will be applied program wide - to all Board approved transit rail projects authorized for the Business Interruption Fund.

### **ATTACHMENTS**

Attachment A - Motion 32 - BIF Analysis & Potential Expansion

Attachment B - Motion 57 - BIF Authorization

Attachment C - BIF Metrics and Measures of Effectiveness

Attachment D - Proposed BIF Program Modifications

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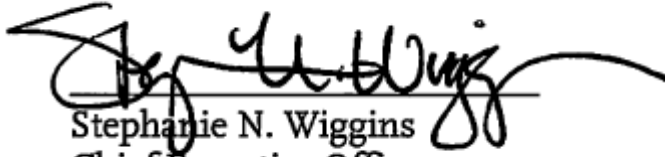
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