



AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Michele Byrd
Director, HCD

SUBJECT: BRT Business Technical Assistance
Contract —Supplemental Report

DATE: September 20, 2016

City Administrator Approval

Date:

9/22/16

RECOMMENDATION

Staff Requests That The City Council Waive the Local and Small Local Business Certification Requirement And Authorize The City Administrator To Negotiate And Enter Into A Professional Services Agreement Not-To-Exceed \$1,000,000 With AnewAmerica Community Corporation To Provide Technical Assistance For Businesses Along The Bus Rapid Transit Route In Oakland Effective October 5, 2016 Through September 30, 2018.

REASON FOR SUPPLEMENTAL REPORT

On September 13, 2016, staff presented its recommendation to authorize a \$1,000,000 Professional Services Agreement with AnewAmerica Community Corporation (ANA) to provide business technical assistance services for merchants located along the Business Rapid Transit (BRT) route in Oakland. Mason Tillman Associates (MTA), LLC asserted that the AnewAmerica (ANA) contract was non-compliant with the City's 50 percent Local/Small Local Business requirement. It is correct that ANA did not receive Local Business Enterprise (L/SLBE) certification until after the July 22, 2016 proposal due date. Upon consideration of the non-compliance issue and the merits of the ANA proposal, staff is requesting that the City Council waive the provision in the City's L/SLBE policy regarding certification prior to the proposal submission due date, and accept staff's recommendation to negotiate and enter into a contract with ANA, which is now in compliance with the L/SLBE 50 percent requirement.

ANALYSIS AND POLICY ALTERNATIVES

L/SLBE Policy Compliance Issue

Regarding compliance with the L/SLBE certification requirement, it is correct that ANA was not certified prior to the proposal submission due date. The L/SLBE policy states the following: "Certifications must be current and valid prior to the submittal due date in order for the local participation to count toward meeting the 50% business participation requirement." The rating of the proposals has been adjusted with the removal of Preference Points for the ANA proposal, as illustrated in the table below. Staff is seeking a waiver of the L/SLBE certification requirement in this instance given that ANA was ranked higher in the evaluation process and is now certified as a LBE.

Item: _____
CED Committee
September 27, 2016

Proposal Rating Adjustment

Given that ANA was certified as an Oakland Local Business Enterprise after the proposal due date, the final score of the two responsive proposals are as follows:

| Proposer | Rater 1 Score | Rater 2 Score | Rater 3 Score | Average Score | Compliance Preference Points ¹ | Total |
|---------------|---------------|---------------|---------------|---------------|---|-------|
| AnewAmerica | 90.5 | 100.0 | 92.0 | 94.2 | 0.0 | 94.2 |
| Mason Tillman | 70.0 | 85.0 | 96.0 | 83.6 | 7.5 | 91.1 |

As previously stated, ANA and its partners currently exceed the 50 percent Local Business Enterprise requirement. As presented in the table above, the adjusted L/SLB preference points does not alter the final ranking of the respondents. Staff continues to stand by the recommendation to award the Business TA contract to ANA.

City of Oakland Business Technical Assistance (TA)

In November 2014, the City Council unanimously approved a \$500,000 Business Technical Assistance (TA) “start-up phase” contract with the Oakland Business Development Corporation (OBDC)—now Main Street Launch. AC Transit’s Board approved funding for a \$2,000,000 contract with OBDC in September 2015. In May 2016, staff presented a recommendation to enter into a Professional Services Agreement with Main Street Launch to provide Business TA services as contemplated by the City Council and AC Transit for the BRT Business Sustainability Program (BSP). The Community and Economic Development (CED) Committee rejected staff’s recommendation following a concerted community and merchant led effort against Main Street Launch.

In June 2016, staff issued a RFP for the Business TA contract in order to meet the BSP obligations. Of the two proposals received that were responsive to the advertised scope of work, the average score of the three reviewers and City staff concluded that the AnewAmerica team proposed an approach that seems most responsive to meeting the needs of businesses—particularly small immigrant operated businesses—along the BRT route.

This Business TA contract is scheduled to go into effect by October 2016. Its major scope of work tasks are as follows:

- Define Indirect Economic Impacts not covered by the AC Transit Business Impact Mitigation Plan;
- Build relationships with businesses along the BRT route through frequent visits, patronage, and with team members experienced in working with recent immigrants and merchants of color;

¹ Preference points are awarded to respondents based upon a formal Compliance Analysis of their organizations’ and teams’ standing regarding Small/Local Business Enterprise Participation and the number of years operating in Oakland. The analysis is conducted by the City’s Office of Contracts and Compliance.

- Provide customized Business TA Services based on a thorough understanding of each business's type, distinct needs, and situation along the route;
- Coordinate efforts with other business services organizations and funders that are investing expertise and financial resources towards BRT corridor organizations; and
- Identify businesses based on type and proximity to BRT stations, medians that impede left turns, and substantial parking loss to determine if they are eligible for BAF assistance based upon the eligibility and disbursement guidelines approved by the Oakland City Council.

Intensive, street-level technical assistance services for businesses along the BRT route are needed immediately. Phase 3 pavement, station and median construction is scheduled to begin in October beginning at 42nd Avenue and moving southward. ANA and many of its partners have been very engaged in the BRT planning process for many years and are ready to hit the ground running. Among the strengths of the ANA team proposal the reviewers pointed out are:

- Responsive to needs of businesses along Corridor
- Team comprised of partners that understand needs of small businesses and how to work with them
- References include small businesses
- Prepared to fill role merchants need
- Good track record working with small businesses and engendering trust
- Good understanding of what is needed
- Very qualified sub-contractors
- Clear understanding of issues businesses will face
- Lease negotiations support is good

While staff noted the strengths and qualifications of Mason Tillman Associates in its original report, it believes that the ANA team is best qualified to meet the needs of the immediate and longer term street-level business TA along the entire corridor. Reviewers and staff noted that Mason Tillman's experience and approach are best suited for high-level Community Outreach, and seemed redundant to that of AC Transit's established Construction Community Outreach team. Also, Mason Tillman's proposed partners are positioned to administer the BAF program, which is not called for in the RFP scope of work.

Interface of Business TA and BAF Administration

The RFP scope of work stated that the Business TA consultant will identify businesses which may be eligible for the BAF, determine if they are eligible for grants based on the City Council approved Guidelines, assist them with the application process, including with the development of detailed plans for the use of the funds. Final determination of eligibility, preparation and execution of grants, and progress payments will all be performed by City staff.

For reference, the City's Business Sustainability Program services and funding were articulated and directed by the City Council by way of Resolution No. 85285 C.M.S. and 85286 C.M.S., adopted November 18, 2014.

1. Business Technical Assistance Element: The intent of the Business TA element is to provide street-level services to business along the BRT route in Oakland before, during and after BRT construction. In the process of providing these essential services in a timely manner, the Business TA consultant will identify and work with businesses which may be in need of and are eligible for receiving BAF support. The City Council did not intend that these funds be used for direct business financial support but rather assistance that would help address the changes in traffic, parking and customer patterns.
2. Business Assistance and Sustainability Fund: This \$2,000,000 fund was established by way of Resolution No. 85085 C.M.S. and Resolution No. 85286 C.M.S., with a \$1,000,000 allocation of General Purpose funds previously approved during the Fiscal Year (FY) 2013-2015 mid-cycle budget process, and two allocations of Community Development Block Grant (CDBG) funding--\$500,000 in FY 2015-2016 and \$500,000 in FY 2016-2017. The City Council explicitly directed that these funds be used only for direct business financial assistance.

Effective use of the BAF depends on the Business TA provider identifying businesses that may be eligible for financial assistance and working with helping businesses in developing plans and preparing grant applications.

Based upon the approved BAF Guidelines, City staff has developed a process for the efficient disbursement of BAF grant funds, which is originated by the Business TA provider. Without a Business TA provider on the street, BAF grants cannot be originated. Following is a list of the key tasks City staff is prepared to perform to administer the BAF grant program:

- Grant application review and vetting of business eligibility;
- Scope of work and cost estimates review;
- Development and execution of grant agreement, including all required schedules, licenses, proof of insurance, etc.;
- Incremental design review and approval process;
- Plan checking and building permit approvals;
- Reimbursement agreements;
- Contractor requirements verifications;
- Payment processing; and
- Grant compliance monitoring and reporting.

Communications and Coordination with AC Transit

The BRT Construction Impact Mitigation Plan (CIM-p) defines the overarching BRT Business Technical Assistance (TA) program and differentiates AC Transit's ongoing responsibility to validate and remedy the direct temporary and permanent impacts of BRT Project pursuant to the FEIS/R from supplemental activities assigned to Oakland Business TA program. The City's TA program, a subset of its larger Business Sustainability Program (BSP), is responsible to conduct individual business assessments and identify indirect permanent physical and programmatic impacts to the businesses along the corridor. In addition, the City TA program

will provide business technical assistance, business operations training, referral to business specialty consultants and access to available financial programs through its consultant.

Differentiating lead roles and responsibilities within the layers of the BRT project's impact mitigation plans and programs is crucial. AC Transit and City staff and our respective consultants must work out communications processes, which will include Salesforce customer relations tracking, and protocols to ensure that the project team is responsive and supportive to impacted businesses before, during, and after construction. For AC Transit, the Community Construction Relations Managers (CCRMs) are in the forefront of working with businesses and the community about BRT construction outreach, schedules and probable interruptions, along with AC Transit's Project and Construction Managers and Contractor, OC Jones & Sons. The City must be prepared immediately to provide TA services for any business along the BRT route that needs assistance.

Time is of the Essence

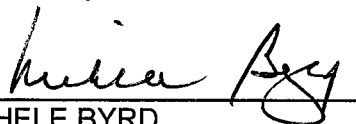
The essential element that is currently keeping the City from initiating the BSP and particularly the BAF grant program is the absence of a Business TA provider under contract and working with businesses and AC Transit staff on the BRT route. Time is of the essence as Bid Packet 3 work is scheduled to begin in October 2016. Should the City Council choose not to act on authorizing a business TA contract, staff will reissue a RFP, which will set back the implementation of the entire BSP and essential services to businesses along the BRT route three to four months.

ACTION REQUESTED OF THE CITY COUNCIL

Staff requests that the City Council adopt a Resolution waiving the Local and Small Local Business Certification Requirement and authorizing the City Administrator to negotiate and enter into a Professional Services Agreement not-To-exceed \$1,000,000 with AnewAmerica Community Corporation to provide technical assistance for businesses along the Bus Rapid Transit route in Oakland effective October 5, 2016 through September 30, 2018.

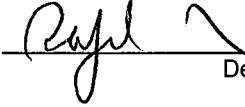
For questions regarding this report, please contact Al Auletta, International Boulevard Corridor Program Manager, at 238-3752.

Respectfully submitted,



MICHELE BYRD
Director, Department of Housing and
Community Development

Prepared by:
Al Auletta, Program Manager
International Boulevard Corridor Project


Deputy City Attorney

OAKLAND CITY COUNCIL
RESOLUTION No. _____ C.M.S.

A RESOLUTION WAIVING THE LOCAL AND SMALL LOCAL BUSINESS CERTIFICATION REQUIREMENT AND AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND ENTER INTO A PROFESSIONAL SERVICES AGREEMENT NOT-TO-EXCEED \$1,000,000 WITH ANEWAMERICA COMMUNITY CORPORATION TO PROVIDE TECHNICAL ASSISTANCE FOR BUSINESSES ALONG THE BUS RAPID TRANSIT ROUTE IN OAKLAND EFFECTIVE OCTOBER 5, 2016 THROUGH SEPTEMBER 30, 2018

WHEREAS, as a Condition of Approval for the East Bay Bus Rapid Transit (“BRT”) project, the Oakland City Council and the AC Transit Board of Directors adopted and committed to fund a Business Sustainability Program (“BSP”) to support businesses along the BRT route during construction and when the BRT goes operational; and

WHEREAS, the agreement between the City and AC Transit includes the establishment of a Business Technical Assistance Element as part of the BSP; and

WHEREAS, the City Council authorized the appropriation of up to \$2,500,000 from AC Transit by Resolution No. 85284 C.M.S. on November 18, 2014 to support the City’s BSP; and

WHEREAS, staff conducted a formal, advertised Request for Proposal (“RFP”) process to procure the services of a qualified consultant team to provide extensive Technical Assistance for businesses along the BRT route in Oakland; and

WHEREAS, staff received two responsive proposals, which were reviewed in accordance with the Evaluation Criteria articulated in the RFP; and

WHEREAS, the reviewers recommend the services of AnewAmerica Community Corporation as the lead consultant, and its team that includes the Bay Area Local Initiatives Support Corporation (LISC), Centro Community Partners, the Lawyers’ Committee for Civil Rights of the San Francisco Bay Area, Renaissance Entrepreneurship Center, The Unity Council, and Oakland Digital; and

WHEREAS, the AnewAmerica consultant team also includes in-kind services from the East Bay Asian Youth Center (EBAYC), Inner City Advisors (ICA), KIVA Oakland, Pacific Community Ventures, Southeast Asian Community Partners, and Working Solutions; and

WHEREAS, staff also intends to support AnewAmerica and its partners through the Oakland Business Assistance Center and the Department of Housing and Community Development; and

WHEREAS, the AnewAmerica consultant team will work closely with AC Transit's External Affairs Representative and BRT Community Relations and Public Engagement consultants; and

WHEREAS, the AnewAmerica Professional Services Agreement Scope of Work, attached as **Exhibit A** and incorporated herein by this reference, includes direct support for businesses interested in applying for financial assistance through the City's Business Assistance Fund based upon the Eligibility Criteria and Disbursement Guidelines adopted by the City Council by Resolution No. 86321 C.M.S. on July 19, 2016, attached as **Exhibit B** and incorporated herein by this reference; and

WHEREAS, the recommended Professional Services Agreement with AnewAmerica is contingent upon the approval by the AC Transit Board of Directors of the allocation of a \$2,000,000 grant from the Alameda County Transportation Commission (ACTC); and

WHEREAS, the City Administrator has determined that this contract is of a professional and temporary nature and shall not result in the loss of employment or salary by any person having permanent status in the competitive civil service; now, therefore, be it

RESOLVED: That the City Council waives the Local and Small Local Business Certification ; and be it

FURTHER RESOLVED: That the City Council authorizes the City Administrator to negotiate and enter into a Professional Services Agreement with AnewAmerica Community Corporation in an amount not to exceed \$1,000,000 to provide technical assistance for businesses along the Bus Rapid Transit route in Oakland effective October 5, 2016 through September 30, 2018; and be it

FURTHER RESOLVED: That based on information provided by the City Administrator, the Council finds that this contract is of a professional and temporary nature and shall not result in the loss of employment or salary by any person having permanent status in the competitive civil service; and be it

FURTHER RESOLVED: That the City Administrator or his or her designee is hereby authorized to spend funds and take other action with respect to the adopted budget and authorized contracts consistent with this Resolution and its basic purposes.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL-WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID, and
PRESIDENT GIBSON MCELHANEY

NOES-

ABSENT-

ABSTENTION-

ATTEST: -----

LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California