



AGENDA MEMORANDUM

TO: Colleagues on the City Council and
Members of the Public

FROM: Councilmembers
Nikki Fortunato Bas and
Loren Taylor

SUBJECT: Bus Rapid Transit (BRT) Business
Assistance Fund Addressing
COVID-19

DATE: April 30, 2020

Colleagues on the City Council and Members of the Public,

We respectfully request you to consider the following item:

Staff Recommends That City Council Adopt A Resolution Amending Resolution No. 85286 C.M.S. To Allow Businesses Along The Bus Rapid Transit (BRT) Route To Apply For Business Assistance Fund Grants Due To Impacts From The COVID-19 Crisis; and Amending Resolution No. 86321 C.M.S. To Modify Business Assistance Fund Program Guidelines To:

- A. Add "Working Capital" As An Eligible Use Of Funds;
- B. Amend The Equitable Distribution Model Guidelines To Take Into Account Financial Loss Due To The COVID-19 Crisis; And
- C. Allow The Reallocation Of Funds From One Sub-District To Another Should There Be A Lack Of Eligible Businesses.

EXECUTIVE SUMMARY

The Business Assistance Fund (BAF), approved by Council in Resolution No. 85286 C.M.S. and Resolution No. 86321 C.M.S., was established to support businesses that have experienced or would experience permanent adverse impacts due to Bus Rapid Transit (BRT) infrastructure changes. As Alameda County temporary shelter-in-place orders from COVID-19 have profoundly impacted businesses along the BRT corridor, staff have conducted surveys and have heard that BRT businesses need immediate access to working capital to sustain themselves during the crisis. However, the existing requirements to process a BAF grant do not allow for this type of rapid response or use of funds. Staff is recommending amendments to the BAF program guidelines to allow the BAF to provide support to businesses facing impacts from the COVID-19 crisis.

Staff recommends that the BRT/BAF Program be amended to allow eligible businesses along the BRT Route to apply for BAF grants due to impacts from the COVID-19 Pandemic and to broaden the eligible use of those funds to include working capital to cover operating costs. These changes will allow eligible businesses to receive BAF funds to help them survive business impacts from the COVID-19 pandemic.

Item: _____
Special City Council Meeting

BACKGROUND / LEGISLATIVE HISTORY

Business Assistance Fund Program Guidelines

In 2013, AC Transit and the City entered into a Master Cooperation Agreement, which included \$22,700,000 for implementing the Conditions of Approval (CoA) for Business and Parking Impact Mitigation activities and roadway, bicycle and pedestrian improvements. Resolution No. 84570 C.M.S. urged AC Transit to set aside sufficient dollars to implement a comprehensive BRT - Business Impact Mitigation Fund, which resulted in a \$2,000,000 grant to the City from AC Transit as part of a Business Sustainability Program (BSP). In November 2014, the City Council unanimously adopted Resolution No. 85284 C.M.S. to accept and appropriate AC Transit's contribution for the development and implementation of the City's BRT BSP.

AC Transit, City staff and consultants worked together to revise BRT design features to mitigate impacts to businesses and residents, with extensive input from business owners, community members, and community advocates. Despite these efforts, the Oakland City Council concluded that the Final Environmental Impact Study/Report (FEIS/R) and Conditions of Approval (CoA) were not sufficient to protect some businesses from adverse permanent impacts from BRT infrastructure changes. To address these concerns the City Council created the \$2,000,000 Business Assistance and Sustainability Fund (BAS-f), which is currently known as the Business Assistance Fund (see next paragraph). Resolution No. 85085 C.M.S. appropriated \$1,000,000 of General Purpose Funds for the BAS-f and Resolution No. 85286 C.M.S. appropriated an additional \$1,000,000 of Community Development Block Grant (CDBG) funds for the BAS-f. Resolution No. 85286 explicitly directed that these funds not be dispensed until guidelines are in place. *A Further Resolved* in Resolution No. 85286 C.M.S. states that the BAS-f is for "businesses that have experienced adverse permanent impact from BRT infrastructure changes."

On July 19, 2016, the City Council approved the Eligibility Criteria and Disbursement Guidelines ("Eligibility Criteria") for what is now referred to as the Business Assistance Fund (BAF) by way of Resolution No. 86321 C.M.S. Please refer to **Attachment A** for the approved criteria and guidelines. On February 21, 2017, the City Council approved an amendment to Resolution No. 85286 C.M.S. to provide that the BAF is for businesses that will experience and have experienced adverse permanent impact from BRT infrastructure changes.

Response to COVID-19

On April 6, 2020, the Department of Housing and Urban Development (HUD) issued a "Quick Guide to CDBG Eligible Activities to Support Coronavirus and Other Infectious Disease Response," which listed several eligible uses for CDBG funds to prevent and respond to the spread of infectious diseases such as the coronavirus. Among these eligible activities was "Avoid job loss caused by business closures related to social distancing by providing short-term working capital assistance to small businesses to enable retention of jobs held by low- and moderate-income persons." HUD later clarified that working capital assistance is limited to first 30 days and based on projected start-up costs (i.e., utility startup costs, insurance, rent, taxes due, etc.).

In addition, since the start of the COVID-19 pandemic, City staff has outreached to over 1,000 businesses in Oakland who are looking for financial resources to assist them during the COVID-

19 pandemic. Businesses overwhelmingly reported that their most urgent need is for grant funds and working capital. This prompted early outreach to BRT applicants to gauge business needs and evaluate available business support resources, including analyzing the BRT/BAF Program.

ANALYSIS AND POLICY ALTERNATIVES

The BAF has \$773,000 in funds that have been dispensed or committed through existing written commitments in the form of grant agreements, leaving approximately \$1,227,000 remaining. As of April 9, 2020, 65 active applications have been submitted in various stages of completeness that have not been committed funds through a grant agreement, with 15 of those applications having received conditional letters of approval.

The table below shows the current status of grant funding by zone.

Business Zone 1 (52nd to 1st Avenue - International & E. 12th)

Authorized Funds	\$1,000,000
Committed Funds	(\$719,882)
Executed Agreements	(\$513,100)
Pending Executed Agreement	(\$206,782)
Remaining Funds	\$280,118

Business Zone 2 (53rd Avenue to the San Leandro Border & Uptown from Madison to Broadway)

Authorized Funds	\$1,000,000
Committed Funds	(\$652,330)
Executed Agreements	(\$260,000)
Pending Executed Agreement	(\$392,330)
Remaining Funds	\$347,670

Under the current program guidelines, the BAF grant is limited in the level of support it can provide for businesses today struggling with operating costs from COVID-19 impacts. Given that HUD has authorized the use of CDBG funds for working capital assistance (i.e., operating costs), staff proposes adding a corresponding eligible use of funds for the BAF Program to allow for working capital assistance to assist eligible businesses experiencing COVID-19 impacts and simplify the administrative paperwork to receive a grant.

The current BAF grant process, focused on equipment and façade improvements, requires applicants to develop feasible impact mitigation plans, scope out projects that often include construction work, and obtain bids from contractors. The resources available for BAF applicants to develop feasible impact mitigation plans are limited, and many active BAF applicants lack such impact mitigation plans. The end result is that businesses with active BAF applications have been unable to complete their funding agreements and receive funding.

Looking for ways to support our BRT/BAF business, staff polled active BAF applicants as to whether a simplified operating cost grant of \$5,000 to \$10,000 would help to retain jobs and their business during the COVID-19 crisis. 27 of the 32 businesses polled (84%) said such a grant would help. Listed below is a chart of survey responses:

Polling Question	Yes	No	Unsure	Total Responses
Would a \$5k-\$10k simplified grant for operating costs now help to retain jobs and business?				
No Grant or Conditional Grant Approval	82%	5%	14%	22
Conditional Grant Approval	90%	0%	10%	10
<i>Total Non-Committed</i>	<i>84%</i>	<i>3%</i>	<i>13%</i>	<i>32</i>
Would you take a \$5k-\$10k operating grant now if it meant that you may not get a larger BAF grant later?				
No Grant or Conditional Grant Approval	65%	20%	15%	20
Conditional Grant Approval	60%	20%	20%	10
<i>Total Non-Committed</i>	<i>63%</i>	<i>20%</i>	<i>17%</i>	<i>30</i>

Based on the survey results and one-on-one feedback from the BRT businesses, staff explored program amendments and developed the below program recommendations:

1. *Expand BAF Program Eligible Uses to Include Working Capital for Operating Expenses and Allow Up to \$10,000 for All BAF recipients*

Staff recommends that the City Council expand the program allowances to provide a choice for BAF applicants with committed grants to use funds for working capital to cover operating costs as an alternative to, or in combination with, existing eligible uses of grant funds. The application requirements for an operating cost grant would be streamlined. The requirement for a feasible impact mitigation plan could be fulfilled simply with a description of the operating costs that would be funded (e.g., payroll, utilities, rent, mortgage).

The maximum cumulative total of grant funds for any one BAF recipient would remain at \$100,000. The amount of the working capital advance would be up to \$10,000. Based on HUD direction that working capital assistance is limited to first 30 days and based on projected start-up costs, working capital grants larger than \$10,000 may not meet CDBG guidelines.

For existing businesses with pending/executed agreements, they would have the option to use up to \$10,000 as working capital for operating expenses, and the remainder would still be available to them for existing program uses.

The remaining uncommitted funds in Zone 1 (\$280,000) and Zone 2 (\$348,000) would be distributed exclusively as \$10,000 working capital grants for operating costs. This would provide 28 businesses in Zone 1 and 34 businesses in Zone 2, respectively, with a cash infusion.

Given the new ability to use CDBG funds for operating costs to mitigate job losses from COVID-19, disbursing the remaining non-committed BAF funds in fixed amounts to remaining applicants

would be the most expeditious means of distributing funds. This additional flexibility for eligible BRT BAF businesses would achieve a streamlined approach to distributing existing funding.

2. Modify Program Eligibility to Take into Account Financial Loss Due to the COVID-19 Crisis

The BAF was established to assist businesses along the BRT corridor. These businesses have been doubly impacted by BRT infrastructure as well as the COVID-19 pandemic. Staff therefore also recommends amending program guidelines to allow for businesses to apply for BAF grants due to impacts from the COVID-19 crisis in addition to impacts from BRT infrastructure.

3. Allow Reallocation of Funding by Business Zone to Ensure Distribution to All Eligible Businesses

The BAF guidelines approved in Resolution 86321 C.M.S. require an Equitable Distribution Model for disbursement, based upon business type and proximity to BRT infrastructure (stations, medians, left-turn restrictions) and significant parking loss. This model must ensure that businesses in each impacted sub-district receive equitable proportions of funding. Of the 65 submitted applications that have not been committed funds, 52 are from Business Zone 1 (52nd to 1st Avenue - International & E. 12th) and 13 from Business Zone 2(53rd Avenue to the San Leandro Border & Uptown from Madison to Broadway).

As of today, the funds remaining in Zone 2 exceed the completed and eligible applications submitted. If grants for operating costs are offered with streamlined application requirements, more eligible applications may be identified. However, the larger number of submitted applications in Zone 1 means the application funding rate will be much smaller in Zone 1.

Staff recommends adding a stipulation to the Equitable Distribution Model guidelines that allows reallocation of funds from one sub-district to another should there be a lack of eligible applications, in order to disburse all funds in a timely manner. This provision would only occur after extensive outreach has occurred to make sure that interested businesses are aware of the program. This program would remain on a first come, first served basis.

FISCAL IMPACT

The proposed program amendments would not have a fiscal impact as it only adjusts the program eligibility and use of existing funds to account for COVID-19.

PUBLIC OUTREACH / INTEREST

Staff polled existing BAF applicants to determine their interest in using BAF grants for COVID-19 impacts for operating costs, as described above.

COORDINATION

The Business Sustainability Program is a joint effort among the following entities:

- AC Transit
- The Public Works Agency

- The Department of Housing and Community Development
- The Department of Economic and Workforce Development
- The Office of Contracts and Compliance

The Office of the City Attorney and the Controller's Bureau reviewed and signed off on this Report and Resolution.

SUSTAINABLE OPPORTUNITIES

Economic: The sustainability of small businesses is essential for Oakland's economic health. While the BRT project offers hope for a vibrant transit-oriented commercial corridor, its construction and permanent infrastructure will disrupt some business operations. The Business Sustainability Program (BSP), including the BAF as well as the additional technical assistance element, provides critically needed services and resources to businesses along the BRT route that will experience permanent adverse impacts as a result of the BRT infrastructure changes.

Environmental: The BRT will reduce greenhouse gas emissions by significantly improving access to mass transportation using buses with advanced energy-efficient technology.

Social Equity: The businesses that will receive services represent the ethnic diversity of Oakland. The majority of the businesses along the BRT route are very small, with annual gross receipts of less than \$100,000. BSP services and resources are designed and aligned to assist all businesses, with added emphasis on small emerging businesses with ownership that reflects the rich diversity of Oakland.

Respectfully submitted,



Nikki Fortunato Bas, Councilmember



Loren Taylor, Councilmember

City of Oakland BRT Business Assistance Fund

City Council Approved Eligibility Criteria and Disbursement Guidelines

The following Eligibility Criteria and Disbursement Guidelines were developed by a Technical Advisory Committee comprised of business operators and community advocates who are familiar with the BRT, and adopted by City Council Resolution No. 86321 July 19, 2016.

1	Entity: Must be a for-profit business.
2	Location: On BRT route frontage or one block from front face curb of route.
3	Licenses: Must have Oakland Business Tax License and all required permits, etc.
4	Liens: No property or income tax liens against business.
5	Annual revenues: a) 3-year average annual revenues less than \$3 million; or b) if in business less than 3 years, annual revenues less than \$3 million.
6	Years in operation: Be in operation in current location 3 years prior to start of construction, or be in a current 3-year lease.
7	Technical Assistance: Must take advantage of Business Technical Assistance services (TA).
8	Distance of impact from BRT features: Up to 2 blocks away from business.
9	Feasible plan: Must develop a feasible impact mitigation plan with TA provider.
10	Eligible uses of funds: Building renovations, facade improvement, acquisition/creation of private parking; business model alterations, product offerings, business lines, customer base, etc.) and, absent a feasible retention plan, relocation.
11	Oversight: To establish an administrative oversight and appeals process for businesses denied support, including the creation of an Ombudsperson role.

12	Non-eligible uses: a) For mitigations that come under the FEIR/S and AC Transit's responsibilities; and b) fund administration costs.
13	Term of BAF program: From start of construction until one year after BRT operations begins.
14	Structure and terms of assistance: Grants not to exceed \$100,000 per business to be disbursed on a reimbursement basis to business/property owners or directly to contractors; and up to 25% of funds can be used for relocation costs within Oakland.
15	Equitable Distribution Model: Based upon business type and proximity to BRT infrastructure (stations, medians, left-turn restrictions) and significant parking loss. Must ensure that businesses in each impacted sub-district receive equitable proportions of funding.