

## **OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT**

**Date Issued:** October 12, 2006

**IBA Report Number:** 06-43

**City Council Agenda Date:** October 16, 2006

**Item Number:** 330

**Subject:** In the Matter of the Take Back the Streets Program and Contract

### **OVERVIEW**

The Fiscal Year 2007 Budget was approved by the City Council on May 30, 2006 and signed by the Mayor on June 7, 2006. Included in the budget was a \$300,000 General Fund allocation for Alpha Project's Take Back the Streets program. Subsequently, it was learned that the contract was not executed due to several problems that were encountered, and that an alternative proposal was being developed by the Mayor's staff in lieu of the contract with Alpha Project.

While it appears that the intent of the alternate proposal is to provide comparable services while satisfying all parties involved, there is concern regarding the process. The City Council approved a line item in the budget which was subsequently changed without Council approval or involvement. In addition, no report explaining the various problems with executing the contract, or the details of the alternate proposal, was issued to the Council. In order to provide for a more transparent process and allow for Council and public input, this issue should be discussed by the full Council at a public forum and held for possible action.

### **FISCAL/POLICY DISCUSSION**

Alpha Project, founded in 1986, is a non-profit organization that strives to combat homelessness in Southern California through a variety of employment opportunities, recovery programs and support services. Alpha Project's mission is not to ease the discomfort of homelessness, but rather to empower individuals to become self-sufficient. One of Alpha Project's many programs is a supportive transitional employment program known as Take Back the Streets, or TBS. This program provides employment opportunities for homeless and formerly homeless men and women. TBS deploys work crews to clean up San Diego communities, providing services such as litter removal,

week abatement, graffiti eradication, tree-trimming, hardship abatement, and illegal dump abatement.

Prior to Fiscal Year 2007, the City of San Diego contracted with Alpha Project for TBS services using Community Development Block Grant (CDBG) funds from individual Council districts. However, changing federal guidelines in FY 2007 restricted the use of CDBG funds for this purpose. As a result, and in order to continue funding the program, the City Council allocated \$300,000 in General Fund support in order to renew the contract with Alpha Project. This funding was included in the Environmental Services Department's budget, and it was presumed that ESD would manage the contract and coordinate the services that TBS would provide.

It has been argued that in approving the budget the City Council did not allocate funding specifically for Alpha Project's Take Back the Streets program, but rather for any type of program that provided comparable services. The IBA strongly disagrees with this argument. While it is true that an April 7<sup>th</sup> memo from Council President Peters and Council members Maienschein, Madaffer and Hueso requested that the Mayor identify a funding source for Alpha Project or another entity, the actions taken by the City Council in approving the FY 2007 Budget clearly demonstrate that the funding was allocated specifically for Alpha Project. Attachment A is the FY 2007 Budget Resolution, which shows that the Council approved the modifications to the Mayor's Fiscal Year 2007 Proposed Budget as recommended by the Independent Budget Analyst, and summarized in IBA Memorandum No. 06-09. Attachment B is the relevant page from IBA Memorandum No. 06-09, which shows the IBA's recommendation was to include \$300,000 for the Alpha Project's Take Back the Streets program. The remaining Attachments are various budget-related memos that make reference to the TBS program.

After the budget was approved, it became apparent that there were some unanticipated problems in implementing the contract with Alpha Project as Council had envisioned. First, there were questions regarding the appropriateness of using City funds for certain services, such as trash collection and litter abatement on private property. Secondly, ESD expressed concerns about having no oversight over how funds in their budget were being spent. Most prominently, however, was that the use of General Fund dollars to support the contract drew attention from the City's labor unions, specifically Local 127. A new provision under Article 50 in the Memorandum of Understanding (MOU) between the City and Local 127 came into focus.

Article 50 of the labor contract with Local 127 in part:

Prior to the expiration of another employer's contract to provide services to the City that were previously provided by the bargaining unit employees, Local 127 will be given a reasonable notice and opportunity to demonstrate that unit employees can competitively perform the services to the extent that labor costs

are a prime factor in granting the contract. If the union can demonstrate to the City's reasonable satisfaction that the work can be performed with greater efficiency or programmatic benefit with bargaining unit employees, the City shall restore the work within the unit. The City must satisfy this provision before entering into a successor contract with the employer.

Essentially, this provision means that prior to the renewal of a contract for services that were previously provided by City employees, Local 127 will have the opportunity to demonstrate that City staff can provide the services more efficiently. Based on the provisions of Article 50, the City entered into Meet & Confer negotiations with the union. As a result of these negotiations, an alternate proposal was developed that shifted much of the work to City employees. This alternate proposal was supported by Local 127, and presumably approved by the Mayor.

Under the alternative proposal, \$98,500 of the budgeted \$300,000 would be made available for contracting with Alpha Project for certain TBS services, while the remaining \$201,500 would be utilized by ESD to provide other cleanup services. Specifically, \$40,000 would be allocated to TBS for weed abatement, \$21,000 for hardship abatement, and \$37,500 for illegal dump abatement through September. Environmental Services would then use its portion of the funds to provide community cleanups (\$35,000), 26 extra mini cleanups (\$11,000), and illegal dump abatement for the remainder of the fiscal year (\$155,500). These various allocations are shown in the table below.

	Weed Abatement	Hardship Abatements	Community Cleanups	Extra Mini Cleanups	Illegal Dump Abatements	TOTAL
<b>ESD</b>	-	-	35,000	11,000	155,500	<b>201,500</b>
<b>Alpha Project</b>	<u>40,000</u>	<u>21,000</u>	<u>-</u>	<u>-</u>	<u>37,500</u>	<u><b>98,500</b></u>
<b>TOTAL</b>	<b>40,000</b>	<b>21,000</b>	<b>35,000</b>	<b>11,000</b>	<b>193,000</b>	<b>300,000</b>

In prior years, TBS services were generally provided on an as-needed basis. Individual Council districts would contract with Alpha Project and notify them directly when cleanup services were required. At least one Council district had a regular work schedule with TBS. It is unclear under the alternate proposal whether Council districts will have the same level of access to TBS, or control over which services are provided, and where. However, it is understood that the intent of the alternate proposal was to continue providing the services that Council desired, but within the confines of the law and the labor contract with Local 127. Furthermore, in the past a few Council districts used TBS services heavily. Now that the services were to be funded by the General Fund, there needed to be a more citywide approach.

One of the primary concerns regarding the alternate proposal is not whether it adequately provides the desired services, but rather, how the entire process transpired. The City Council approved a line item in the budget which was subsequently changed without Council approval or involvement. It should be noted that there is no dispute over the substantive issues such as the conflict with Article 50 or the appropriateness of City funds being used for cleanup on private property. However, these issues should have been discussed openly, allowing for Council and public involvement.

As a result of the Council's and IBA's non-involvement, questions remain about the alternative proposal, and whether it adequately provides for the services that Council envisioned when the Fiscal Year 2007 Budget was adopted.

## **QUESTIONS/COMMENTS**

### ***Does the alternate proposal provide the same level of service as would be rendered by Take Back the Streets?***

Based on the available materials, it is unknown whether the alternate proposal provides the same range or quality of services. Furthermore, it is not clear how projects will be decided on, or to what extent individual Council districts will be able to provide input or direction as to where and what services are desired. More detailed information is needed in order to fully understand the alternate proposal and to determine whether it satisfies Council desires.

### ***How was it determined that certain services could be provided “with greater efficiency or programmatic benefit” with City employees?***

The few performance measures that have been provided seem insufficient, inconclusive, and subject to challenge. Furthermore, no backup or substantiating detail was provided. The narrow time frames from which these measures were derived seem likely to skew the numbers; for instance, the time period from which the ESD figures were based encompasses the 4<sup>th</sup> of July, while that for TBS does not. While circumstances such as this may not have any effect, based on the materials available it does not appear that any discernable evidence has been produced upon which the City could reasonably determine that City staff is able to provide the services more efficiently.

### ***Is Article 50 of the MOU with Local 127 even applicable?***

It does not appear that in the course of negotiations there was ever a question as to the applicability of Article 50. However, Article 50 appears to be predicated on a few key points. For instance, it is unclear whether City staff previously provided the full scope of services that TBS provides. Furthermore, it is unclear whether the labor costs were a prime factor in granting the contract with Alpha Project. The vast social benefit that

Alpha Project provides may have been the prime factor. Issues such as these may need to be more thoroughly vetted to determine whether Article 50 is applicable in this instance.

***Are there any other options for contracting with Alpha Project?***

Much of the difficulty with the current situation appears to be due to General Fund dollars being allocated for TBS services. However, there may be other options for contracting with Alpha Project that does not directly involve the General Fund. These options may include:

1. Funding the contract from the TOT Fund;
2. Reallocating CDBG funding in order to use the 15 percent that is designated for social programs for TBS; backfill existing social programs with General Fund money if possible;
3. Begin seeking private donations in order to fund the contract.

Each of these potential options would need to be thoroughly explored prior to implementation, and may pose additional problems. In addition, it is possible that Meet & Confer negotiations would be reopened should any of these options be approved. Nonetheless, other options may be available.

## **CONCLUSION**

In the Fiscal Year 2007 Budget, the Mayor and City Council approved a \$300,000 General Fund allocation to renew the contract with Alpha Project for services provided by the Take Back the Streets program. Subsequent to the approval of the budget, various problems arose with executing the contract as the Council had envisioned, primarily a new provision in Article 50 of the MOU with Local 127, which initiated Meet & Confer negotiations. As a result, the contract was not executed and an alternate proposal was developed.

The IBA believes that thorough discussion of this issue in a public forum is warranted. The problems concerning the execution of the contact with Alpha Project as Council envisioned are complex, and the details of the alternate proposal are not clear based on the materials that have been provided. In addition, there is concern over the Mayor unilaterally changing the budget without eliciting Council approval or involvement.

**[SIGNED]**

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**[SIGNED]**

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Attachment A – Fiscal Year 2007 Budget Resolution (R-301515)  
Attachment B – Office of Independent Budget Analyst Memorandum 06-9, pg. 4  
Attachment C – Office of Independent Budget Analyst Report 06-26, pg. 5  
Attachment D – May 8, 2006 Memo from Jay Goldstone, CFO, to City Council  
Attachment E – May 10, 2006 Memo from Councilmember Madaffer  
Attachment F – May 9, 2006 Memo from Councilmember Hueso