



# County of Santa Cruz

759

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## REDEVELOPMENT AGENCY

701 OCEAN STREET, ROOM 510, SANTA CRUZ, CA 95060-4000

(831) 454-2280 FAX: (831) 454-3420 TDD: (831) 454-2123

TOM BURNS, AGENCY ADMINISTRATOR

June 15, 1999

Agenda: June 22, 1999

Board of Directors  
County of Santa Cruz Redevelopment Agency  
701 Ocean Street  
Santa Cruz, CA 95060

### **JOSE AVENUE PARK - CONSTRUCTION FINANCING**

Dear Members of the Board:

On June 15, 1999, your Board as the Board of Supervisors, received bids for Jose Avenue Park which is scheduled to begin construction in July. As you may recall, improvements to be constructed with this project include informal turf areas, a parking lot, two half-court basketball courts, a community garden, play area, picnic area, skateboard feature, restroom, a horseshoe pit, park walkways and landscaping. The park site is located in the Live Oak area at the end of Jose Avenue south of Capitola Road.

Also at your June 15 meeting, your Board directed the Redevelopment Agency Administrator to accept the bids and award the contract effective July 1, 1999, to the lowest responsible bidder contingent upon adequate funding being available and review by Redevelopment and General Services staff. Those actions have been taken and Perma-Green Hydroseeding has been identified as the responsible low bidder with a bid of \$694,700 which is adequate to accomplish the work to the Agency's and General Services' satisfaction.

Because of the number of other Agency commitments during this construction season, the Redevelopment Agency also recommends that a contract in an amount not to exceed \$30,000 with Tri-B, Inc. for construction administration services be approved by your Board. Tri-B, Inc. is a firm specializing in construction administration with an office in Santa Cruz. Redevelopment Agency staff has negotiated a favorable contract for these services.

The project is being financed by the Redevelopment Agency. Funds have been set aside in Index 611114 for the project. With the approval of the Recommended 1999-2000 Proposed Redevelopment Agency budget, the Agency will have sufficient funds to award both the construction contract and the construction administration contract effective July 1, 1999.

Redevelopment Agency staff has determined that the buildings, facilities and improvements associated with the Jose Avenue Park Project are of benefit to the Project Area, that no other reasonable means of financing the improvements are available to the community, that the project will assist in the elimination of blight, and that the project is consistent with the Redevelopment Agency's Five Year Implementation Plan.

It is therefore RECOMMENDED that your Board, as the Board of Directors for the Redevelopment Agency, take the following actions:

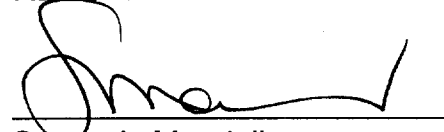
1. Authorize the expenditure of funds totaling \$694,700.00 for the Jose Avenue Park Project construction contract subject to the approval of the Recommended 1999-2000 Proposed Redevelopment Agency Budget and authorize the Redevelopment Agency Administrator to sign the contract and associated documents on behalf of the Agency;
2. Appropriate \$69,470.00, in addition to the contract amount for change order expenditures, and authorized the Redevelopment Agency Administrator to approve change orders, if required, up to \$69,470.00;
3. Approve the attached Contract and Scope of Services with Tri-B, Inc. for construction administration services for the construction of Jose Avenue Park in an amount not to exceed \$30,000 subject to the approval of the Recommended 1999-2000 Proposed Redevelopment Agency Budget and authorize the Redevelopment Agency Administrator to sign the contract on behalf of the Agency; and
4. Concur with and adopt the above-noted associated findings.

Very truly yours,



Tom Burns  
Redevelopment Agency Administrator  
TB:BL

RECOMMENDED:



Susan A. Mauriello  
Redevelopment Agency Director

Attachments 1) Independent Contractor Agreement  
2) ADM 29 Request for Approval of Agreement

cc. RDA, General Services, Auditor-Controller, Tri-B Inc.

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Contract No. \_\_\_\_\_

INDEPENDENT CONTRACTOR AGREEMENT

THIS CONTRACT is entered into this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by and between the COUNTY OF SANTA CRUZ REDEVELOPMENT AGENCY, hereinafter called AGENCY, and Tri-B. Inc. Construction Administration, hereinafter called CONTRACTOR. The parties agree as follows:

1. DUTIES. CONTRACTOR agrees to exercise special skill to accomplish the following result: as described in Exhibit A. "Scope of Services. Jose Avenue Park."

2. COMPENSATION. In consideration for CONTRACTOR accomplishing said result, COUNTY agrees to pay CONTRACTOR as follows: as described in Exhibit B, "Compensation Schedule. Jose Avenue Park. "

3. TERM Term of this contract shall be: until June 30, 2000.

4. EARLY TERMINATION. This Agreement may be terminated by either party upon not less than 30 days written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault to the party initiating the termination.

5. INDEMNIFICATION FOR DAMAGES. TAXES AND CONTRIBUTIONS. CONTRACTOR shall exonerate, indemnify, defend, and hold harmless AGENCY and the COUNTY OF SANTA CRUZ (hereinafter called COUNTY) (which for the purpose of paragraphs 5 and 6 shall include, without limitation, their officers, agents, employees and volunteers) from and against:

A. Any and all claims, demands, losses, damages, defense costs, or liability of any kind or nature which COUNTY or AGENCY may sustain or incur or which may be imposed upon it for injury to or death of persons, or damage to property as a result of, arising out of, or in any manner connected with the CONTRACTOR'S performance under the terms of this Agreement, excepting any liability arising out of the negligence of AGENCY or COUNTY. Such indemnification includes any damage to the person(s), or property(ies) of CONTRACTOR and third persons.

B. Any and all Federal, State and Local taxes, charges, fees, or contributions required to be paid with respect to CONTRACTOR and CONTRACTOR'S officers, employees and agents engaged in the performance of this Agreement (including, without limitation, unemployment insurance, social security and payroll tax withholding).

6. INSURANCE. CONTRACTOR, at its sole cost and expense, for the full term of this Agreement (and any extensions thereof), shall obtain and maintain at minimum compliance with all of the following insurance coverage(s) and requirements. Such insurance coverage shall be primary coverage as respects AGENCY and COUNTY, and any insurance or self-insurance maintained by AGENCY or COUNTY shall be excess of CONTRACTOR'S insurance coverage and shall not contribute to it.

If CONTRACTOR utilizes one or more subcontractors in the performance of this Agreement, CONTRACTOR shall obtain and maintain Independent Contractor's Insurance as to each subcontractor or otherwise provide evidence of insurance coverage for each subcontractor equivalent to that required of CONTRACTOR in this Agreement, unless CONTRACTOR and AGENCY both initial here \_\_\_\_ / \_\_\_\_.

A. Types of Insurance and Minimum Limits

(1) Worker's Compensation in the minimum statutorily required coverage amounts. This insurance coverage shall not be required if the CONTRACTOR has no employees and certifies to this fact by initialing here \_\_\_\_\_

(2) Automobile Liability Insurance for each of CONTRACTOR's vehicles used in the performance of this Agreement, including owned, non-owned (e.g., owned by CONTRACTOR'S employees), leased or hired vehicles, in the minimum amount of \$500,000 combined single limit per occurrence for bodily injury and property damage. This insurance coverage shall not be required if vehicle use by CONTRACTOR is not a material part of performance of this Agreement and CONTRACTOR and AGENCY both certify to this fact by initialing here \_\_\_\_ / \_\_\_\_.

(3) Comprehensive or Commercial General Liability Insurance coverage in the minimum amount of \$1,000,000 combined single limit, including coverage for: (a) bodily injury, (b) personal injury, (c) broad form property damage, (d) contractual liability, and (e) cross-liability.

(4) Professional Liability Insurance in the minimum amount of \$1,000,000 combined single limit, ~~if, and~~ only if, this Subparagraph is initialed by CONTRACTOR and AGENCY BC / \_\_\_\_

B. Other Insurance Provisions

(1) If any insurance coverage required in this Agreement is provided on a "Claims Made" rather than "Occurrence" form, CONTRACTOR agrees to maintain the required coverage for a period of three (3) years after the expiration of this Agreement (hereinafter "post agreement coverage") and any extensions thereof. CONTRACTOR may maintain the required post agreement coverage by renewal or purchase of prior acts or tail coverage. This provision is contingent upon post agreement coverage being both available and reasonably affordable in relation to the coverage provided during the term of this Agreement.. For purposes of interpreting this requirement, a cost not exceeding 100% of the last annual

policy premium during the term of this Agreement in order to purchase prior acts or tail coverage for post agreement coverage shall be deemed to be reasonable.

(2) All required Automobile and Comprehensive or Commercial General Liability Insurance shall be endorsed to contain the following clause:

"The County of Santa Cruz, and The County of Santa Cruz Redevelopment Agency, their officials, employees, agents and volunteers are added as additional insureds as respects the operations and activities of, or on behalf of, the named insureds performed under Agreement with the County of Santa Cruz and The County of Santa Cruz Redevelopment Agency. "

(3) All required insurance policies shall be endorsed to contain the following clause:

"This insurance shall not be canceled until after thirty (30) days prior written notice has been given to:

County of Santa Cruz Redevelopment Agency  
Agency Administrator  
701 Ocean Street, Room 510  
Santa Cruz, CA 95060."

(4) CONTRACTOR agrees to provide its insurance broker(s) with a full copy of these insurance provisions and provide AGENCY on or before the effective date of this Agreement with Certificates of Insurance for all required coverages. All Certificates of Insurance shall be delivered or sent to:

County of Santa Cruz Redevelopment Agency  
Agency Administrator  
701 Ocean Street, Room 510  
Santa Cruz, CA 95060.

7. EQUAL EMPLOYMENT OPPORTUNITY. During and in relation to the performance of this Agreement, CONTRACTOR agrees as follows:

A. The CONTRACTOR shall not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, physical or mental disability, medical condition (cancer related), marital status, sex, sexual orientation, pregnancy, gender, age (over 18), veteran status, or any other non-merit factor unrelated to job duties. Such action shall include, but not be limited to, the following: recruitment; advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training (including apprenticeship), employment, upgrading, demotion, or transfer. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notice setting forth the provisions of this non-discrimination clause.

B. If this Agreement provides compensation in excess of \$50,000 to CONTRACTOR and if CONTRACTOR employs fifteen (15) or more employees, the following requirements shall apply:

(1) The CONTRACTOR shall, in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, ancestry, physical or mental disability, medical condition (cancer related), marital status, sex, sexual orientation, pregnancy, gender, age (over 18), veteran status, or any other non-merit factor unrelated to job duties. In addition, the CONTRACTOR shall make a good faith effort to consider Minority/ Women/Disabled Owned Business Enterprises in CONTRACTOR's solicitation of goods and services. Definitions for Minority/Women/Disabled Business Enterprises are available from the COUNTY General Services Purchasing Division.

(2) The CONTRACTOR shall furnish COUNTY Affirmative Action Office information and reports in the prescribed reporting format (PER 4012) identifying the sex, race, physical or mental disability, and job classification of its employees and the names, dates and methods of advertisement and direct solicitation efforts made to subcontract with Minority/Women/Disabled Business Enterprises.

(3) In the event of the CONTRACTOR's non-compliance with the non-discrimination clauses of this Agreement or with any of the said rules, regulations, or orders said CONTRACTOR may be declared ineligible for further agreements with the COUNTY.

(4) The CONTRACTOR shall cause the foregoing provisions of this Subparagraph 7B. to be inserted in all subcontracts for any work covered under this Agreement by a subcontractor compensated more than \$50,000 and employing more than fifteen (15) employees, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

8. INDEPENDENT CONTRACTOR STATUS. CONTRACTOR and AGENCY have reviewed and considered the principal test and secondary factors below and agree that CONTRACTOR is an independent contractor and not an employee of AGENCY. CONTRACTOR is responsible for all insurance (workers compensation, unemployment, etc.) and all payroll related taxes. CONTRACTOR is not entitled to any employee benefits. AGENCY agrees that CONTRACTOR shall have the right to control the manner and means of accomplishing the result contracted for herein.

PRINCIPAL TEST: The CONTRACTOR rather than AGENCY has the right to control the manner and means of accomplishing the result contracted for.

SECONDARY FACTORS: (a) The extent of control which, by agreement, AGENCY may exercise over the details of the work is slight rather than substantial; (b) CONTRACTOR is engaged in a distinct occupation or business; (c) In the locality, the work to be done by CONTRACTOR is usually done by a specialist without supervision, rather than

under the direction of an employer; (d) The skill required in the particular occupation is substantial rather than slight; (e) The CONTRACTOR rather than the AGENCY supplies the instrumentalities, tools and work place; (f) The length of time for which CONTRACTOR is engaged is of limited duration rather than indefinite; (g) The method of payment of CONTRACTOR is by the job rather than by the time; (h) The work is part of a special or permissive activity, program, or project, rather than part of the regular business of AGENCY; (i) CONTRACTOR and AGENCY believe they are creating an independent contractor relationship rather than an employer-employee relationship; and (j) The AGENCY conducts public business.

It is recognized that it is not necessary that all secondary factors support creation of an independent contractor relationship, but rather that overall there are significant secondary factors which indicate that CONTRACTOR is an independent contractor.

By their signatures to this Agreement, each of the undersigned certifies that it is his or her considered judgment that the CONTRACTOR engaged under this Agreement is in fact an independent contractor.

9. NONASSIGNMENT. CONTRACTOR shall not assign this Agreement without the prior written consent of the AGENCY.

10. RETENTION AND AUDIT OF RECORDS. CONTRACTOR shall retain records pertinent to this Agreement for a period of not less than five (5) years after final payment under this Agreement or until a final audit report is accepted by AGENCY, whichever occurs first. CONTRACTOR hereby agrees to be subject to the examination and audit by the Santa Cruz County Auditor-Controller, the Auditor General of the State of California, or the designee of either for a period of five (5) years after final payment under this Agreement.

11. PRESENTATION OF CLAIMS. Presentation and processing of any or all claims arising out of or related to this Agreement shall be made in accordance with the provisions contained in Chapter 1.05 of the Santa Cruz County Code, which by this reference is incorporated herein.

12. ATTACHMENTS. This Agreement includes the following attachments (identify by name or write "NONE"):

Exhibit A. "Scope of Services. Jose Avenue Park."

Exhibit B. "Compensation Schedule. Jose Avenue Park."

IN WITNESS WHEREOF, the parties hereto have set their hands the day and year first above written.

COUNTY OF SANTA CRUZ

By: \_\_\_\_\_  
Redevelopment Agency Administrator

Date \_\_\_\_\_

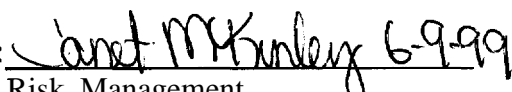
CONTRACTOR: Tri-B, Inc. Construction Administration

By:  \_\_\_\_\_  
President, Tri-B, Inc.

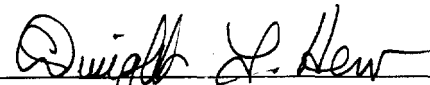
Date 6-3-99

Address: P.O. Box 2585  
Truckee, CA 96160  
Telephone: (530) 587-9368

APPROVED FOR INSURANCE:

By:  6-9-99  
Risk Management

APPROVED AS TO FORM:

By:  \_\_\_\_\_  
County Counsel

DISTRIBUTION: County Administrative Office  
Auditor-Controller  
County Counsel  
Redevelopment  
Risk Management  
Contractor



# EXHIBIT A

## Scope of Services - Jose Avenue Park

### Phase I : Pre-Construction

- ✓ Provide services as requested prior to commencement of Phase II : Construction.

### Phase II : Construction (through 10/31/99)

- ✓ Develop administrative procedures
- ✓ Prepare agenda, attend and supervise preconstruction conference
- ✓ Update and distribute project directory
- ✓ Evaluate contractor's schedule of values
- ✓ Evaluate contractor's submittal schedule
- ✓ Administer submittal process: shop drawings, product data, samples, mock-ups
- ✓ Analyze and make recommendations on substitution requests (subcontractors, suppliers, products)
- ✓ Review coordination drawings and schedules
- ✓ Chair weekly on-site meetings and distribute field reports
- ✓ Coordinate site visits of engineers and/or consultants
- ✓ Record progress via video or still photography
- ✓ Review record documents monthly
- ✓ Monitor performance of contractor to assure quality and contract compliance
- ✓ Record, recommend, resolve, and document nonconforming construction issues
- ✓ Analyze, respond to, and report on incremental schedule updates
- ✓ Respond to changes in site conditions and requests for clarification (RFIs); prepare and distribute field reports, supplemental instructions, proposai requests, and change directives
- ✓ Review, **verify**, and prepare for **certification** the applications for payment
- ✓ Receive, review, and report on monthly lien waivers
- ✓ Initiate, review, evaluate, direct, monitor and document all change requests for responsibility, cost, and time
- ✓ Review, evaluate, document, address, and recommend resolution steps for any claims or disputes
- ✓ Monitor and document field procedures and/or inspection/test results required by design team, special inspection agencies, public utilities and jurisdictional government entities
- ✓ Monitor contractor and subcontractor compliance with insurance, bond and certified payroll requirements.
- ✓ Review results of tests and inspections; make recommendations, where appropriate, for remediation
- ✓ Assist in resolving design/construction **conflicts** with governmental agencies or public utilities
- ✓ Anticipate and assist in scheduling delivery of owner-furnished equipment or furnishings

### Phase III : Occupancy (11/1/99 through 6/30/00)

- ✓ Ensure final government agency approvals are obtained and **certificate(s)** of occupancy secured
- ✓ Develop and distribute pre-completion Punch List
- ✓ Compile facility systems operation and maintenance guidelines
- ✓ Review record documents, warranties and bonds, test results, replacement stock, keying schedule, and maintenance agreements for contract conformance
- ✓ Review **Affidavits** of Payment, Consent of Surety, and final lien waivers
- ✓ Review, verify, and **prepare for** certification the final application for payment
- ✓ Prepare the **Contract** Final Estimate
- ✓ Compile, collate and organize project record files

## **EXHIBIT B**

### **Compensation Schedule - Jose Avenue Park**

The cost for services provided in accordance with the attached Exhibit A - Scope of Services shall be billed on an hourly basis at the end of each month and shall not exceed the amounts indicated below in any given phase without prior written approval from the Agency:

<b>Phase I : Pre-Construction</b>	<b>\$ 5,000.00</b>
<b>Phase II : Construction (through 10/31/99)</b>	<b>\$22,500.00</b>
<b>Phase III : Occupancy (through 6/30/00)</b>	<b>\$ 2,500.00</b>

The Consultant's hourly billing rates for services rendered through June 30, 2000 shall be in accordance with the following schedule:

<b>Bill Crum</b>	<b>\$85. 00</b>
<b>Duane Davidson</b>	<b>\$75. 00</b>
<b>Pete Mugnani</b>	<b>\$70. 00</b>