



Council Meeting: September 10, 2013

SUBJECT: Award of Bid No. PW13-20 for Murphy Park Recreation Building Renovation and Amendment to an Existing Contract for Design and Construction Support Services

BACKGROUND

Approval is requested to award a construction contract in the amount of \$1,324,000 to EVRA Construction, Inc. of Brisbane for the Murphy Park Recreation Building Renovation Project (Public Works Project No. PR-13/01-13), and to award a 15% construction contingency in the amount of \$198,600. Approval is also requested to amend the existing design contract with Noll & Tam Architects and Planners of Berkeley to provide a level of construction support services necessary to complete the project. This amendment will add \$6,000 to the contract, increasing it from \$109,095 to \$115,095.

CEQA REVIEW

The CEQA determination for this project is a categorical exemption pursuant to Class 1, Section 15301(a), as an Existing Facility.

DISCUSSION

Capital Project 818550 (Park Buildings – Rehabilitation) provides for infrastructure repairs and renovations to existing park buildings throughout the City. The Murphy Park Recreation Building project work scope includes renovating interior walls (including the installation of insulation), replacing existing flooring and interior light fixtures, updating the HVAC system, acoustical improvements in the facility’s meeting rooms, updating the kitchen area, installing two new child friendly restroom facilities, as well as general repairs and work to meet current code requirements.

This project was bid as follows:

Bid Notice: Advertised in The Sun on July 5, 2013;
18 Bay Area Builder’s Exchanges;
Onvia Demandstar public procurement network; and
Published on the City’s web site.

Bid Response: 22 contractors requested bid documents.

Bid Results: Sealed bids were publicly opened on July 31, 2013;
Seven (7) responsive bids were received.

The lowest responsive and responsible bid was from EVRA Construction, Inc. of Brisbane in the amount of \$1,324,000. The bid amount is approximately 10% below the engineer's estimate of \$1,465,900. The Bid Summary is attached.

Staff recommends accepting the bid from EVRA Construction, Inc., the lowest responsive and responsible bidder. Staff also recommends the award of a 15% construction contingency on this project.

Additional Construction Support Services

A contract for building design and construction support services in the amount of \$109,095 was awarded to Noll and Tam Architects, Inc. of Berkeley on February 28, 2012 (RTC No. 12-042). As the Community Services Division's needs for the building became more clearly defined, design services in the amount of \$16,030 were added to the work scope to update the kitchen area, insulate the interior walls and install acoustical treatments in the meeting rooms.

While the modified work scope was covered within the 15% contingency amount of \$16,364 awarded by Council, the added items will require additional construction support services during project construction. At the City's request, Noll and Tam submitted a proposal in the amount of \$9,000 to perform the requested services. Subsequent negotiations reduced this amount to \$6,000. The attached Amendment to consultant Services Agreement details the additional services to be provided during construction.

FISCAL IMPACT

Project costs are as follows:

Construction	\$1,324,000
Construction contingency (15%)	\$198,600
Total Construction Cost	\$1,522,600
Additional Construction Support Services	\$6,000
Total Cost	\$1,528,600

Budgeted funds are available in Capital Project 818550 (Park Buildings – Rehabilitation), funded by the Park Dedication Fund.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's Web site.

RECOMMENDATION

It is recommended that Council:

1. Award a contract, in substantially the same format as the attached draft and in the amount of \$1,324,000, to EVRA Construction, Inc. for the subject project, and authorize the City Manager to execute the contract when all the necessary conditions have been met;
2. Approve a 15% construction contingency in the amount of \$198,600; and
3. Approve an Amendment to an existing contract with Noll & Tam Architects and Planners, in substantially the same format as the attached draft, by increasing the not-to-exceed value \$6,000 for additional construction support services.

Reviewed by:

Grace K. Leung, Director of Finance
Prepared by: Pete Gonda, Purchasing Officer

Reviewed by:

Kent Steffens, Director of Public Works

Approved by:

Gary M. Luebbers
City Manager

Attachments

- A. Bid Summary
- B. Draft General Construction Contract
- C. Draft Amendment to Consultant Services Agreement

**ATTACHMENT B
DRAFT**

GENERAL CONSTRUCTION CONTRACT

THIS CONTRACT dated _____ is by and between the CITY OF SUNNYVALE, a municipal corporation of the State of California ("Owner") and EVRA CONSTRUCTION, INC., a California corporation ("Contractor").

RECITALS:

The parties to this Contract have mutually covenanted and agreed, as follows:

1. **The Contract Documents.** The complete Contract consists of the following documents: Notice Inviting Bids; Instructions to Bidders; Performance Bond and Payment Bond; Guaranty; City of Sunnyvale Standard Specifications for Public Works Construction, 2006 Edition; City of Sunnyvale Standard Details for Public Works Construction, 2006 Edition; Plans and Specifications, "Murphy Park Recreation Building Renovation, Project No. PR-13/01-13, Invitation for Bids No. PW13-20", including Two (2) Addenda; OSHA, and other standards and codes as outlined in the Specifications. These documents are all incorporated by reference. The documents comprising the complete contract are collectively referred to as the Contract Documents.

Any and all obligations of the Owner and the Contractor are fully set forth and described therein.

All of the above documents are intended to work together so that any work called for in one and not mentioned in the other or vice versa is to be executed the same as if mentioned in all documents.

2. **The Work.** Contractor agrees to furnish all tools, equipment, apparatus, facilities, labor, transportation, and material necessary to perform and complete the project in a good and workmanlike manner. The work consist(s) of the building exterior and interior construction, compliance with the current life safety codes, the building systems (HVAC, electrical, telecommunications, audio/visual) and site work, new work, and improvements as called for, and in the manner designated in, and in strict conformity with, the Plans and Specifications prepared by Noll and Tam and adopted by the Owner. These Plans and Specifications are entitled respectively, Murphy Park Recreation Building Renovation, Project No. PR-13/01-13.

It is understood and agreed that the work will be performed and completed as required in the Plans and Specifications under the sole direction and control of the Contractor, and subject to inspection and approval of the Owner, or its representatives. The Owner hereby designates as its representative for the purpose of this contract the Senior Civil Engineer for Construction or an employee of the Owner who will be designated in writing by the Director of Public Works.

3. **Contract Price.** The Owner agrees to pay and the Contractor agrees to accept, in full payment for the work above agreed to be done, the sum of One Million Three Hundred Twenty Four Thousand and No/100 Dollars (\$1,324,000.00) subject to final

determination of the work performed and materials furnished at unit prices per "Exhibit A" attached hereto and incorporated by this reference, and subject to additions and deductions in accordance, as provided in the Documents and in accordance with Contract Documents.

4. Permits; Compliance with Law. Contractor shall, at its expense, obtain all necessary permits and licenses, easements, etc., for the construction of the project, give all necessary notices, pay all fees required by law, and comply with all laws, ordinances, rules and regulations relating to the work and to the preservation of the public health and safety.

5. Inspection by Owner. Contractor shall at all times maintain proper facilities and provide safe access for inspection by the Owner to all parts of the work, and to the shops wherein the work is in preparation. Where the Specifications require work to be specially tested or approved, it shall not be tested or covered up without timely notice to the Owner of its readiness for inspection and without the approval thereof or consent thereto by the latter. Should any such work be covered up without such notice, approval, or consent, it must, if required by Owner, be uncovered for examination at the Contractor's expense.

6. Extra or Additional Work and Changes. Should Owner at any time during the progress of the work request any alterations, deviations, additions or omissions from the Specifications or Plans or other Contract Documents it shall be at liberty to do so, and the same shall in no way affect or make void the contract, but will be added to or deducted from the amount of the contract price, as the case may be, by a fair and reasonable valuation, agreed to in writing between the parties hereto. No extra work shall be performed or change be made unless in pursuance of a written order from the Director of Public Works or authorized representative, stating that the extra work or change is authorized and no claim for an addition to the contract sum shall be valid unless so ordered.

7. Time for Completion. All work under this contract shall be completed before the expiration One Hundred Sixty (160) calendar days from the date specified in the Notice to Proceed.

If Contractor shall be delayed in the work by the acts or neglect of Owner, or its employees or those under it by contract or otherwise, or by changes ordered in the work, or by strikes, lockouts by others, fire, unusual delay in transportation, unavoidable casualties or any causes beyond the Contractor's control, or by delay authorized by the Owner, or by any cause which the Owner shall decide to justify the delay, then the time of completion shall be extended for such reasonable time as the Owner may decide.

This provision does not exclude the recovery of damages for delay by either party under other provisions.

8. Inspection and Testing of Materials. Contractor shall notify Owner a sufficient time in advance of the manufacture or production of materials, to be supplied under this contract, in order that the Owner may arrange for mill or factory inspection and testing of same, if Owner requests such notice from Contractor.

9. Termination for Breach, etc. If Contractor should file a bankruptcy petition and/or be judged bankrupt, or if Contractor should make a general assignment for the benefit of creditors, or if a receiver should be appointed on account of insolvency, or if Contractor or any subcontractors should violate any of the provisions of the Contract, Owner may serve written notice upon Contractor and its surety of Owner's intention to terminate the Contract. The notice shall contain the reasons for such intention to terminate the Contract, and, unless within ten days after serving such notice, such violation shall cease and satisfactory arrangements for correction thereof be made, upon the expiration of the ten days, the Contract shall cease and terminate. In the event of any such termination, Owner shall immediately serve written notice thereof upon the surety and the Contractor, and the surety shall have the right to take over and perform the Contract; provided, however that, if the surety within fifteen days after the serving upon it of notice of termination does not give Owner written notice of its intention to take over and perform the Contract or does not commence performance thereof within thirty days from the date of the serving of such notice, Owner may take over the work and prosecute the same to completion by contract or by any other method it may deem advisable, for the account and at the expense of Contractor, and Contractor and its surety shall be liable to Owner for any excess cost occasioned Owner thereby, and in such event Owner may without liability for so doing take possession of and utilize in completing the work, such materials, appliances, plant and other property belonging to Contractor as may be on the site of the work and necessary therefor.

10. Owner's Right to Withhold Certain Amounts and Make Application Thereof. In addition to the amount which Owner may retain under Paragraph 21 until the final completion and acceptance of all work covered by the Contract, Owner may withhold from payment to Contractor such amount or amounts as in its judgment may be necessary to pay just claims against Contractor or any subcontractors for labor and services rendered and materials furnished in and about the work. Owner may apply such withheld amount or amounts to the payment of such claims in its discretion. In so doing Owner shall be deemed the agent of Contractor and any payment so made by Owner shall be considered as a payment made under the Contract by Owner to the Contractor and Owner shall not be liable to Contractor for any such payment made in good faith. Such payment may be made without prior judicial determination of the claim or claims.

11. Notice and Service Thereof. All notices required pursuant to this Contract shall be communicated in writing, and shall be delivered in person, by commercial courier or by first class or priority mail delivered by the United States Postal Service. Transmission of notice by facsimile or by telephone may be deemed sufficient if the requirement for written notice is waived, in writing, by the receiving party. Notices delivered in person shall be deemed communicated as of actual receipt. Notices sent

by mail or courier service shall be deemed communicated as of three days after mailing or dispatch, unless that date is a date on which there is no mail or delivery service, in which case communication shall be deemed to occur the next mail service or delivery day. The burden of proof of compliance with this requirement for written notice shall be on the sending party. All notices sent pursuant to this Contract shall be addressed as follows:

Owner: City of Sunnyvale
Department of Public Works
Construction Contract Administrator
P. O. Box 3707
Sunnyvale, CA 94088-3707

Contractor: EVRA Construction, Inc.
Attn: Yefim Ostrovskiy
100 North Hill Drive, 45
Brisbane, CA 94005

12. Assignment of Contract. Neither the Contract, nor any part thereof, nor moneys due or to become due thereunder may be assigned by Contractor without the prior written approval of Owner.

13. Compliance with Specifications of Materials. Whenever in the Specifications, any material or process is indicated or specified by patent or proprietary name, or by name of manufacturer, such Specifications must be met by Contractor, unless Owner agrees in writing to some other material, process or article offered by Contractor which is equal in all respects to the one specified.

14. Contract Security. Contractor shall furnish a surety bond in an amount at least equal to 100 percent of the contract price as security for the faithful performance of this Contract. Contractor shall also furnish a separate surety bond in an amount at least equal to 100 percent of the contract price as security for the payment of all persons for furnishing materials, provisions, provender, or other supplies, or teams, used in, upon, for or about the performance of the work contracted to be done, or for performing any work or labor thereon of any kind, and for the payment of amounts due under the Unemployment Insurance Code with respect to such work or labor in connection with this Contract, and for the payment of a reasonable attorney's fee to be fixed by the court in case suit is brought upon the bond. Bonds shall be issued by an admitted surety insurer authorized to operate in the state of California.

15. Insurance. Contractor shall not commence work under this Contract until all insurance required under this paragraph has been obtained and such insurance has been approved by the Owner, nor shall Contractor allow any subcontractor to commence work on a subcontract until all similar insurance required of the subcontractor has been so obtained and approved. Contractor shall furnish the Owner with satisfactory proof of the carriage of insurance required, and there shall be a specific

contractual liability endorsement extending the Contractor's coverage to include the contractual liability assumed by the Contractor pursuant to this Contract and particularly Paragraph 16 hereof. Any policy of insurance required of the Contractor under this Contract shall also contain an endorsement providing that thirty (30) days' notice must be given in writing to the Owner of any pending change in the limits of liability or of any cancellation or modification of the policy. Insurance carrier shall be California-admitted.

(a) Compensation Insurance and Employer's Liability Insurance. Contractor shall take out and maintain during the life of this Contract Workers' Compensation Insurance and Employer's Liability Insurance for all of employees employed at the site of the project and, in case any work is sublet, Contractor shall require the subcontractor similarly to provide Workers' Compensation Insurance and Employer's Liability Insurance for all of the latter's employees unless such employees are covered by the protection afforded by Contractor.

In signing this Contract, Contractor makes the following certification, required by Section 1861 of the Labor Code:

"I am aware of the provision of Section 3700 of the Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."

(b) General and Automobile Liability Insurance. Contractor, at its own cost and expense, shall maintain personal injury liability and property damage insurance for the period covered by the Contract in the amount of Two Million Dollars (\$2,000,000.00) per occurrence and \$4,000,000 annual aggregate combined single limit coverage. Such coverage shall include, but shall not be limited to, protection against claims arising therefrom, and damage to property resulting from activities contemplated under this Contract, use of owned automobiles, products and completed operations, including U, C and X. Such insurance shall be with insurers and under forms of policies satisfactory in all respects to the Owner and shall provide that notice must be given to Owner at least thirty (30) days prior to cancellation or material change. The following endorsements shall be attached to the policy:

Policy shall cover on an "occurrence" basis. Policy must cover personal injuries as well as bodily injuries. Exclusion of contractual liability must be eliminated from personal injury endorsement. Broad form property damage endorsement must be attached. Owner is to be named as an additional insured on any contracts of insurance under this paragraph (b). Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code. The policies of insurance shall be considered primary insurance before any policies of insurance maintained by Owner.

16. Hold Harmless. Contractor agrees to defend, save, indemnify and hold harmless Owner and all its officers, employees, and agents, against any and all liability, claims, judgments, or demands, including demands arising from injuries or death of persons (Contractor's employees included) and damage to property, arising directly or indirectly out of the obligations herein undertaken or out of the operations conducted by Contractor, save and except claims or litigation arising through the active negligence or willful misconduct of Owner, or of Owner's officials, agents, employees, servants, or independent contractors who are directly responsible to Owner. Contractor shall make good and reimburse Owner for any expenditures, including reasonable attorneys' fees, Owner may make by reason of such claim or litigation, and, if requested by Owner, Contractor shall defend any such suits at the sole cost and expense of Contractor.

17. Hours of Work. Eight hours of labor during any one calendar day and forty hours of labor during any one calendar week shall constitute the maximum hours of service upon all work done hereunder, and it is expressly stipulated that no laborer, worker, or mechanic employed at any time by the Contractor or by any subcontractor or subcontractors under this Contract, upon the work or upon any part of the work contemplated by this Contract, shall be required or permitted to work thereon more than eight hours during any one calendar day and forty hours during any one calendar week, except, as provided by Section 1815 of the Labor Code of the State of California, work performed by employees of contractors in excess of eight hours per day and forty hours during any one week shall be permitted upon public work upon compensation for all hours worked in excess of eight hours per day at not less than one and one-half times the basic rate of pay. It is further expressly stipulated that for each and every violation of Sections 1811-1815, inclusive, of the Labor Code of the State of California, all the provisions whereof are deemed to be incorporated herein, Contractor shall forfeit, as a penalty to Owner, fifty dollars (\$50.00) for each laborer, worker, or mechanic employed in the execution of this Contract by Contractor, or by any subcontractor under this Contract, for each calendar day during which the laborer, worker, or mechanic is required or permitted to work more than eight hours in any one calendar day and forty hours in any one calendar week in violation of the provisions of the Sections of the Labor Code.

Contractor, and each subcontractor, shall, in accordance with California Labor Code Section 1776 or as the same may be later amended, keep accurate payroll records showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with work under this agreement. Each payroll record shall contain or be verified by a written declaration under penalty of perjury, in accordance with Labor Code Section 1776(a). Such payroll records shall be made available at all reasonable times at the Contractor's principal office to the persons authorized to inspect such records pursuant to Labor Code Section 1776. A certified copy of all payroll records shall be made available for inspection or furnished upon request to a representative of the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department

of Industrial Relations, as well as to the Owner's representative. In the event the Contractor or a Subcontractor fails to comply in a timely manner within ten days to a written notice requesting the records, such contractor or subcontractor shall forfeit twenty-five dollars (\$25.00) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated, in accordance with Labor Code Section 1776(g).

18. Wage Rates. Pursuant to the Labor Code of the State of California, or any applicable local law, Owner has ascertained the general prevailing rate per diem wages and rates for holidays, and overtime work in the city, for each craft, classification or type of laborer, worker, or mechanic needed to execute this Contract. Owner has adopted, by reference, the general prevailing rate of wages applicable to the work to be done under the Contract, as adopted and published by the Division of Labor Standards Enforcement and Labor Statistics and Research of the State of California, Department of Industrial Relations, to which reference is hereby made for a full and detailed description. A copy of the prevailing wage rates may be reviewed in the office of the Director of Public Works, City of Sunnyvale, 456 West Olive Avenue, Sunnyvale, California. Wage rates can also be obtained through the California Department of Industrial Relations website at:

<http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>

Neither the notice inviting bids nor this Contract shall constitute a representation of fact as to the prevailing wage rates upon which the Contractor or any subcontractor may base any claim against Owner.

It shall be mandatory upon Contractor and upon any subcontractor to pay not less than the specified rates to all laborers, workers, and mechanics employed in the execution of the Contract. It is further expressly stipulated that Contractor shall, as a penalty to Owner, forfeit fifty dollars (\$50.00) for each calendar day, or portion thereof, for each laborer, worker, or mechanic paid less than the stipulated prevailing rates for any work done under this Contract by Contractor or by any subcontractor; and Contractor agrees to comply with all provisions of Section 1775 of the Labor Code.

In case it becomes necessary for Contractor or any subcontractor to employ on the project under this Contract any person in a trade or occupation (except executives, supervisory, administrative, clerical, or other non-manual workers as such) for which no minimum wage rate is herein specified, Contractor shall immediately notify Owner who will promptly thereafter determine the prevailing rate for such additional trade or occupation and shall furnish Contractor with the minimum rate based thereon. The minimum rate thus furnished shall be applicable as a minimum for such trade or occupation from the time of the initial employment of the person affected and during the continuance of such employment.

19. Accident Prevention. Precaution shall be exercised at all times for the protection of persons (including employees) and property. The safety provisions of applicable laws, building and construction codes shall be observed. Machinery, equipment, and other hazards shall be guarded or eliminated in accordance with the

safety provisions of the Construction Safety Orders issued by the Industrial Accident Commission of the State of California.

20. Contractor's Guarantee. Owner shall not, in any way or manner, be answerable or suffer loss, damage, expense or liability for any loss or damage that may happen to the building, work, or equipment or any part thereof, or in, on, or about the same during its construction and before acceptance. Contractor unqualifiedly guarantees the first-class quality of all workmanship and of all materials, apparatus, and equipment used or installed by Contractor or by any subcontractor or supplier in the project which is the subject of this Contract, unless a lesser quality is expressly authorized in the Plans and Specifications, in which event Contractor unqualifiedly guarantees such lesser quality; and that the work as performed by Contractor will conform with the Plans and Specifications or any written authorized deviations therefrom. In case of any defect in work, materials, apparatus or equipment, whether latent or patent, revealed to Owner within one year of the date of acceptance of completion of this Contract by Owner, Contractor will forthwith remedy such defect or defects without cost to Owner.

21. Liquidated Damages. Time shall be the essence of this Contract. If Contractor fails to complete, within the time fixed for such completion, the entire work mentioned and described and contracted to be done and performed, Contractor shall become liable to Owner for liquidated damages in the sum of Five Hundred and No/100 (\$500.00) for each and every calendar day during which work shall remain uncompleted beyond such time fixed for completion or any lawful extension thereof. The amount specified as liquidated damages is presumed to be the amount of damage sustained by Owner since it would be impracticable or extremely difficult to fix the actual damage; and the amount of liquidated damages may be deducted by Owner from moneys due Contractor hereunder, or its assigns and successors at the time of completion, and Contractor, or its assigns and successors at the time of completion, and its sureties shall be liable to Owner for any excess.

22. Additional Provisions.

None.

IN WITNESS WHEREOF, two identical counterparts of this contract, each of which shall for all purposes be deemed an original thereof, have been duly executed by the parties.

CITY OF SUNNYVALE
a Municipal Corporation, Owner

EVRA CONSTRUCTION, INC.
Contractor

License No. 765231

By _____ / /
City Manager

By _____
_____/ /
Title Date

Attest:
City Clerk

By _____
_____/ /
Title Date

By _____ / /
City Clerk Date

(SEAL)

APPROVED AS TO FORM:

_____/ /
City Attorney Date

(Notice: The signatures of the Contractor's officers on this contract must be acknowledged before a notary.)

ACKNOWLEDGMENT

State of California)
County of)

On _____ before me, _____
personally appeared _____

_____ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____

(SEAL)

**EXHIBIT A
Bid Schedule**

Item No.	Description	Unit	Unit Coast
1.	Mobilization (per description in Special Provisions, section 10 and Contract Documents)	LS	\$45,000.00
2.	Demolition (per description in Special Provisions, section 10 and Contract Documents)	LS	\$50,000.00
3.	Building Renovation/New Construction (per description in Special Provisions, section 10 and Contract Documents)	LS	\$1,211,000.00
4.	Site Improvements (per description in Special Provisions, section 10 and Contract Documents)	LS	\$18,000.00

ATTACHMENT C

AMENDMENT TO CONSULTANT SERVICES AGREEMENT BETWEEN THE CITY OF SUNNYVALE AND NOLL & TAM ARCHITECTS AND PLANNERS FOR DESIGN AND CONSTRUCTION SUPPORT SERVICES FOR MURPHY PARK RECREATION BUILDING RENOVATION

This Amendment to Consultant Services Agreement, dated _____, is by and between the CITY OF SUNNYVALE, a municipal corporation ("CITY") and NOLL & TAM ARCHITECTS AND PLANNERS ("CONSULTANT").

WHEREAS, on March 12, 2012, CITY and CONSULTANT entered into a Consultant Services Agreement whereby CONSULTANT would perform professional services necessary for investigation, analysis, design, preparation of construction drawings and contract specifications, consultation, services during construction and other services for a project known as Murphy Park Recreation Building Renovation; and

WHEREAS, the parties now agree that an Amendment to said Agreement is advisable;

NOW, THEREFORE, THE PARTIES ENTER INTO THIS AMENDMENT TO CONSULTANT SERVICES AGREEMENT:

1. Services by CONSULTANT – Replace first paragraph with the following:

1. Services by CONSULTANT

CONSULTANT shall provide services in accordance with Exhibit "A" entitled "Scope of Work" and Exhibit "A-2" entitled "Construction Administration Phase Services". All exhibits referenced in this Agreement are attached hereto and are incorporated herein by reference. To accomplish that end, CONSULTANT agrees to assign Jason Barish to this project, to act in the capacity of Project Manager and personally direct the professional services to be provided by CONSULTANT.

2. Notice to Proceed/Completion of Services – Replace Paragraph (b) with the following:

2. (b) When CITY determines that CONSULTANT has satisfactorily completed the services defined in Exhibit "A" and Exhibit "A-2", CITY shall give CONSULTANT written Notice of Final Acceptance, and CONSULTANT shall not incur any further costs hereunder. CONSULTANT may request this determination of completion When, in its opinion, it has satisfactorily completed the Scope of Work (Exhibit "A") and Construction Administration Phase Services

(Exhibit "A-2") and if so requested, CITY shall make this determination within fourteen (14) days of such request.

4. Payment of Fees and Expenses – Replace with the following:

4. Payment of Fees and Expenses

Payments shall be made to CONSULTANT on a monthly basis as set forth in the attached Exhibit "B" entitled "Compensation Schedule": and the attached Exhibit "A-2" "Construction Administration Phase Services". All compensation will be based on monthly billings as provided in Exhibit 'B". Compensation will not be due until said detailed billing is submitted to CITY within a reasonable time before payment is expected to allow for normal CITY processing. An estimate of the percent of total completion associated with the various categories of the services shall be furnished by CONSULTANT with said billing. When applicable, copies of pertinent financial records will be included with the submission of billing(s) for all direct reimbursables. Compensation shall not exceed the amounts set forth in Exhibit "B" and Exhibit "A-2" for each phase. In no event shall the total amount of compensation payable under this Agreement exceed the sum of One Hundred Fifteen Thousand Ninety Five and No/100 Dollars (\$115,095.00) unless upon written modification of this Agreement. All invoices, including detailed backup, shall be sent to City of Sunnyvale, attention Accounts Payable, P.O. Box 3707, Sunnyvale, CA 94088-3707.

8. Standard of Workmanship – Replace second paragraph with the following:

8. Standard of Workmanship

The plans, designs, specifications, estimates, calculations, reports and other documents furnished under the Scope of Work (Exhibit "A") and Construction Administration Phase Services (Exhibit "A-2") shall be of a quality acceptable to CITY. The criteria for acceptance of the work provided under this Agreement shall be a product of neat appearance, well-organized, technically and grammatically correct, checked and having the maker and checker identified. The minimum standard of appearance, organization and content of the drawings shall be that used by CITY for similar projects.

All other terms and conditions remain unchanged.

IN WITNESS WHEREOF, the parties have executed this Agreement Amendment.

ATTEST:

CITY OF SUNNYVALE ("CITY")

By _____
City Clerk

By _____
City Manager

APPROVED AS TO FORM:

NOLL AND TAM ARCHITECTS
AND PLANNERS
("CONSULTANT")

By _____
City Attorney

By _____

Name and Title

Exhibit "A-2"

June 6th, 2013

architects and planners

noll & tam

Murphy Park Recreation Building
RE: Construction Administration Phase Services
Additional Service #02

729 Heinz Avenue

Berkeley

CA 94710

510.649.8295

fax 510.649.3008

nollandtam.com

To: Cathy Merrill
Project Manager, City of Sunnyvale

The following represents a revision to the March 12th, 2012 contract for the design and construction administration of the Murphy Park Recreation Building renovation. The proposed revisions to construction administration services have been agreed to by Noll & Tam Architects and discussed with City of Sunnyvale Staff.

Proposed Additional Service #02 \$6,000

Scope of additional services:

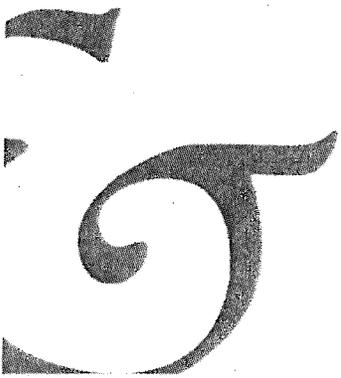
- Design services for minor City requested revisions
- 3 additional construction phase meetings
- Review general contractor submittals
- Review and provide recommendations for substitution requests
- RFI review, response, and coordination
- Review of City prepared meeting minutes

Please let me know as soon as possible if this is acceptable.

Sincerely,



Christopher Noll
Principal



Project Understanding

Through many years of public works experience, Noll & Tam has honed our skills in communications and decision-making. As a result, we have an exemplary record of consistently meeting or exceeding budget, quality, and timeline expectations. Most of the projects that Noll & Tam has designed over the past decade have been for public agencies. As a result, we understand how critical it is to maintain tight control over the project schedule and the project budget. Our approach to the design process begins with an open mind and the ability to listen carefully. We establish an open dialogue between team members right from the beginning of any project. We build upon our collective experiences, finding workable solutions that meet, or exceed, project goals.

Project Management

Understanding the City's expectations for the Murphy Park Recreation Building renovation will be essential. Our management approach will be to build upon existing documents and references, validate conclusions where possible, reexamine conclusions when necessary, and reach consensus about the most appropriate next steps.

We are acutely aware of cost control, quality control, and scheduling issues, and we manage our projects with excellent judgment in a friendly and proactive way. Quick response, team cohesiveness, clear communication, and effective planning are the keys to success. Our many successful complex renovation and expansion projects have required careful oversight, the timely submittal of drawings, accurate cost estimates, and a cooperative working relationship among all members of the project team.

Noll & Tam's Project Manager, Jason Barish, has successfully managed complex building evaluation and renovation projects. His overall judgment and ability to make effective decisions is based on eight years of directly relevant experience and practicality on public projects. Jason will contribute to the project's success by establishing client- and project-specific goals, creating a realistic work plan to achieve those objectives, maintaining the optimum work environment for all participants, and monitoring and controlling project activities to ensure that all tasks are achieved. He will plan, organize, deliver, monitor, control, and close out the project.

Accurate Cost Estimating

We bring a proven understanding of how to establish a realistic project budget that includes hard site and building costs, soft costs, appropriate contingencies, escalation and factors for market conditions. We will initiate an interactive process with our cost estimator, Kent Munro of BMR Construction Management, at the start of the Murphy Park Recreation Building project. Together we will test design alternatives as we move forward. Kent will assist us in understanding the pros and cons of each alternative so that the City can make sound decisions and judgments that will set the future of the project. We realize just how important an accurate cost estimate is for a project, and how much it contributes to the overall success. Our recent track record, even in volatile times, has been very good.

Cost + Quality Control

The difference between the bid from the contractor and the final cost to the City rests to a large extent on the quality and thoroughness of the construction documents, plans, and specifications. Over many years of preparing documents for public bid, we have developed a rigorous approach that has resulted in an impressive record. We start with highly experienced staff. We carefully plan out our work and the products we will be delivering at each project milestone, incorporate independent QA reviews in each phase, and produce a complete, thorough, detailed, clear, and well-coordinated set of plans and technical specifications.

Energy-Efficiency Strategies: Sustainability Approach

Noll & Tam Architects has a strong commitment to sustainable design. Eleven staff members are LEED Accredited Professionals, trained and certified in the LEED design and certification process, including LEED for Commercial Interiors (LEED-CI). We collaborate with our clients, engineering consultants, and contractors to ensure healthy work environments and energy efficient buildings. In 2009, we completed two high performance new buildings: Valley Hi-North Laguna Library, certified LEED Gold; and Castro Valley Library, pending LEED Gold. Our new Los Gatos Library

is targeted for a high LEED Gold. We have two projects on their way to completion that are designed to LEED Platinum specifications: the El Cerrito Environmental Resource and Recycling Center and the Berkeley YMCA Teen Center.

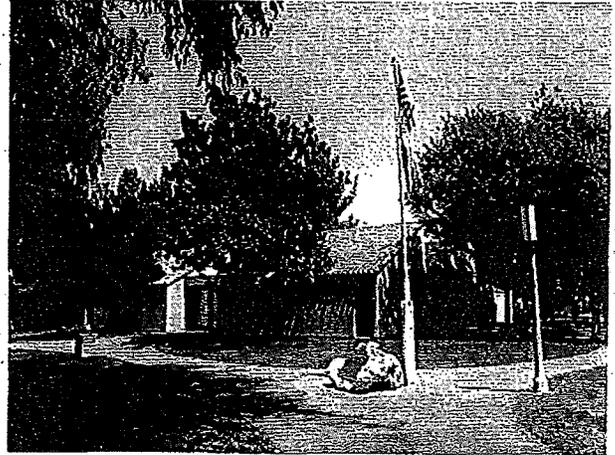
On all our projects, we look for ways to incorporate recycled and other eco materials, high efficiency mechanical systems and lighting, as well as natural ventilation and daylighting. Many of our projects participate in energy companies' Savings by Design programs, which offer incentives and rebates to owners of energy efficient buildings. When it comes to sustainability, clients will often misperceive having to pay a large premium. The reality is that an intelligent approach improves the quality of the facility, decreases the harmful impact on our environment, lowers operating costs, and adds value to the property while meeting the rate of return requirements for even the most ambitious organizations.

Project Team

For the Murphy Park Recreation Building project, we have selected a team of subconsultants that differs from the team put forth for the Sunnyvale Works! professional services contract. We have chosen consultants with whom we have worked on previous projects, and who are appropriate to the scope and available project budget. We propose to work with RGA Environmental, Inc. for hazardous material surveying, TMAD Taylor & Gaines for mechanical/electrical/plumbing engineering, and BMR Construction Management for cost estimating. Each of these firms shares our commitment to service and principal involvement.

Contract Comments

We have reviewed the City's Consultant Services Agreement along with our insurance company. We would like to review with you the language in clause 14: Hold Harmless/Indemnification. As written, the indemnification language is uninsurable. We would prefer to modify the language so that it is insurable and mutually agreeable. We feel confident that we can successfully come to agreement with the City, as we have with other municipalities on similar issues.



Murphy Park Recreation Building

Cost Control on Similar Completed Projects

Cañada College Bookstore Renovation

Construction Bid: \$245,901

Construction Final: \$273,934

Client-requested Change Orders: \$28,033

Document-related Change Orders: None

Cañada College Fashion Design Classroom Renovation

Construction Estimate: \$499,000

Construction Bid: \$422,811

Construction Final: \$462,467

Document-related Change Orders: \$1,030 or 0.24%

Alameda County Water District Headquarters Lobby Renovation

Construction Bid: \$575,000

Construction Final: \$598,000

Document-related Change Orders: 2%

Pleasanton Veteran's Memorial Center Renovation

Construction Bid: \$3,780,145

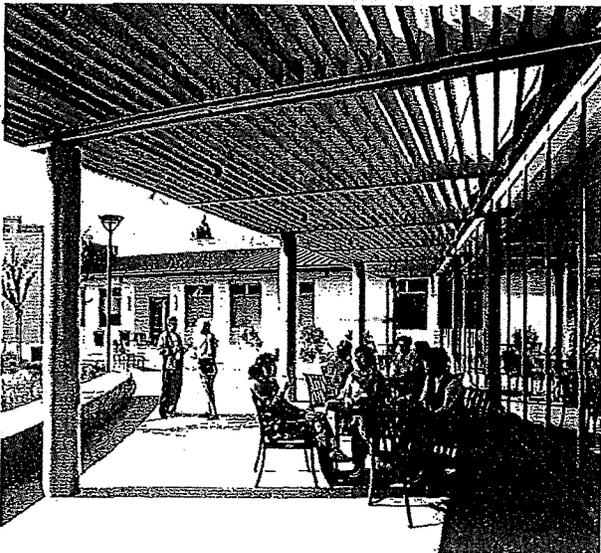
Construction Final: \$3,863,793

Document-related Change Orders: \$83,648

Qualifications



Rohnert Park Library



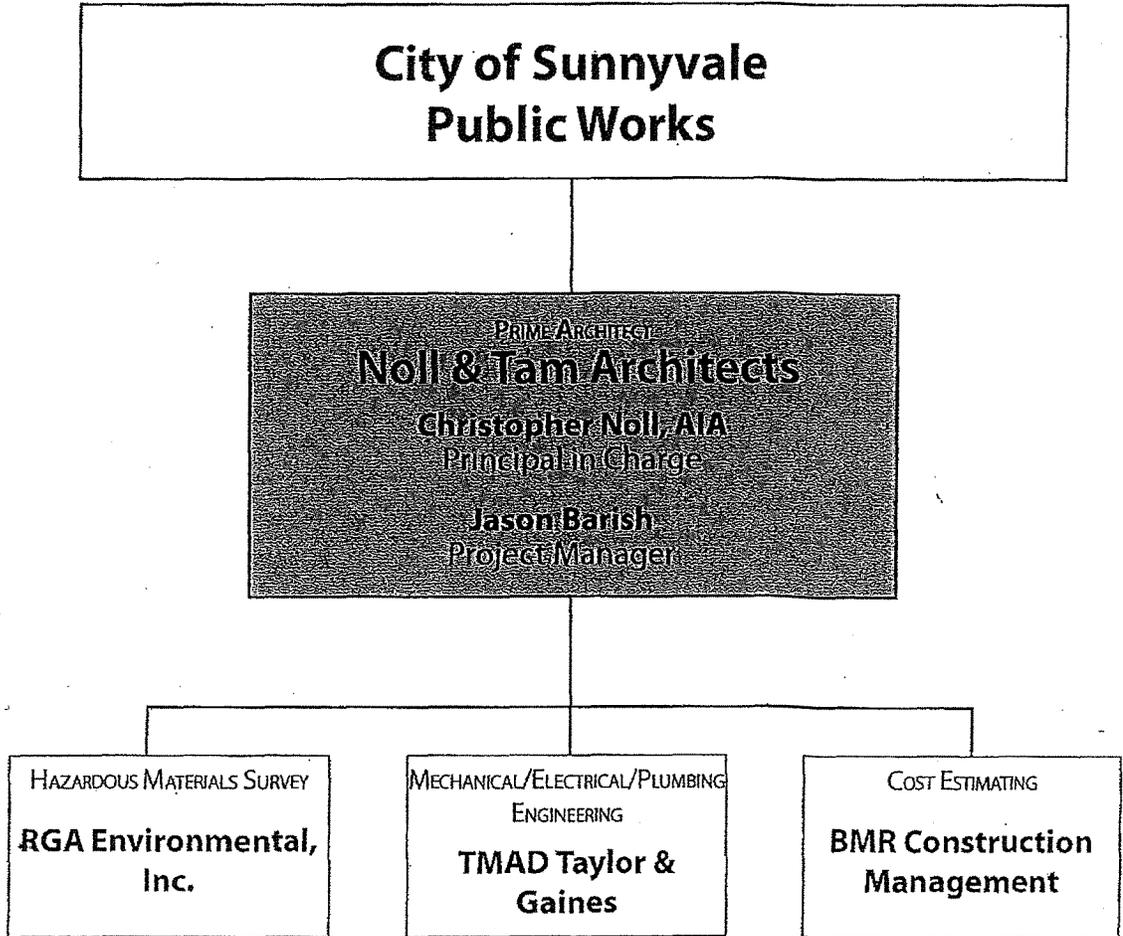
Milpitas Senior Center

"Noll & Tam was able to successfully work with multiple stakeholders who had specific, and often conflicting, interests in the new library. Common feedback from various stakeholders was that the professionals at Noll & Tam were knowledgeable, insightful, attentive and an enjoyment to collaborate with."

Matt Townsend

Former City Engineer, City of Rohnert Park

Project Team Organizational Chart



Christopher Noll, AIA

Principal in Charge



California Registration

Licensed Architect #C15916

Education

Master of Architecture, University of California, Berkeley

Bachelor of Arts, Princeton University

Christopher Noll, AIA, is a founding partner of Noll & Tam Architects in Berkeley, California. He holds a Master's degree in Architecture from UC Berkeley and is a member of The American Institute of Architects and the United States Green Building Council. A LEED Accredited Professional, Chris offers more than two decades of experience planning and designing public and institutional buildings. He served as Principal in Charge of the Castro Valley Library, which is on track for LEED Gold certification, and is currently leading the LEED Platinum design of the Environmental Resource and Recycling Center for the City of El Cerrito. Chris is adept at helping clients plan and prioritize sustainable design elements into their building projects in a cost effective and practical way.

Relevant Project Experience

Antioch Community Center

Scott Valley Swim & Tennis Club Facilities Renovation & Expansion, Mill Valley

De Anza College L Quad Finishes

Pleasanton Veterans' Memorial Building Seismic Renovation

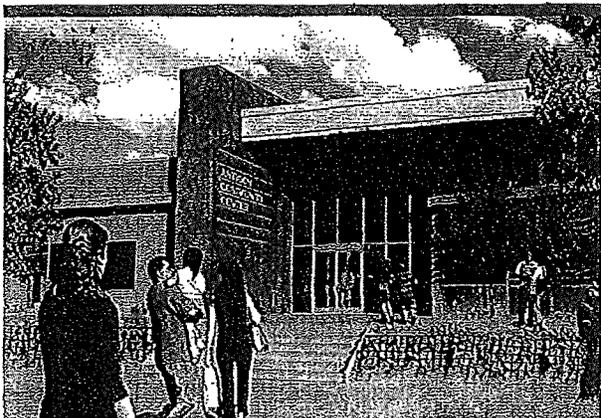
Saratoga Community Building Feasibility Study

Martin Luther King, Jr. Branch Library Improvements, Oakland

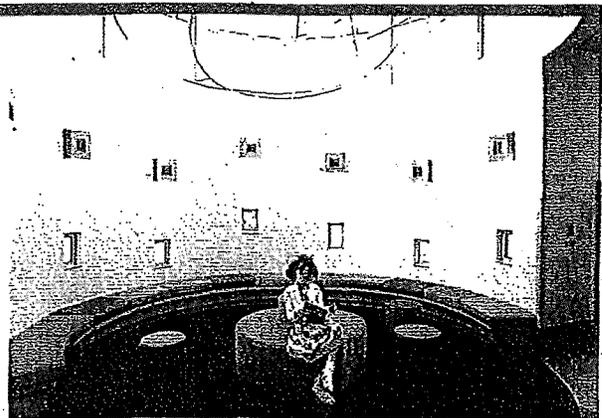
West Oakland Branch Library ADA Improvements

Alameda Branch Libraries Study and Renovation

Carmichael Branch Library Renovation and Expansion



Antioch Community Center



Carmichael Branch Library

Murphy Park Recreation Building Renovation :: City of Sunnyvale

Murphy Park Recreation Building Renovation
Sunnyvale, CA architects and planners

PROPOSED SCOPE OF WORK
30 September, 2011

noll tam

729 Heinz Avenue

Berkeley

CA 94710

510.649.8295

fax 510.649.3008

nollandtam.com

BASIC PROJECT INFORMATION:

- A. **Design Concept:**
Consultant shall develop Design and Construction Documents based upon the Request for Proposal and subsequent job walk for the City of Sunnyvale Murphy Park Project.
- B. **Building Data**
6,500 Square Feet, 1 Story
No LEED Requirement
- C. **Bidding Process**
Design-Bid-Build, public low bid process
- D. **Budget**
Construction Budget: approx. \$1.2M
Total Project Budget: TBD
- E. **Schedule**
TBD

ASSUMED SCOPE OF WORK BY DISCIPLINE

- A. **Architectural:**
 - 1. Prepare existing conditions drawings from original drawings
 - 2. Schematic Design through Construction Documents scope shall include the following scope of work:
 - 3. New accessible cabinets in classroom
 - 4. New children's restrooms for new pre-school area
 - 5. Interior and exterior patching and painting
 - 6. New resilient flooring, remove and abate existing VCT
 - 7. Patch roofing as required for new work
 - 8. Light Renovation in Existing Restrooms – clean tile floors, renovate grout, misc minor repairs and accessories replaced.
- B. **Structural:**
 - 1. Structural evaluation of existing building to identify seismic deficiencies
 - 2. Seismic work following recommendations of evaluation. Voluntary seismic upgrades of critical components of lateral load resisting system such as roof-wall connections, diaphragms, shear elements, collectors, chords, etc.
 - 3. Provide structural support for new HVAC equipment, if required
 - 4. Provide structural support and diaphragm strengthening (if necessary) around new skylights, as required.

C. Mechanical and Plumbing:

1. Existing mechanical systems evaluation
2. New or renovated mechanical systems per evaluation recommendations
3. Title 24 calculations
4. New kitchen, sinks, restrooms, and modifications to water heater for Code compliance
5. Performance specifications for the Automatic Fire Suppression System, if required by Code.

D. Electrical:

1. Existing electrical systems evaluation
2. Replace existing service entrance switchboard, distribution, wiring, switches, etc. per evaluation recommendations
3. New lighting throughout building and receptacles as required
4. Title 24 lighting calculations
5. New infrastructure (conduit and backbox) for telecom, data and for the security system throughout
6. Fire Alarm system, if required by Code
7. ADA modifications as needed: heights of switches and outlets
8. Power connections for new HVAC equipment, if required

E. Cost Estimator:

1. Schematic design, design development and construction documents phase cost estimates

F. Hazardous Materials

1. A updated report shall be generated along with work scope to address the abatement of hazardous materials. It is assumed that Al Clancy can be retained to perform this scope.

G. CEQA:

1. The Design Team assumes that the result of the CEQA process will be a Categorical Exemption, or in the worst case scenario, a Negative Declaration. Any results beyond these two outcomes will require additional services for Design Team management of the process.

H. Exclusions:

1. Any program or renovation work in the storage rooms at the rear of the building except for mechanical, plumbing and electrical work as part of the renovation of the rest of the building.
2. Signage and graphics.
3. FF&E
4. Meeting notes from construction phase progress meetings
5. Landscape design, except for repairs in kind as required by addition of new entry feature.
6. Commissioning of mechanical and electrical systems.
7. If the replacement of exterior doors and windows is not included in the scope of work after the Schematic Design Phase, a credit of approximately \$5,000 in architectural fees may be made.
8. If no skylights are included in the scope of work after the Schematic Design Phase, a credit of approximately \$2,500 in architectural fees may be made.
9. Meetings and products not described above or in Fee Proposal

I. Contingent Additional Services:

- A. **Renovate Kitchen**
New accessible kitchen -- cabinets, equipment, flooring, ceiling
- B. **Replace all gyp. Bd., new electrical, new insulation in walls and ceilings**
Remove and replace all Gypsum Board at interior (abate asbestos)
Add insulation to opened walls
New thermal insulation and acoustical ceiling treatments at sloped and flat roofs
- C. **Add entry feature, skylights, and path of travel modifications**
Add distinctive exterior entry feature to highlight main entrance
Modifications to path of travel as necessary from parking to main doors
Repairs to existing landscape to match existing
Add skylights to various building spaces as feasible
- D. **Replace exterior windows and doors**
New exterior windows, flashing and stucco repair
New exterior doors and glazing, flashing and stucco repair

Exhibit B

**Murphy Park Recreation Building Renovation
City of Sunnyvale**

30 August, 2011
FEE PROPOSAL

Phase / Task	Hours/Rate			Total \$
	CN \$175	JB \$120	Tech. \$110	
1. Schematic Design				
A. Create base documents from original drawings				\$2,000
B. Preliminary design	1	6	12	\$2,215
C. Consultant coordination	1	3	0	\$535
D. Prepare outline specifications	0	6	0	\$720
E. Cost estimate coordination	2	4	0	\$830
F. 1 Community presentation	5	5	4	\$1,915
G. 2 Meetings with City Staff	8	8	0	\$2,360
Subtotal	17	32	16	\$10,575
2. Design Development				
A. Design Development	2	16	44	\$7,110
B. Consultant coordination	1	6	0	\$895
C. Technical specifications	0	8	0	\$960
D. Cost estimate coordination	1	4	0	\$655
E. 1 Meeting with City Staff	4	4	0	\$1,180
Subtotal	8	38	44	\$10,800
3. Construction Documents				
A. Construction drawings and details	1	40	60	\$11,575
B. Consultant coordination	1	12	0	\$1,615
C. Technical specifications	0	8	0	\$960
D. Cost estimate coordination	2	4	0	\$830
E. 2 Meetings with City Staff	8	8	0	\$2,360
Subtotal	12	72	60	\$17,340
4. Bidding				
A. Bidding Support	0	16	8	\$2,800
Subtotal	0	16	8	\$2,800
5. Construction Administration				
A. On-site progress meetings (6 @ 6H)	0	36	0	\$4,320
B. Submittal review	0	36	0	\$4,320
C. RFI's, construction support	0	40	0	\$4,800
D. Punch lists, project close-out	0	12	0	\$1,440
Subtotal	0	124	0	\$14,880
TOTAL NOLL & TAM PROFESSIONAL FEE				\$56,395