

**AGREEMENT FOR DESIGN PROFESSIONAL SERVICES
BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
NOLL & TAM ARCHITECTS**

PREAMBLE

This Agreement is entered into between the City of Santa Clara, California, a chartered California municipal corporation (City) and Noll & Tam Architects, a California corporation, (Contractor). City and Contractor may be referred to individually as a "Party" or collectively as the "Parties" or the "Parties to this Agreement."

RECITALS

- A. City desires to secure the design professional services more fully described in this Agreement, at Exhibit A, entitled "Scope of Services";
- B. "Design professional" includes licensed architects, licensed landscape architects, registered professional engineers and licensed professional land surveyors;
- C. Contractor represents that it, and its subcontractors, if any, have the professional qualifications, expertise, necessary licenses and desire to provide certain goods and/or required services of the quality and type which meet objectives and requirements of City; and,
- D. The Parties have specified herein the terms and conditions under which such services will be provided and paid for.

The Parties agree as follows:

AGREEMENT TERMS AND CONDITIONS

1. AGREEMENT DOCUMENTS

The documents forming the entire Agreement between City and Contractor shall consist of these Terms and Conditions and the following Exhibits, which are hereby incorporated into this Agreement by this reference:

Exhibit A – Scope of Services

Exhibit B1 – Schedule of Fees

Exhibit B2 – Fees by Task

Exhibit C – Insurance Requirements

This Agreement, including the Exhibits set forth above, contains all the agreements, representations and understandings of the Parties, and supersedes and replaces any previous agreements, representations and understandings, whether oral or written. In the event of any inconsistency between the provisions of any of the Exhibits and the Terms and Conditions, the Terms and Conditions shall govern and control.

2. TERM OF AGREEMENT

- A. Unless otherwise set forth in this Agreement or unless this paragraph is subsequently modified by a written amendment to this Agreement, the term of this Agreement shall begin on May 1, 2023 and terminate on May 31, 2025.

3. SCOPE OF SERVICES & PERFORMANCE SCHEDULE

Contractor shall perform those Services specified in Exhibit A within the time stated in Exhibit A. Time is of the essence.

- A. All reports, costs estimates, plans and other documentation which may be submitted or furnished by Contractor shall be approved and signed by an appropriate qualified licensed professional in the State of California.
- B. The title sheet for specifications and reports, and each sheet of plans, shall bear the professional seal, certificate number, registration classification, expiration date of certificate and signature of the design professional responsible for their preparation.

4. WARRANTY

Contractor expressly warrants services covered by this Agreement shall be performed in accordance with and limited to the usual and customary manner observed by ordinary members of the same profession that are performing similar services fit for the purpose intended, on similar projects at the same time, location and under similar conditions, the "Standard of Care", and shall in accordance with the Standard of Care conform to the specifications, requirements and instructions upon which this Agreement is based. Contractor agrees to promptly replace or correct any incomplete, inaccurate or defective Services at no further cost to City when defects are due to the negligence, errors or omissions of Contractor. If Contractor fails to promptly correct or replace materials or services, City may make corrections or replace materials or services and charge Contractor for the cost incurred by City.

5. QUALIFICATIONS OF CONTRACTOR - STANDARD OF CARE

Contractor represents and maintains that it has the expertise in the professional calling necessary to perform the Services, and its duties and obligations, expressed and implied, contained herein, and City expressly relies upon

Contractor's representations regarding its skills and knowledge. Contractor shall perform such Services and duties in conformance to and consistent with the professional "Standard of Care." defined by Section 4 above.

6. COMPENSATION AND PAYMENT

In consideration for Contractor's complete performance of Services, City shall pay Contractor for all materials provided and Services rendered by Contractor in accordance with Exhibit B, entitled "SCHEDULE OF FEES." The maximum compensation of this Agreement is set forth in Section 1 of Exhibit B1, subject to budget appropriations, which includes all payments that may be authorized for Services and for expenses, supplies, materials and equipment required to perform the Services. All work performed or materials provided in excess of the maximum compensation shall be at Contractor's expense. Contractor shall not be entitled to any payment above the maximum compensation under any circumstance.

7. TERMINATION

- A. Termination for Convenience. City shall have the right to terminate this Agreement, without cause or penalty, by giving not less than Thirty (30) days' prior written notice to Contractor.
- B. Termination for Default. If Contractor fails to perform any of its material obligations under this Agreement, in addition to all other remedies provided by law, City may terminate this Agreement immediately upon written notice to Contractor.
- C. Upon termination, each Party shall assist the other in arranging an orderly transfer and close-out of services. As soon as possible following the notice of termination, but no later than ten (10) days after the notice of termination, Contractor will deliver to City all City information or material that Contractor has in its possession.

8. ASSIGNMENT AND SUBCONTRACTING

City and Contractor bind themselves, their successors and assigns to all covenants of this Agreement. This Agreement shall not be assigned or transferred without the prior written approval of City. Contractor shall not hire subcontractors without express written permission from City.

Contractor shall be as fully responsible to City for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons directly employed by it.

9. NO THIRD PARTY BENEFICIARY

This Agreement shall not be construed to be an agreement for the benefit of any third party or parties and no third party or parties shall have any claim or right of action under this Agreement for any cause whatsoever.

10. INDEPENDENT CONTRACTOR

Contractor and all person(s) employed by or contracted with Contractor to furnish labor and/or materials under this Agreement are independent Contractors and do not act as agent(s) or employee(s) of City. Contractor has full rights to manage its employees in their performance of Services under this Agreement.

11. CONFIDENTIALITY OF MATERIAL

All ideas, memoranda, specifications, plans, manufacturing procedures, data, drawings, descriptions, documents, discussions or other information developed or received by or for Contractor and all other written information submitted to Contractor in connection with the performance of this Agreement shall be held confidential by Contractor and shall not, without the prior written consent of City, be used for any purposes other than the performance of the Services nor be disclosed to an entity not connected with performance of the Services. Nothing furnished to Contractor which is otherwise known to Contractor or becomes generally known to the related industry shall be deemed confidential.

12. OWNERSHIP OF MATERIAL

All material, which shall include, but not be limited to, data, sketches, tracings, drawings, plans, diagrams, quantities, estimates, specifications, proposals, tests, maps, calculations, photographs, reports, designs, technology, programming, works of authorship and other material developed, collected, prepared or caused to be prepared under this Agreement shall be the property of City but Contractor may retain and use copies thereof. City shall not be limited in any way or at any time in its use of said material. However, Contractor shall not be responsible for damages resulting from the use of said material for work other than Project, including, but not limited to, the release of this material to third parties.

13. RIGHT OF CITY TO INSPECT RECORDS OF CONTRACTOR

City, through its authorized employees, representatives or agents shall have the right during the term of this Agreement and for four (4) years from the date of final payment for goods or services provided under this Agreement, to audit the books and records of Contractor for the purpose of verifying any and all charges made by Contractor in connection with Contractor compensation under this Agreement, including termination of Contractor. Contractor agrees to maintain sufficient books and records in accordance with generally accepted accounting principles to establish the correctness of all charges submitted to City. Any expenses not so recorded shall be disallowed by City. Contractor shall bear the

cost of the audit if the audit determines that there has been a substantial billing deviation in excess of five (5) percent adverse to the City.

Contractor shall submit to City any and all reports concerning its performance under this Agreement that may be requested by City in writing. Contractor agrees to assist City in meeting City's reporting requirements to the State and other agencies with respect to Contractor's Services hereunder.

14. HOLD HARMLESS/INDEMNIFICATION

To the extent permitted by law, Contractor agrees to protect, defend, hold harmless and indemnify City, its City Council, commissions, officers, employees, volunteers and agents from and against any claim, injury, liability, loss, cost, and/or expense or damage, including all costs and attorney's fees in providing a defense to any such claim or other action, and whether sounding in law, contract, tort, or equity, to the extent arising out of, pertaining to, or related to the negligence, recklessness, or willful misconduct of the Contractor, its employees, subcontractors, or agents in the performance, or non-performance, of Services under this Agreement.

15. INSURANCE REQUIREMENTS

During the term of this Agreement, and for any time period set forth in Exhibit C, Contractor shall provide and maintain in full force and effect, at no cost to City, insurance policies as set forth in Exhibit C.

16. WAIVER

Contractor agrees that waiver by City of any one or more of the conditions of performance under this Agreement shall not be construed as waiver(s) of any other condition of performance under this Agreement. Neither City's review, acceptance nor payments for any of the Services required under this Agreement shall be constructed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

17. NOTICES

All notices to the Parties shall, unless otherwise requested in writing, be sent to City addressed as follows:

City of Santa Clara
Attention: City Manager's Office
1500 Warburton Avenue
Santa Clara, CA 95050
CC: Parks & Recreation Department
and by e-mail to manager@santaclaraca.gov; and,
email copy to parksandrecreation@santaclaraca.gov

And to Contractor addressed as follows:

Noll & Tam Architects
Attn: Janet Tam
797 Heinz Avenue, Suite #7
Berkeley, CA 94710
and by e-mail at janet.tam@nollandtam.com

The workday the e-mail was sent shall control the date notice was deemed given. An e-mail transmitted after 1:00 p.m. on a Friday shall be deemed to have been transmitted on the following business day.

18. COMPLIANCE WITH LAWS

Contractor shall comply with all applicable laws and regulations of the federal, state and local government, including but not limited to "The Code of the City of Santa Clara, California" ("SCCC"). In particular, Contractor's attention is called to the regulations regarding Campaign Contributions (SCCC Chapter 2.130), Lobbying (SCCC Chapter 2.155), Minimum Wage (SCCC Chapter 3.20), Business Tax Certificate (SCCC section 3.40.060), and Food and Beverage Service Worker Retention (SCCC Chapter 9.60), as such Chapters or Sections may be amended from time to time or renumbered. Additionally Contractor has read and agrees to comply with City's Ethical Standards (<http://santaclaraca.gov/home/showdocument?id=58299>).

19. CONFLICTS OF INTEREST

Contractor certifies that to the best of its knowledge, no City officer, employee or authorized representative has any financial interest in the business of Contractor and that no person associated with Contractor has any interest, direct or indirect, which could conflict with the faithful performance of this Agreement. Contractor is familiar with the provisions of California Government Code section 87100 and following, and certifies that it does not know of any facts which would violate these code provisions. Contractor will advise City if a conflict arises.

20. FAIR EMPLOYMENT

Contractor shall not discriminate against any employee or applicant for employment because of race, sex, color, religion, religious creed, national origin, ancestry, age, gender, marital status, physical disability, mental disability, medical condition, genetic information, sexual orientation, gender expression, gender identity, military and veteran status, or ethnic background, in violation of federal, state or local law.

21. NO USE OF CITY NAME OR EMBLEM

Contractor shall not use City's name, insignia, or emblem, or distribute any information related to services under this Agreement in any magazine, trade paper, newspaper or other medium without express written consent of City.

22. GOVERNING LAW AND VENUE

This Agreement shall be governed and construed in accordance with the statutes and laws of the State of California. The venue of any suit filed by either Party shall be vested in the state courts of the County of Santa Clara, or if appropriate, in the United States District Court, Northern District of California, San Jose, California.

23. SEVERABILITY CLAUSE

In case any one or more of the provisions in this Agreement shall, for any reason, be held invalid, illegal or unenforceable in any respect, it shall not affect the validity of the other provisions, which shall remain in full force and effect.

24. CHANGE PROCEDURES AND AUTHORIZATION

- A. Change Orders. Any changes to this Agreement that relate to (i) the deletion of Services, (ii) adding additional Services, or (iii) changing or modifying Services, not to exceed the maximum compensation of this Agreement, shall be made by a written change order authorized by the City Manager.
- B. Amendments. Any changes to this Agreement that relate to (i) an increase in the maximum compensation of this Agreement, or (ii) the term of this Agreement, or (iii) any other terms or conditions of the Agreement not covered by the Change Order provisions set forth above, may only be made by a written amendment duly authorized and executed by the Parties to this Agreement.

25. COUNTERPARTS

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but both of which shall constitute one and the same instrument.

The Parties acknowledge and accept the terms and conditions of this Agreement as evidenced by the following signatures of their duly authorized representatives.

CITY OF SANTA CLARA, CALIFORNIA
a chartered California municipal corporation

Approved as to Form:

Dated: _____

GLEN R. GOOGINS
City Attorney

JOVAN D. GROGAN
City Manager
1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax: (408) 241-6771

"CITY"

NOLL & TAM ARCHITECTS
a California corporation

Dated: _____

By (Signature): _____

Name: Janet Tam

Title: CEO, principal

Principal Place of 729 Heinz Ave

Business Address: Berkeley, CA 94710

Email Address: janet.tam@nollandtam.com

Telephone: (510) 542-2212

Fax: (510) 542-2201

"CONTRACTOR"

EXHIBIT A
SCOPE OF SERVICES

The Services to be performed for the City by the Contractor under this Agreement are set forth below.

1. GENERAL

- 1.1. Contractor will employ all resources necessary to provide professional services for community outreach, program development and interior design services for a new public Art Center ("Facility") in support of the Parks and Recreation Department. The project is broken into two phases as follows: Phase 1 – Professional Services for Program Development and Interior Design Services and Phase 2 – Professional Services for Construction Services.
- 1.2. The Facility will be a dedicated interior condominium space within a private multifamily housing project ("Building") in the Patrick Henry Drive Specific Plan Area of Santa Clara and will be designed to provide space(s) for the instruction, creation and display of visual arts as part of the City's public parks and recreational programming for children, youth, adults and seniors.

2. PHASE 1 PROJECT TASKS

The following tables identify the task, activities, and deliverables the Contractor will provide for Phase 1. The estimated duration of Phase 1 is six (6) months. As Phase 1 progresses the City and Contractor shall review and update project timeline as applicable.

2.1. Task 1: Project Initiation/Management

Task #	Task Description	Task Activities
1	Project Initiation/Management	
1.1	Project Kick-Off Meeting	- Upon receipt of a written "Authorization to Proceed" from the City, Contractor will hold a kick-off meeting with the City staff, key members of Contractor's design team to review project goals and vision, design review and decision making process, initial program requirements, identify key community stakeholders and user groups, the community engagement process, anticipated and completed to date, scope, project schedule, progress reports, deliverables, and project budget. - Meeting to be held in-person.
1.2	Staff Coordination with Contractor	- Biweekly face-to-face conference call project team meetings with Contractor will be held to ensure good communication on upcoming

Task #	Task Description	Task Activities
		tasks and to make sure the project remains on time and within budget. - Meetings to be held via video.
Task #	Task Description	Task Activities
1.3	Project Reporting	Monthly progress reports shall be sent by the Contractor to the City Project Manager.
Task 1 Deliverables		
Task #	Deliverables	
1.1	Meeting agenda and minutes	
1.2	Biweekly meeting agenda, minutes and action items	
1.3	Monthly progress reports	

2.2. Task 2: Art Program and Outreach

Task #	Task Description	Task Activities
2	Art Program and Outreach	
2.1	Existing Art Programs	1. Verify existing art programs in Santa Clara, including those currently offered by the City's Parks and Recreation Department. Consider the following: - What Visual Art disciplines will be represented and/or prioritized in the Facility for: (a) instruction, (b) creation, and (c) exhibition, given the Facility limitations of space and compatibility with adjacent residential uses. - (Visual Arts examples: painting, ceramics, sculpture/3D art, traditional handcrafts, weaving/textile, fashion design, jewelry, leather working, writing, etc.) - (Compatibility concerns/examples: sound, smell, heat, ventilation, mechanical load, cleanout, visual nuisance, security). 2. Program Opportunities, Alternatives & Analysis. Review existing and desired art programs, facilities, sizes, locations, popularity/service demand, pricing, and evaluate feasibility (SWOT) of program alternatives considered and degree of public participation/support.

Task #	Task Description	Task Activities
2.2	Outreach	Engage the community in providing comments on potential visual art programs they would like to see offered. (a) Stakeholder meeting (if applicable): Based on the interest list and persons who have particular interest in the park and project, a tour or meeting on site may be advisable. Up to three stakeholder meetings in one day. (b) General Community Meeting: - May be a Citywide special event, or other forum - Additional Commission input, i.e. Youth Commission, Cultural Commission, Senior Advisory Commission can be invited to PRC or hold joint meeting or separate meeting as needed. - Potential booth at citywide special events. (c) Online Community Survey usually open for 2-3 weeks (d) One Council Meeting
2.3	Proposed Programs	Develop a prioritized preferred program menu and alternative if appropriate.

Task 2 Deliverables

Task #	Deliverables
2.1	Provide a report to the City identifying your findings and your suggested degree of public participation and support.
2.2	Provide a report which includes the input from the meetings and survey.
2.3	Provide a report to the City with your proposed prioritized preferred art program menu and alternatives based on your research and public input from Tasks 2.1 and 2.2.

2.3. Task 3: Business Program Plan

Task #	Task Description	Task Activities
3	Business Program Plan	
3.1	Business Program Plan Draft	Develop a cost-neutral business plan that compliments the program offerings developed in Task 2.
3.2	Business Program Plan Draft Review	Coordinate a meeting with City staff to review the draft of the Business Program Plan. Record staff feedback and comments.

Task #	Task Description	Task Activities
3.3	Finalize Business Program Plan	Incorporate City feedback from Task 3.2 and finalize the Business Program Plan for City review and final approval.
Task 3 Deliverables		
Task #	Deliverables	
3.1	Draft of a Business Program Plan.	
3.2	Hold meeting with City staff for review of Business Program Plan draft.	
3.3	Provide a final version of the Business Program Plan for City review and approval.	

2.4. Task 4: Schematic Interior Design

Task #	Task Description	Task Activities
4	Schematic Interior Design - Develop schematic interior design and all tenant improvements with the Developer's Building Plans and Specifications	
4.0	Drawing Backgrounds and Revit BIM model	Obtain drawing backgrounds from developer and set up Revit BIM model.
4.1	Conceptual Space Designs for Community Art Center	Develop 2-3 conceptual space alternatives that provide the following (Incorporate input from the public, user groups, staff, PRC, and the City Council into the design.): - Instructional Space that supports multiple (2) simultaneous art classes/instruction for "X" students, where number to be determined through feasibility analysis (i.e. 15-20); - Creation/maker Space that supports equipment and scheduled smaller and/or individualized opportunities outside of class time; - Flexible Exhibit/Multiuse Space that supports short term exhibits, events, workshops for 50 - 60 people; and - Support Spaces: staff office, small reception area, restroom(s), tools/supplies/storage, table/chair storage, equipment/mechanical, circulation. - Interior design elements to be shown on one preferred concept plan that will be developed into a schematic design level plan: technology (IT) components (doors, key card, office connectivity, computer, phone); visual and sound treatment (doors, glass, walls, windows), ceiling, lighting, ventilation; furnishings, fixtures and equipment (F, F & E), colors/treatments, sinks, traps, cleanouts,

Task #	Task Description	Task Activities
		electrical capacity, receptacles, etc. - Connectivity with outdoors: main street entry, Art WalkPark/plaza. - Provide comments to City on Developer's Building plans relative to the space(s) and connections for tenant improvements.
4.2	Outreach, Preferred Design and Project Estimates	Provide the PRC and City staff the designs to verify program matches design. Obtain feedback and incorporate that feedback into the preferred design. Provide the preferred design to PRC for final review, initial project estimates and recommendation to council.
4.3	Expedited Scheduling and Value Engineering Recommendations	Formulate expedited scheduling and value engineering recommendations. Provide Contractor narratives for cost estimating (Mechanical, plumbing, electrical, lighting, telecom, fire alarm, and secondary structural) and to inform the development of a concept plan cost estimate.
Task 4 Deliverables		
Task #	Deliverables	
4.1	2-3 conceptual space design alternatives	
4.2	Review of designs with PRC and City staff. Final preferred design and initial project estimates.	
4.3	Report including scheduling and engineering recommendations and narratives for concept cost estimating.	

3. OUTREACH MEETINGS

3.1. The schematic design of flexible, interior space shall meet the desired program(s) of the community and design features of the City for review by the Commissions and subsequent Council recommendation and approval. This will be accomplished through community outreach, public meetings, online surveys, stakeholders and City staff input:

3.1.1. Parks & Recreation Commission (PRC). This includes a presentation and the Commission's action to initiate public input on the initial schematic design.

3.1.1.1. This item presumes a prerequisite amount of dialogue between Parks & Recreation Department Administration about the design principles, initial concepts, and community park system needs and design specifications and a "readiness" to initial public input.

3.1.1.2. Proposed Date: TBD. PRC Meeting Date is 3rd Tuesday of the month. (Parks & Recreation Admin will need the presentation and narrative information about three weeks in advance of the meeting date to allow for review, editing, approval, and posting)

3.1.1.3. Public Noticing (City will coordinate with vendor):

- Project Contact List. Generate a list with contact information (emails) of Project stakeholders, such as neighborhood within 1000 ft radius of project, persons who have opted in to receive public notice of park projects or development specific stakeholders.
- Park Project's Page Announcement. Develop and place park project description on City website "Park Projects" page. See current examples.
- Meeting Invitations. Develop a meeting invitation giving the date time and how to participate (remote) or location (if in person). This is then used for an "Enotify" message, a broadcast email of upcoming Park Projects sent by the City to persons who have opted in "Park Projects"
- Council/Commission Agenda Posting. Reports to Commission or Council (an "RTC") take a minimum of 4-6 weeks to develop internally and then circulate through the internal review, approval and posting process in Legistar/Granicus.
- Staff Reports, City Manager Reports. Announcement of upcoming park projects during staff report at Commission meetings, or through CMO Biweekly letter to community.

3.1.2. Community Meeting(s) and Community Online Survey

3.1.3. Internal staff and developer Review of public comments, and Contractor's schematic design update

3.1.3.1. Contractor assesses and makes schematic design updates and provides narrative of how the initial design, or research based best practices, or changes to the design address the public input and still meet the City criteria/needs

3.1.3.2. Presentation to staff in preparation of PRC #2, #3

3.1.4. Parks & Recreation Commission Meeting #2 (and potential PRC #3/ "final" depending upon public input and Commission recommendation).

3.1.4.1. Contractor presentation(s) of proposed schematic design to PRC and PRC Recommendation to City Council

3.1.5. City Council consideration of PRC recommendation.

4. PHASE 2 PROJECT TASKS

The following are the tentative tasks and activities Contractor will provide for Phase 2. Tasks in this phase are dependent on finalization of Phase 1 Tasks and may require revisions. Tasks and deliverables will be finalized prior to Phase 2 beginning.

- 4.1. Contractor will propose to City staff a task list with deliverables prior to Phase 2 beginning.
- 4.2. Task 1: Design Development Phase (8 Weeks). This task will include the following activities:
 - 4.2.1. Confirmation of preferred schematic design
 - 4.2.2. Floor/reflected ceiling plans
 - 4.2.3. Interior elevations
 - 4.2.4. Preliminary details
 - 4.2.5. Refinement of interior design, colors, and materials
 - 4.2.6. FF&E coordination (engineering coordination only)
 - 4.2.7. Product research
 - 4.2.8. Project management/Contractor coordination
 - 4.2.9. Cartoon CD set
 - 4.2.10. QC review
 - 4.2.11. Preliminary technical specifications
 - 4.2.12. DD cost estimate – TBD Cost Contractors
 - 4.2.13. DD cost estimate coordination
 - 4.2.14. Meetings (four)
 - 4.2.15. Secondary structural engineering – IDA
 - 4.2.16. Mechanical/Plumbing engineering – Eddie Padilla
 - 4.2.17. Electrical/Lighting/Telecom/Fire Alarm Engineering – OMM

4.3. Task 2: Construction Documents/Permit Phase (12 weeks). This task will include the following activities:

- 4.3.1. Floor/reflected ceiling plans
- 4.3.2. Interior elevations
- 4.3.3. Construction details
- 4.3.4. Interior design, colors and materials
- 4.3.5. FF&E coordination (engineering coordination only)
- 4.3.6. Product research
- 4.3.7. Project management/Contractor coordination
- 4.3.8. QC review (drawings/specifications)
- 4.3.9. Final technical specifications (sheet specifications)
- 4.3.10. Front end specifications
- 4.3.11. 50% CD cost estimated – TBD Cost Contractors
- 4.3.12. 50% CD cost estimate coordination
- 4.3.13. Meetings (3-4)
- 4.3.14. Plan check process/other agency approvals
- 4.3.15. Secondary structural engineering – IDA
- 4.3.16. Mechanical/Plumbing engineering – Eddie Padilla
- 4.3.17. Electrical/Lighting/Telecom/Fire Alar engineering – OMM

4.4. Task 3: Bidding Phase (8 weeks). This task will include the following activities:

- 4.4.1. Pre-bid meeting
- 4.4.2. Respond to contractor questions
- 4.4.3. Addenda
- 4.4.4. Assist owner with contractor selection
- 4.4.5. Mechanical/Plumbing engineering – Eddie Padilla

- 4.4.6. Secondary structural engineering – IDA
- 4.5. Task 4: Construction Administration Phase - Estimated Construction Duration: 24 weeks
 - 4.5.1. Twelve total bi-monthly meetings as follows:
 - 4.5.1.1. Virtual progress meetings (6x)
 - 4.5.1.2. Onsite progress meetings (6x)
 - 4.5.2. Submittal review
 - 4.5.3. RFI's, construction support
 - 4.5.4. Mechanical/Plumbing engineering – Eddie Padilla
 - 4.5.5. Electrical/Lighting/Telecom/Fire Alar engineering – OMM
 - 4.5.6. Secondary structural engineering – IDA
 - 4.5.7. Punch lists, project close-out
 - 4.5.8. Record documents

EXHIBIT B1 SCHEDULE OF FEES

1. MAXIMUM COMPENSATION

- 1.1. The maximum amount payable for all services provided under this Agreement shall not exceed Five Hundred Twenty-Nine Thousand Three Hundred Fifty-Three Dollars (\$529,353), during the term of the Agreement. No additional services will be performed unless both Parties execute an amendment outlining the services requested and the compensation agreed for such services.
- 1.2. All payments are based upon City's acceptance of Contractor's performance of services specified in Exhibit A, Scope of Services. City shall have no obligation to pay unless Contractor has successfully completed the work for which payment is due.
- 1.3. The compensation to be paid by the City is specified below. The total for each task is based on time and materials, but not in total exceed the amount set forth for each task, regardless of the final actual total of hours necessary to complete each task. However, if a task can be completed for less than the not to exceed amount, only the actual amount shall be invoiced.

Table B1: Total Compensation

Description	Total
Phase 1	
Task 1: Project Initiation/Management	\$ 16,300
Task 2: Art Program and Outreach-Activities	\$ 35,855
Task 3: Business Program Plan	\$ 12,100
Task 4: Schematic Design	\$ 77,283
Phase 1 Reimbursables	\$ 1,500
Phase 1 Total	\$ 143,038
Phase 2	
Task 1: Design Development	\$ 101,896
Task 2: Construction Documents/Permit Phase	\$ 119,421
Task 3: Bidding Phase	\$ 4,090
Task 4: Construction Administration Phase	\$ 88,862
Phase 2 Reimbursables	\$ 3,000
Phase 2 Total	\$ 317,269
TOTAL FOR PHASE 1 AND 2	\$ 460,307
Contingency	\$ 69,046
TOTAL MAXIMUM COMPENSATION NOT-TO-EXCEED	\$ 529,353

1.4. See Exhibit B2 for task breakdown by cost and hours.

2. LABOR RATES

- 2.1. All hourly rates are fixed for the Term of the Agreement, in the event there is a need to extend the Agreement beyond two years Contractor may request price adjustments to the hourly rates in Section 2.2 below. Rate increases must be supported by a relevant industry specific index and fully documented by Contractor. Rate adjustments are subject to City's approval.
- 2.2. The hourly rates for Contractor's Personnel are listed below in Table B2 below:

Table B2: Hourly Rates

Title	Hourly Rate
Principal	\$260
Senior Architect	\$200
Senior PM/Architect	\$185
Interior Designer	\$140

- 2.3. Hourly rates shall apply for any additional services requested by the City of Contractor outside of the specified scope of services herein.

3. INVOICING REQUIREMENTS

- 3.1. Contractor shall invoice the City on a monthly basis for the percentage of services completed for each task by Contractor during the preceding month and provide the invoice in a format approved by the City, including but not limited to the information listed under Section 3.3 below.
- 3.2. City shall pay Contractor within thirty (30) days of City's receipt of an approved invoice.
- 3.3. Invoices shall include, at a minimum, the following:
- 3.3.1. Identify the task services were provided for;
 - 3.3.2. Description of work performed;
 - 3.3.3. Deliverables completed;
 - 3.3.4. Amount for services provided by task; and
 - 3.3.5. The not-to-exceed amount for the task, invoiced amount to date, amount for the current invoice, and remaining not-to-exceed amount for the task.

**EXHIBIT B2
FEES BY TASK**

1. Below is the fee breakdown for tasks in Phase 1.

PHASE 1 TASKS		Principal (PIC) \$260/HR	Senior Architect \$200/HR	Senior PM/Architect \$185/HR	Interior Designer \$140/HR	Contractor Fee Total	Subcontractor Fee Total	Total Amount
Task 1	Project Initiation/Management							
Activities								
1.1	Project Kick-off Meeting - In person	4		4	4	\$2,340		\$2,340
1.2	Staff Coordination with Contractor	6		18	18	\$7,410		\$7,410
1.3	Project Reporting (See deliverables below)							
Deliverables								
1.1	Meeting Agenda and Minutes	1		2		\$630		\$630
1.2	Bi-weekly Meeting Agenda/Minutes/ Action Items			24		\$4,440		\$4,440
1.3	Project Reporting			8		\$1,480		\$1,480
Phase 1: Task 1 Total		11	0	56	22	\$16,300		\$16,300
Task 2	Art Program and Outreach							
Activities								
2.1	Santa Clara Arts Market Review - Ballard King						\$4,400	\$4,400

PHASE 1 TASKS		Principal (PIC) \$260/HR	Senior Architect \$200/HR	Senior PM/Architect \$185/HR	Interior Designer \$140/HR	Contractor Fee Total	Subcontractor Fee Total	Total Amount
	(a) Stakeholder Meetings - 3 in one day	6		6	6	\$3,510		\$3,510
2.2	(b) General Community Meetings							
	- PRC Commission with prep (3)	12		12	8	\$6,460		\$6,460
	- City Council with prep (2)	8		8	5	\$4,260		\$4,260
	- Public Community Meeting (1)	5		5	5	\$2,925		\$2,925
	(c)Online Survey			8	30	\$5,680		\$5,680
2.3	Develop a Prioritized Arts Program Menu	2		8	3	\$2,420		\$2,420
Deliverables								
2.1	SWOT Report Santa Clara Art Offerings - Ballard King	included in activities above						
2.2	Community Outreach	2		8	8	\$3,120		\$3,120
2.3	Prioritized Arts Program selected option(s)	4		8	4	\$3,080		\$3,080
Phase 1: Task 2 Total		39	0	55	39	\$31,455	\$4,400	\$35,855
Task 3	<u>Business Program Plan</u>							
Activities								

PHASE 1 TASKS		Principal (PIC) \$260/HR	Senior Architect \$200/HR	Senior PM/Architect \$185/HR	Interior Designer \$140/HR	Contractor Fee Total	Subcontractor Fee Total	Total Amount
3.1	Present Business Program Plan Draft - Ballard King						\$5,500	\$5,500
3.2	Present Business Program Plan Draft Review - Ballard King						\$5,500	\$5,500
3.3	Present Final Business Program Plan - Ballard King						\$1,100	\$1,100
Deliverables								
3.1	Business Program Plan Draft	included in activities above						
3.2	Business Program Plan Draft - Revision 1	included in activities above						
3.3	Final Business Program Plan	included in activities above						
Phase 1: Task 3 Total		0	0	0	0	0	\$12,100	\$12,100
Task 4	Schematic Design							
Activities								
4.0	Obtain drawing backgrounds from developer and set up Revit BIM model			2	24	\$3,730		\$3,730

PHASE 1 TASKS		Principal (PIC) \$260/HR	Senior Architect \$200/HR	Senior PM/Architect \$185/HR	Interior Designer \$140/HR	Contractor Fee Total	Subcontractor Fee Total	Total Amount
4.1a	Present 2-3 concept plans	3		12	16	\$5,240		\$5,240
4.1b	Locate technology components power, data, card readers, lighting, plumbing, ventilation for one preferred concept space plan			3	4	\$1,115		\$1,115
4.1c	FF&E: Furniture			8	36	\$6,520		\$6,520
4.1d	Provide 2-3 interior design finish palettes	1		4	16	\$3,240		\$3,240
4.1e	Feedback to developer on visual connection to Art Walk Park/Plaza and connections for tenant improvements	2		3	3	\$1,495		\$1,495
4.2a	Review 2-3 concept space plans with PRC and City staff	1.5		1.5	1.5	\$878		\$878
4.2b	Incorporate feedback into preferred design			1.5	4	\$838		\$838
4.2c	Present preferred design	1.5		1.5	1.5	\$878		\$878

PHASE 1 TASKS		Principal (PIC) \$260/HR	Senior Architect \$200/HR	Senior PM/Architect \$185/HR	Interior Designer \$140/HR	Contractor Fee Total	Subcontractor Fee Total	Total Amount
4.3a	Formulate expedited project schedule	1		2		\$630		\$630
4.3b	Provide Contractor recommendations and narratives for cost estimate - Eddie Padilla, Mechanical, Plumbing						\$4,640	\$4,640
4.3c	Provide Contractor recommendations and narratives for cost estimate - OMM, Electrical, Lighting, Telecom, Fire Alarm Systems						\$4,400	\$4,400
4.3d	Provide Contractor recommendations and narratives for cost estimate - IDA, Secondary Structural						\$4,400	\$4,400
4.3e	Provide Contractor recommendations and narratives for cost estimate -						\$3,476	\$3,476

PHASE 1 TASKS		Principal (PIC) \$260/HR	Senior Architect \$200/HR	Senior PM/Architect \$185/HR	Interior Designer \$140/HR	Contractor Fee Total	Subcontractor Fee Total	Total Amount
	SFM, A/V Contractor							
4.3f	Provide concept plan cost estimate coordination	2		4		\$1,260		\$1,260
4.3g	Provide concept plan cost estimate for preferred concept design - TBD Cost Estimators						\$11,385	\$11,385
4.3h	Propose value engineering recommendations should project design and budget does not align	2		5		\$1,445		\$1,445
4.3i	Propose value engineering recommendations - TBD Cost Estimators						\$1,733	\$1,733
Deliverables								
4.1	Concept space plans and finish palettes	included in 4.1d activities above						
4.2	Final preferred design documentation to			32	80	\$17,120		\$17,120

PHASE 1 TASKS		Principal (PIC) \$260/HR	Senior Architect \$200/HR	Senior PM/Architect \$185/HR	Interior Designer \$140/HR	Contractor Fee Total	Subcontractor Fee Total	Total Amount
	Schematic design level							
4.3	Report including expedited project schedule, cost estimate for preferred concept design option, vale engineering recommendations and comments on Developer's Building Plans	1		8	8	\$2,860		\$2,860
Phase 1: Task 4 Total		15	0	88	194	\$47,249	\$30,034	\$77,283
PHASE 1 SUBTOTAL						\$95,004	\$46,534	\$141,538
Phase 1 Reimbursables								\$1,500
PHASE 1 TOTAL								\$143,038

2. Below is the fee breakdown for tasks in Phase 2.

Phase 2 Tasks	Principal (PIC) \$260/HR	Senior Architect \$200/HR	Senior PM/Architect \$185/HR	Interior Designer \$140/HR	Contractor Fee Total	Subcontractor Fee Total	Total Amount
<u>Task 1: Design Development Phase</u>							
Confirmation of Preferred Schematic Design	1		4	4	\$1,560		\$1,560
Floor/reflected ceiling plans			4	24	\$4,100		\$4,100
Interior Elevations			4	16	\$2,980		\$2,980

Phase 2 Tasks	Principal (PIC) \$260/HR	Senior Architect \$200/HR	Senior PM/Architect \$185/HR	Interior Designer \$140/HR	Contractor Fee Total	Subcontractor Fee Total	Total Amount
Preliminary Details			12	20	\$5,020		\$5,020
Refinement of Interior Design, Colors and Materials	2		4	8	\$2,380		\$2,380
Further refine furniture selection choices to DD level for hand off to selected furniture vendor.			24	40	\$10,040		\$10,040
FF&E Coordination			4	12	\$2,420		\$2,420
Product Research			4	8	\$1,860		\$1,860
Project management/Contra ctor coordination			16		\$2,960		\$2,960
Cartoon CD set			2		\$370		\$370
QC Review		8			\$1,600		\$1,600
Preliminary technical specifications			16		\$2,960		\$2,960
DD cost estimate - TBD Contractors						\$16,544	\$16,544
DD cost estimate coordination	1		8		\$1,740		\$1,740
Meetings (4) virtual	1		4	4	\$1,560		\$1,560
Secondary Structural Engineering - IDA						\$7,150	\$7,150
Mechanical/Plumbin g Engineering - Eddie Padilla						\$17,490	\$17,490

Phase 2 Tasks	Principal (PIC) \$260/HR	Senior Architect \$200/HR	Senior PM/Architect \$185/HR	Interior Designer \$140/HR	Contractor Fee Total	Subcontractor Fee Total	Total Amount
Electrical/Lighting/Telecom/Fire Alarm Engineering - OMM						\$9,900	\$9,900
A/V Design - SFM						\$9,262	\$9,262
Phase 2 Task 1 Total	5	8	106	136	\$41,550	\$60,346	\$101,896
<u>Task 2: Construction Documents/Permit Phase</u>							
Floor/reflected ceiling plans			12	40	\$7,820		\$7,820
Interior Elevations			2	16	\$2,610		\$2,610
Construction Details		24	8	40	\$11,880		\$11,880
Interior Design, colors and Materials	1		2	20	\$3,430		\$3,430
FF&E Coordination (engineering coordination only)			1	4	\$745		\$745
Product Research			4	12	\$2,420		\$2,420
CALGREEN			1	4	\$745		\$745
Project management/Contractor coordination			24		\$4,440		\$4,440
QC review (drawings/specifications)		24	2	8	\$6,290		\$6,290
Final technical specifications		8	24	16	\$8,280		\$8,280
Front End Specifications	2		8	8	\$3,120		\$3,120

Phase 2 Tasks	Principal (PIC) \$260/HR	Senior Architect \$200/HR	Senior PM/Architect \$185/HR	Interior Designer \$140/HR	Contractor Fee Total	Subcontractor Fee Total	Total Amount
50% CD cost estimate - TBD Cost Estimator						\$16,544	\$16,544
50% CD cost estimate coordination	2		8		\$2,000		\$2,000
Meetings (3-4)			8	8	\$2,600		\$2,600
Plan Check process/other agency approvals			8	24	\$4,840		\$4,840
Secondary Structural Engineering - IDA						\$9,900	\$9,900
Mechanical/Plumbing Engineering - Eddie Padilla						\$8,800	\$8,800
Electrical/Lighting/Telecom/Fire Alarm Engineering - OMM						\$12,100	\$12,100
A/V Design - SFM						\$10,857	\$10,857
Phase 2 Task 2 Total	5	56	112	200	\$61,220	\$58,201	\$119,421
<u>Task 3: Bidding Phase</u>							
Pre-bid meeting			4		\$740		\$740
Respond to contractor questions			4	8	\$1,860		\$1,860
Addenda			2	8	\$1,490		\$1,490
Phase 2 Task 3 Total	0	0	10	16	\$4,090	\$0	\$4,090

Phase 2 Tasks	Principal (PIC) \$260/HR	Senior Architect \$200/HR	Senior PM/Architect \$185/HR	Interior Designer \$140/HR	Contractor Fee Total	Subcontractor Fee Total	Total Amount
Task 4: Construction Administration Phase							
Virtual bi-monthly progress meetings (6x)			9	9	\$2,925		\$2,925
Onsite bi-monthly progress meetings (6x)			24	24	\$7,800		\$7,800
Submittal Review		8	36	80	\$19,460		\$19,460
RFI's, construction support		8	36	192	\$35,140		\$35,140
Secondary Structural Engineering - IDA						\$6,050	\$6,050
Mechanical/Plumbing Engineering - Eddie Padilla						\$4,290	\$4,290
Electrical/Lighting/Telecom/Fire Alarm Engineering - OMM						\$5,500	\$5,500
A/V Design - SFM						\$4,532	\$4,532
Punch lists, project close-out			4	12	\$2,420		\$2,420
Record Documents			1	4	\$745		\$745
Phase 2 Task 4 Subtotal	0	16	110	321	\$68,490	\$20,372	\$88,862
Phase 2 Subtotal					\$175,350	\$138,919	\$314,269
Phase 2 Reimbursables							\$3,000
PHASE 2 TOTAL							\$317,269

EXHIBIT C

INSURANCE REQUIREMENTS

Without limiting the Contractor's indemnification of the City, and prior to commencing any of the Services required under this Agreement, the Contractor shall provide and maintain in full force and effect during the period of performance of the Agreement and for twenty-four (24) months following acceptance by the City, at its sole cost and expense, the following insurance policies from insurance companies authorized to do business in the State of California. These policies shall be primary insurance as to the City of Santa Clara so that any other coverage held by the City shall not contribute to any loss under Contractor's insurance. The minimum coverages, provisions and endorsements are as follows:

A. COMMERCIAL GENERAL LIABILITY INSURANCE

1. Commercial General Liability Insurance policy which provides coverage at least as broad as Insurance Services Office form CG 00 01. Policy limits are subject to review, but shall in no event be less than, the following:

\$1,000,000 Each Occurrence
\$2,000,000 General Aggregate
\$2,000,000 Products/Completed Operations Aggregate
\$1,000,000 Personal Injury
2. Exact structure and layering of the coverage shall be left to the discretion of Contractor; however, any excess or umbrella policies used to meet the required limits shall be at least as broad as the underlying coverage and shall otherwise follow form.
3. The following provisions shall apply to the Commercial Liability policy as well as any umbrella policy maintained by the Contractor to comply with the insurance requirements of this Agreement:
 - a. Coverage shall be on a "pay on behalf" basis with defense costs payable in addition to policy limits;
 - b. There shall be no cross liability exclusion which precludes coverage for claims or suits by one insured against another; and
 - c. Coverage shall apply separately to each insured against whom a claim is made or a suit is brought, except with respect to the limits of liability.

B. BUSINESS AUTOMOBILE LIABILITY INSURANCE

Business automobile liability insurance policy which provides coverage at least as broad as ISO form CA 00 01 with policy limits a minimum limit of not less than one million dollars (\$1,000,000) each accident using, or providing coverage at least as broad as, Insurance Services Office form CA 00 01. Liability coverage shall apply to all owned (if any), non-owned and hired autos.

C. WORKERS' COMPENSATION

1. Workers' Compensation Insurance Policy as required by statute and employer's liability with limits of at least one million dollars (\$1,000,000) policy limit Bodily Injury by disease, one million dollars (\$1,000,000) each accident/Bodily Injury and one million dollars (\$1,000,000) each employee Bodily Injury by disease.
2. The indemnification and hold harmless obligations of Contractor included in this Agreement shall not be limited in any way by any limitation on the amount or type of damage, compensation or benefit payable by or for Contractor or any subcontractor under any Workers' Compensation Act(s), Disability Benefits Act(s) or other employee benefits act(s).
3. This policy must include a Waiver of Subrogation in favor of the City of Santa Clara, its City Council, commissions, officers, employees, and volunteers.

D. PROFESSIONAL LIABILITY

Professional Liability or Errors and Omissions Insurance as appropriate shall be written on a policy form coverage specifically designed to protect against negligent acts, errors or omissions of the Contractor. Covered services as designated in the policy must specifically include work performed under this agreement. Coverage shall be in an amount of not less than one million dollars (\$1,000,000) per claim or two million dollars (\$2,000,000) aggregate. Any coverage containing a deductible or self-retention must first be approved in writing by the City Attorney's Office.

E. COMPLIANCE WITH REQUIREMENTS

All of the following clauses and/or endorsements, or similar provisions, must be part of each commercial general liability policy, and each umbrella or excess policy.

1. Additional Insureds. City of Santa Clara, its City Council, commissions, officers, employees, and volunteers are hereby added as additional insureds in respect to liability arising out of Contractor's work for City, using Insurance Services Office (ISO) Endorsement CG 20 10 11 85, or the combination of CG 20 10 03 97 and CG 20 37 10 01, or its equivalent.
2. Primary and non-contributing. Each insurance policy provided by Contractor shall contain language or be endorsed to contain wording making it primary insurance as respects to, and not requiring contribution from, any other insurance which the indemnities may possess, including any self-insurance or self-insured retention they may have. Any other insurance indemnities may possess shall be considered excess insurance only and shall not be called upon to contribute with Contractor's insurance.

3. Cancellation.

- a. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided due to non-payment of premiums shall be effective until written notice has been given to City at least ten (10) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least ten (10) days prior to the effective date of non-renewal.
- b. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided for any cause save and except non-payment of premiums shall be effective until written notice has been given to City at least thirty (30) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least thirty (30) days prior to the effective date of non-renewal.

4. Other Endorsements. Other endorsements may be required for policies other than the commercial general liability policy if specified in the description of required insurance set forth in Sections A through E of this Exhibit C, above.

F. ADDITIONAL INSURANCE RELATED PROVISIONS

Contractor and City agree as follows:

1. Contractor agrees to ensure that subcontractors, and any other party involved with the Services, who is brought onto or involved in the performance of the Services by Contractor, provide the same minimum insurance coverage required of Contractor, except as with respect to limits. Contractor agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Agreement. Contractor agrees that upon request by City, all agreements with, and insurance compliance documents provided by, such subcontractors and others engaged in the project will be submitted to City for review.
2. Contractor agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or Contractor for the cost of additional insurance coverage required by this Agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.

3. The City reserves the right to withhold payments from the Contractor in the event of material noncompliance with the insurance requirements set forth in this Agreement.

G. EVIDENCE OF COVERAGE

Prior to commencement of any Services under this Agreement, Contractor, and each and every subcontractor (of every tier) shall, at its sole cost and expense, provide and maintain not less than the minimum insurance coverage with the endorsements and deductibles indicated in this Agreement. Such insurance coverage shall be maintained with insurers, and under forms of policies, satisfactory to City and as described in this Agreement. Contractor shall file with the City all certificates and endorsements for the required insurance policies for City's approval as to adequacy of the insurance protection.

H. EVIDENCE OF COMPLIANCE

Contractor or its insurance broker shall provide the required proof of insurance compliance, consisting of Insurance Services Office (ISO) endorsement forms or their equivalent and the ACORD form 25-S certificate of insurance (or its equivalent), evidencing all required coverage shall be delivered to City, or its representative as set forth below, at or prior to execution of this Agreement. Upon City's request, Contractor shall submit to City copies of the actual insurance policies or renewals or replacements. Unless otherwise required by the terms of this Agreement, all certificates, endorsements, coverage verifications and other items required to be delivered to City pursuant to this Agreement shall be emailed to:

ctsantaclara@ebix.com

Or mailed to:

EBIX Inc.
City of Santa Clara Department of Public Works
P.O. Box 100085 – S2
Duluth, GA 30096

Telephone number: 951-766-2280
Fax number: 770-325-0409
Email address: ctsantaclara@ebix.com

I. QUALIFYING INSURERS

All of the insurance companies providing insurance for Contractor shall have, and provide written proof of, an A. M. Best rating of at least A minus 6 (A- VI) or shall be an insurance company of equal financial stability that is approved by the City or its insurance compliance representatives.