

**NON-PROFESSIONAL SERVICES AGREEMENT BETWEEN
THE CITY OF SAN LEANDRO AND
NEWTON CONSTRUCTION & MANAGEMENT, INC.
FOR
MARINA COMMUNITY CENTER RENNOVATIONS**

THIS AGREEMENT for Marina Community Center Renovations services is made by and between the City of San Leandro ("City") and Newton Construction & Management, Inc. ("Contractor") (together sometimes referred to as the "Parties") as of May 7, 2018 (the "Effective Date").

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Contractor shall provide to City the services described in the Scope of Work attached as Exhibit A at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, the Agreement shall prevail.

- 1.1 **Term of Services.** The term of this Agreement shall begin on the Effective Date and shall end on 6/30/2019, the date of completion specified in Exhibit A, and Contractor shall complete the work described in Exhibit A on or before that date, unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 8. The time provided to Contractor to complete the services required by this Agreement shall not affect the City's right to terminate the Agreement, as referenced in Section 8.
- 1.2 **Standard of Performance.** Contractor shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Contractor is engaged.
- 1.3 **Assignment of Personnel.** Contractor shall assign only competent personnel to perform services pursuant to this Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Contractor shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.
- 1.4 **Time.** Contractor shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Subsection 1.2 above and to satisfy Contractor's obligations hereunder.
- 1.5 **City of San Leandro Living Wage Rates.** This contract may be covered by the City of San Leandro Living Wage Ordinance (LWO). Bidder's attention is directed to the San Leandro Municipal Code, Title 1, Chapter 6, Article 6. Successful Bidder must submit completed self-certification form and comply with the LWO if covered.
- 1.6 **Public Works Contractor Registration.** Contractor agrees, in accordance with Section 1771.1 of the California Labor Code, that Consultant or any subconsultant shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work,

as defined in Chapter 1 of Part 7 of Division 2 of the California Labor Code, unless currently registered and qualified to perform public work pursuant to California Labor Code section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded. No contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to California Labor Code section 1725.5. Contractor agrees, in accordance with Section 1771.4 of the California Labor Code, that if the work under this Agreement qualifies as public work, it is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

Section 2. COMPENSATION. City hereby agrees to pay Contractor a sum not to exceed **\$188,870.52**, notwithstanding any contrary indications that may be contained in Contractor's proposal, for services to be performed and reimbursable costs incurred under this Agreement. In the event of a conflict between this Agreement and Contractor's proposal, attached as Exhibit A, regarding the amount of compensation, the Agreement shall prevail. City shall pay Contractor for services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from City to Contractor for services rendered pursuant to this Agreement. Contractor shall submit all invoices to City in the manner specified herein. Except as specifically authorized by City in writing, Contractor shall not bill City for duplicate services performed by more than one person.

Contractor and City acknowledge and agree that compensation paid by City to Contractor under this Agreement is based upon Contractor's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Contractor. Consequently, the Parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Contractor and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.

2.1 Invoices. Contractor shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

- Serial identifications of progress bills; i.e., Progress Bill No. 1 for the first invoice, etc.;
- The beginning and ending dates of the billing period;
- A Task Summary containing the original contract amount, the amount of prior billings, the total due this period, the balance available under the Agreement, and the percentage of completion;
- At City's option, for each work item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense;

- The total number of hours of work performed under the Agreement by Contractor and each employee, agent, and subcontractor of Contractor performing services hereunder;
- The Contractor's signature;
- Contractor shall give separate notice to the City when the total number of hours worked by Contractor and any individual employee, agent, or subcontractor of Contractor reaches or exceeds 800 hours within a 12-month period under this Agreement and any other agreement between Contractor and City. Such notice shall include an estimate of the time necessary to complete work described in Exhibit A and the estimate of time necessary to complete work under any other agreement between Contractor and City, if applicable.

2.2 Monthly Payment. City shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. City shall have 30 days from the receipt of an invoice that complies with all of the requirements above to pay Contractor.

2.3 Final Payment. City shall pay the last **5%** of the total sum due pursuant to this Agreement within 60 days after completion of the services and submittal to City of a final invoice, if all services required have been satisfactorily performed.

2.4 Total Payment. City shall pay for the services to be rendered by Contractor pursuant to this Agreement. City shall not pay any additional sum for any expense or cost whatsoever incurred by Contractor in rendering services pursuant to this Agreement. City shall make no payment for any extra, further, or additional service pursuant to this Agreement.

In no event shall Contractor submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task or for the entire Agreement, unless the Agreement is modified prior to the submission of such an invoice by a properly executed change order or amendment.

2.5 Hourly Fees. Fees for work performed by Contractor on an hourly basis shall not exceed the amounts shown on the compensation schedule attached hereto as Exhibit B.

2.6 Reserved.

2.7 Payment of Taxes. Contractor is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.

2.8 Payment upon Termination. In the event that the City or Contractor terminates this Agreement pursuant to Section 8, the City shall compensate the Contractor for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as

of the date of written notice of termination. Contractor shall maintain adequate logs and timesheets to verify costs incurred to that date.

2.9 Authorization to Perform Services. The Contractor is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from the Contract Administrator.

2.10 Liquidated Damages. Failure of Contractor to respond to problems referred to it by City within the time limits established in Subsection 1.2 of this Agreement shall result in liquidated damages as set forth in Exhibit A.

Section 3. FACILITIES AND EQUIPMENT. Except as set forth herein, Contractor shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement. City shall make available to Contractor only the facilities and equipment listed in this section, and only under the terms and conditions set forth herein. Contractor shall make a written request to City to use facilities or equipment not otherwise listed herein.

3.1 Safety Requirements. In accordance with generally accepted construction practices and state law, Contractor shall be solely and completely responsible for conditions on the jobsite, including safety of all persons and property during performance of the work. This requirement shall apply continuously and not be limited to normal working hours.

Contractor shall take all necessary precautions and provide all necessary safeguards to prevent personal injury and property damage. Contractor shall provide protection for all persons including, but not limited to, its employees and employees of its subcontractors; members of the public; and employees, agents, and representatives of the City and regulatory agencies that may be on or about the work.

The services of the City in conducting review and inspection of Contractor's performance is not intended to include review of the adequacy of Contractor's work methods, equipment, bracing or scaffolding, or safety measures, in, on, or near any Contractor jobsite.

All work and materials shall be in strict accordance with all applicable state, city, county, and federal rules, regulations and codes, with specific attention to the United States Department of Labor Occupational Health and Safety Administration (OSHA) requirements. Contractor shall be solely responsible for compliance with all city, county, and state explosive transport, storage, and blasting requirements and for any damages caused by such operations.

Contractor is hereby informed that work on City property could be hazardous. Contractor shall carefully instruct all personnel working on City property that all conditions of the property are potentially hazardous work areas as to potential dangers and shall provide such necessary safety equipment and instructions as are necessary to prevent injury to personnel and damage to property. Special care shall be exercised relative to work underground.

In addition to complying with all other safety regulations, Contractor shall abide by any and all other City requirements contained in any specifications, special conditions or manuals, which shall be made available by City upon request.

Contractor shall provide and maintain all necessary safety equipment such as fences, barriers, signs, lights, walkways, guards, and fire prevention and fire-fighting equipment and shall take such other action as is required to fulfill its obligations under this section. It is the intent of the City to provide a safe working environment under normal conditions. CONTRACTOR IS ADVISED THAT CITY'S OPERATIONS AND PROPERTY ARE INHERENTLY HAZARDOUS BECAUSE OF CONDITIONS SUCH AS CONFINED SPACES, POTENTIALLY EXPLOSIVE ATMOSPHERES, AND POSSIBLE EXPOSURE TO PATHOGENS.

Contractor shall maintain all portions of the jobsite in a neat, clean, and sanitary condition at all times. If required by the City, toilets shall be furnished by Contractor where needed for use of its employees and their use shall be strictly enforced. Contractor shall not use the City's existing sanitary facilities, unless previously authorized by the City.

Contractor shall keep adequate first aid facilities and supplies available and instruction in first aid for its employees shall be given.

City reserves the right to require that Contractor bring onto the project or engage the services of a licensed safety engineer at any time during the term of this Agreement. If Contractor does not have a licensed safety engineer on staff, then City may require that Contractor engage a subcontractor or subconsultant as the project's safety engineer. Contractor shall bear all costs in connection with meeting the requirements of this section.

Section 4. INSURANCE REQUIREMENTS. Before fully executing this Agreement, Contractor, at its own cost and expense, unless otherwise specified below, shall procure the types and amounts of insurance listed below against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Contractor and its agents, representatives, employees, and subcontractors. Consistent with the following provisions, Contractor shall provide proof satisfactory to City of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects, and that such insurance is in effect prior to beginning work. Contractor shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in the Contractor's bid. Contractor shall not allow any subcontractor to commence work on any subcontract until Contractor has obtained all insurance required herein for the subcontractor(s) and provided evidence to City that such insurance is in effect. VERIFICATION OF THE REQUIRED INSURANCE SHALL BE SUBMITTED AND MADE PART OF THIS AGREEMENT PRIOR TO EXECUTION. Contractor shall maintain all required insurance listed herein for the duration of this Agreement.

4.1 Workers' Compensation.

4.1.1 General Requirements. Contractor shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all

persons employed directly or indirectly by Contractor. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than **\$1,000,000** per accident. In the alternative, Contractor may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the California Labor Code shall be solely in the discretion of the Contract Administrator.

The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Contractor, its employees, agents, and subcontractors.

4.1.2 Submittal Requirements. To comply with Subsection 4.1, Contractor shall submit the following:

- a. Certificate of Workers' Compensation Insurance in the amounts specified in the section; and
- b. Waiver of Subrogation Endorsement as required by the section.

4.2 Commercial General and Automobile Liability Insurance.

4.2.1 General Requirements. Contractor, at its own cost and expense, shall maintain commercial general liability insurance for the term of this Agreement in an amount not less than **\$2,000,000** and automobile liability insurance for the term of this Agreement in an amount not less than **\$2,000,000** per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

4.2.2 Minimum Scope of Coverage. Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (most recent edition) covering comprehensive General Liability on an "occurrence" basis. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001, Code 1 (any auto). No endorsement shall be attached limiting the coverage.

4.2.3 Additional Requirements. Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:

- a. The Insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.
- b. City, its officers, officials, employees, and volunteers are to be covered as additional insureds as respects: liability arising out of work or operations performed by or on behalf of the Contractor; or automobiles owned, leased, hired, or borrowed by the Contractor.
- c. Contractor hereby agrees to waive subrogation which any insurer or contractor may require from vendor by virtue of the payment of any loss. Contractor agrees to obtain any endorsements that may be necessary to affect this waiver of subrogation.
- d. For any claims related to this Agreement or the work hereunder, the Contractor's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

4.2.4 Submittal Requirements. To comply with Subsection 4.2, Contractor shall submit the following:

- a. Certificate of Liability Insurance in the amounts specified in the section;
- b. Additional Insured Endorsement as required by the section;
- c. Waiver of Subrogation Endorsement as required by the section; and
- d. Primary Insurance Endorsement as required by the section.

4.3 All Policies Requirements.

4.3.1 Acceptability of Insurers. All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A:VII.

4.3.2 Verification of Coverage. Prior to beginning any work under this Agreement, Contractor shall furnish City with complete copies of all Certificates of Liability Insurance delivered to Contractor by the insurer, including complete copies of all endorsements attached to the policies. All copies of Certificates of Liability Insurance and certified endorsements shall show the signature of a person authorized by that insurer to bind coverage on its behalf. If the City does not receive the required insurance documents prior to the Contractor beginning work, it shall not waive the Contractor's obligation to provide them. The City reserves the right to require complete copies of all required insurance policies at any time.

- 4.3.3 Deductibles and Self-Insured Retentions.** Contractor shall disclose to and obtain the written approval of City for the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, employees, and volunteers; or the Contractor shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- 4.3.4 Wasting Policies.** No policy required by this Section 4 shall include a “wasting” policy limit (i.e. limit that is eroded by the cost of defense).
- 4.3.5 Endorsement Requirements.** Each insurance policy required by Section 4 shall be endorsed to state that coverage shall not be canceled by either party, except after 30 days’ prior written notice has been provided to the City.
- 4.3.6 Subcontractors.** Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

4.4 Remedies. In addition to any other remedies City may have if Contractor fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Contractor’s breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- Order Contractor to stop work under this Agreement or withhold any payment that becomes due to Contractor hereunder, or both stop work and withhold any payment, until Contractor demonstrates compliance with the requirements hereof; and/or
- Terminate this Agreement.

Section 5. INDEMNIFICATION AND CONTRACTOR’S RESPONSIBILITIES. Contractor shall indemnify, defend with counsel acceptable to City, and hold harmless City and its officers, officials, employees, agents and volunteers from and against any and all liability, loss, damage, claims, expenses, and costs (including without limitation, attorney’s fees and costs and fees of litigation) (collectively, “Liability”) of every nature arising out of or in connection with Contractor’s performance of the Services or its failure to comply with any of its obligations contained in this Agreement, except such Liability caused by the sole negligence or willful misconduct of City.

The Contractor’s obligation to defend and indemnify shall not be excused because of the Contractor’s inability to evaluate Liability or because the Contractor evaluates Liability and determines that the

Contractor is not liable to the claimant. The Contractor must respond within 30 days, to the tender of any claim for defense and indemnity by the City, unless this time has been extended by the City. If the Contractor fails to accept or reject a tender of defense and indemnity within 30 days, in addition to any other remedy authorized by law, so much of the money due the Contractor under and by virtue of this Agreement as shall reasonably be considered necessary by the City, may be retained by the City until disposition has been made of the claim or suit for damages, or until the Contractor accepts or rejects the tender of defense, whichever occurs first.

Notwithstanding the forgoing, to the extent this Agreement is a "construction contract" as defined by California Civil Code Section 2782, as may be amended from time to time, such duties of Contractor to indemnify shall not apply when to do so would be prohibited by California Civil Code Section 2782.

In the event that Contractor or any employee, agent, or subcontractor of Contractor providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of City, Contractor shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Section 6. **STATUS OF CONTRACTOR.**

- 6.1** **Independent Contractor.** At all times during the term of this Agreement, Contractor shall be an independent contractor and shall not be an employee of City. City shall have the right to control Contractor only insofar as the results of Contractor's services rendered pursuant to this Agreement and assignment of personnel pursuant to Subsection 1.3; however, otherwise City shall not have the right to control the means by which Contractor accomplishes services rendered pursuant to this Agreement. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.
- 6.2** **Contractor Not an Agent.** Except as City may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

Section 7. **LEGAL REQUIREMENTS.**

- 7.1** **Governing Law.** The laws of the State of California shall govern this Agreement.

- 7.2 **Compliance with Applicable Laws.** Contractor and any subcontractors shall comply with all laws applicable to the performance of the work hereunder.
- 7.3 **Other Governmental Regulations.** To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Contractor and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.
- 7.4 **Licenses and Permits.** Contractor represents and warrants to City that Contractor and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions. Contractor represents and warrants to City that Contractor and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Contractor and any subcontractors shall obtain and maintain during the term of this Agreement valid Business Licenses from City.
- 7.5 **Nondiscrimination and Equal Opportunity.** Contractor shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Contractor under this Agreement. Contractor shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Contractor thereby.

Contractor shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

Section 8. TERMINATION AND MODIFICATION.

- 8.1 **Termination.** City may cancel this Agreement at any time and without cause upon written notification to Contractor.

Contractor may cancel this Agreement upon 60 days' written notice to City and shall include in such notice the reasons for cancellation.

In the event of termination, Contractor shall be entitled to compensation for services performed to the effective date of termination; City, however, may condition payment of such compensation upon Contractor delivering to City any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Contractor or prepared by or for Contractor or the City in connection with this Agreement.

- 8.2 Extension.** City may, in its sole and exclusive discretion, extend the end date of this Agreement beyond that provided for in Subsection 1.1. Any such extension shall require a written amendment to this Agreement, as provided for herein. Contractor understands and agrees that, if City grants such an extension, City shall have no obligation to provide Contractor with compensation beyond the maximum amount provided for in this Agreement. Similarly, unless authorized by the Contract Administrator, City shall have no obligation to reimburse Contractor for any otherwise reimbursable expenses incurred during the extension period.
- 8.3 Amendments.** The Parties may amend this Agreement only by a writing signed by all the Parties.
- 8.4 Assignment and Subcontracting.** City and Contractor recognize and agree that this Agreement contemplates personal performance by Contractor and is based upon a determination of Contractor's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of Contractor. Contractor may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Contractor shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the Contract Administrator.
- 8.5 Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Contractor shall survive the termination of this Agreement.
- 8.6 Options upon Breach by Contractor.** If Contractor materially breaches any of the terms of this Agreement, City's remedies shall included, but not be limited to, the following:
- 8.6.1** Immediately terminate the Agreement;
 - 8.6.2** Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Contractor pursuant to this Agreement;
 - 8.6.3** Retain a different contractor to complete the work described in Exhibit A not finished by Contractor; or
 - 8.6.4** Charge Contractor the difference between the cost to complete the work described in Exhibit A that is unfinished at the time of breach and the amount that City would have paid Contractor pursuant to Section 2 if Contractor had completed the work.

Section 9. KEEPING AND STATUS OF RECORDS.

- 9.1 Records Created as Part of Contractor's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that

Contractor prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the City. Contractor hereby agrees to deliver those documents to the City upon termination of the Agreement. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use. City and Contractor agree that, until final approval by City, all data, plans, specifications, reports and other documents are confidential and will not be released to third parties without prior written consent of both Parties.

9.2 Contractor's Books and Records. Contractor shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City under this Agreement for a minimum of 3 years, or for any longer period required by law, from the date of final payment to the Contractor to this Agreement.

9.3 Inspection and Audit of Records. Any records or documents that Subsection 9.2 of this Agreement requires Contractor to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds \$10,000.00, the Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of the City, for a period of 3 years after final payment under the Agreement.

Section 10. MISCELLANEOUS PROVISIONS.

10.1 Attorneys' Fees. If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.

10.2 Venue. In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Alameda or in the United States District Court for the Northern District of California.

10.3 Severability. If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

10.4 No Implied Waiver of Breach. The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

10.5 Successors and Assigns. The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.

10.6 Conflict of Interest. Contractor may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Contractor in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Contractor shall not employ any City official in the work performed pursuant to this Agreement. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Section 1090 *et seq.*

Contractor hereby warrants that it is not now, nor has it been in the previous 12 months, an employee, agent, appointee, or official of the City. If Contractor was an employee, agent, appointee, or official of the City in the previous 12 months, Contractor warrants that it did not participate in any manner in the forming of this Agreement. Contractor understands that, if this Agreement is made in violation of California Government Code Section 1090 *et seq.*, the entire Agreement is void and Contractor will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Contractor will be required to reimburse the City for any sums paid to the Contractor. Contractor understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of California Government Code Section 1090 *et seq.*, and, if applicable, will be disqualified from holding public office in the State of California.

10.7 Solicitation. Contractor agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.

10.8 Contract Administration. This Agreement shall be administered by Jennifer Auletta, Deputy Public Works Director ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.

10.9 Notices. Any written notice to Contractor shall be sent to:
Darin Terrazas & Kellen McMickle, Project Managers
Newton Construction & Management, Inc.
2436 Broad Street, San Luis Obispo Ca. 93401
Darin@newtonconstruction.com
Kellen@newtonconstruction.com

Any written notice to City shall be sent to:
Jennifer Auletta, Deputy Public Works Director
City of San Leandro, Public Works Department
14200 Chapman Rd
San Leandro, CA 94578
jauletta@sanleandro.org

With a copy to:
City of San Leandro
Department of Finance
c/o Purchasing Agent
835 East 14th Street
San Leandro, CA 94577

10.10 Integration. This Agreement, including the scope of work attached hereto and incorporated herein as Exhibits A, B, C, D, E represents the entire and integrated agreement between City and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral.

<u>Exhibit A</u>	Scope of Services & Special Provisions
<u>Exhibit B</u>	Compensation Schedule & Reimbursable Expenses
<u>Exhibit C</u>	Performance Bond
<u>Exhibit D</u>	Payment Bond
<u>Exhibit E</u>	California Labor Code Section 1720 Information

10.11 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

10.12 Certification per Iran Contracting Act of 2010. In the event that this contract is for one million dollars (\$1,000,000.00) or more, by Contractor's signature below Contractor certifies that Contractor, and any parent entities, subsidiaries, successors or subunits of Contractor are not identified on a list created pursuant to subdivision (b) of Section 2203 of the California Public Contract Code as a person engaging in investment activities in Iran as described in subdivision (a) of Section 2202.5, or as a person described in subdivision (b) of Section 2202.5 of the California Public Contract Code, as applicable.

SIGNATURES ON FOLLOWING PAGE

The Parties have executed this Agreement as of the Effective Date. The persons whose signatures appear below certify that they are authorized to sign on behalf of the respective Party.

CITY OF SAN LEANDRO

CONTRACTOR

Jeff Kay, Interim City Manager

Eric Newton, President

Attest:

#1000001399
Contractor DIR Registration Number

Tamika Greenwood, City Clerk

Approved as to Fiscal Authority:

David Baum, Finance Director

687-18-007-5242
Account Number

Approved as to Form:

Richard D. Pio Roda, City Attorney

2909464.1

EXHIBIT A
SCOPE OF SERVICES & SPECIAL PROVISIONS

SPECIAL PROVISIONS

ACCESSIBILITY: The contractor shall fully inform himself regarding any peculiarities and limitations of the spaces available for the performance of work under their contract. He shall exercise due and particular caution to determine that all parts of their work are made quickly and easily accessible.

AUTHORITY OF THE CITY OF SAN LEANDRO: Subject to the power and authority of the City as provided by law in their contract, the City shall in all cases determine the quantity, quality, and acceptability of the work, materials and supplies for which payment is to be made under their contract. The City shall decide questions that may arise relative to the fulfillment of the contract or the obligations of the contractor hereunder.

BONDS - PAYMENT BOND (Labor & Materials). Successful Bidder shall furnish within ten (10) consecutive calendar days after written notice, a Payment Bond in an amount equal to one hundred percent (100%) of the total amount of the contract. See below for "Substitution of Securities for Retained Funds".

BONDS - PERFORMANCE BOND. Successful Bidder shall furnish within ten (10) consecutive calendar days after written notice, a Performance Bond in an amount equal to one hundred percent (100%) of the total amount of the contract.

BUSINESS LICENSE: If the scope of work under their proposal includes performing services or installation on City property, the Contractor must have current City Business License. Inquiries regarding Business License may be directed to the Finance Department at 510-577-3468.

CHANGES IN WORK: The City may, at any time work is in progress, by written order and without notice to the sureties, make alterations in the terms of work as shown in the specifications, require the performance of extra work, decrease the quantity of work, or make such other changes as the City may find necessary or desirable. The contractor shall not claim forfeiture of contract by reasons of such changes by the City. Changes in work and the amount of compensation to be paid to the contractor for any extra work as so ordered shall be determined in accordance with the unit prices quoted.

CLEAN-UP: During performance and upon completion of work on their project contractor will remove all unused equipment and instruments of service, all excess or unsuitable material, trash, rubbish and debris, and legally dispose of same, unless otherwise directed by these specifications. Contractor shall leave entire area in a neat, clean and acceptable condition as approved by the City.

Contractor is required to use the City's franchised waste hauler, Alameda County Industries, for all on-site debris box and hauling services unless the Contractor self-hauls waste to a licensed and permitted recycling facility, transfer facility or landfill. To order debris box services contact ACI at 510-357-7282.

Contractor shall demonstrate compliance with state and local construction & demolition recycling regulations by completing and submitting a Waste Management Plan online with Green Halo Systems (www.greenhalosystems.com). Contractor shall create an account with Green Halo and enter project information within 30 days of the Notice to Proceed. Contractor shall upload recycling and disposal receipts at least once every 30 days thereafter until completion.

COMMENCEMENT OF WORK: After the contract agreement has been executed by the City, a pre-construction conference will be scheduled and the Notice to Proceed shall be issued. The pre-construction conference will be held at the Public Works Services Center between the City and the Contractor. The purpose of this meeting shall be to discuss the scope of work, the plans and specifications, existing conditions, materials to be ordered, equipment to be used, and all essential matters pertaining to the prosecution of and satisfactory completion of the project as required. The Contractor shall not begin work until the Notice to Proceed is issued by the City.

COMPLIANCE WITH FAIR EMPLOYMENT PRACTICE ACT: Contractor agrees in accordance with Section 1735 and 1777.6 of California Labor Code, and the California Fair Employment Practice Act (Sections 1410-1433) that in the hiring of common or skilled labor for the performance of any work under their contract or any subcontract hereunder, no contractor, material supplier or vendor shall, by reason of

race, color, national origin or ancestry, or religion, discriminate against any person who is qualified and available to perform the work to which such employment relates.

CONTRACT INCORPORATION: Their contract and the accompanying Non-Professional Services Agreement (NPSA) embody the entire contract between the City and the Contractor. The parties shall not be bound by or be liable for any statement, representation, promise, inducement or understanding of any kind or nature not set forth herein. No changes, amendments, or modifications of any of the terms or conditions of the contract shall be valid unless reduced to writing and signed by both parties.

COOPERATION BETWEEN CONTRACTORS: The City reserves the rights to contract for and perform other or additional work on or near the work covered by these specifications. When separate contracts are let within the limits of any one project, each contractor shall conduct their work so as not to interfere with or hinder the progress or completion of the work being performed by other contractors. Contractors working on the same project shall cooperate with each other as directed. Each contractor involved shall assume all liability, financial or otherwise, in connection with their contract and shall protect and save harmless the City from any and all damages or claims that may arise because of inconvenience, delays, or loss experienced by him because of the presence and operations of other contractors working within the limits of the same project.

COORDINATION WITH AGENCIES: The contractor shall coordinate their activities with the proper regulatory agencies and have their representative on site at the proper times.

DAMAGE: The contractor shall be held responsible for any breakage, loss of the City's equipment or supplies through negligence of the contractor or their employee while working on the City's premises. The contractor shall be responsible for restoring or replacing any equipment, facilities, etc. so damaged. The contractor shall immediately report to the City any damages to the premises resulting from services performed under their contract. Failure or refusal to restore or replace such damaged property will be a breach of their contract.

DAYS OF WORK. All work shall be done Monday through Friday between the hours of 7:00 a.m. to 4:00 p.m. excluding designated City holidays, unless otherwise directed by a City official.

The following are the designated City holidays:

- January 1 (New Year's Day).
- The third Monday in January (Martin Luther King's Birthday).
- February 12 (Lincoln's Birthday).
- The third Monday in February (Washington's Birthday).
- The last Monday in May (Memorial Day).
- July 4 (Independence Day).
- The first Monday in September (Labor Day).
- November 11 (Veterans' Day).
- The fourth Thursday in November (Thanksgiving Day).
- The day after Thanksgiving Day.
- December 24 (Christmas Eve).
- December 25 (Christmas Day).
- December 31 (New Year's Eve).

EXAMINATION OF SPECIFICATION AND SITE: Contractor is expected to carefully examine the site of the proposed work and all project specifications, documents, and forms. He shall satisfy himself as to the character, quality, and quantities of work to be performed, materials to be furnished and the requirements of the proposed specifications.

INDEPENDENT CONTRACTOR: In accepting their contract, Contractor covenants that it presently has no interest, and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the services hereunder. Contractor further covenants that, in the performance of their contract, no subcontractor or person having such an interest shall be employed. Contractor certifies that to the best of their knowledge, no one who has or will have any financial interest under their contract is an officer or employee of City. It is expressly agreed by

Contractor that in the performance of the services required under their contract, Contractor, and any of its subcontractors or employees, shall at times be considered independent contractors and not agents of City.

INSURANCE REQUIREMENTS: Within ten (10) consecutive calendar *days* of award of contract, Contractor must furnish the City with the Certificates of Insurance proving coverage as specified in the attachment labeled Non-Professional Services Agreement and naming the City of San Leandro, its officers and agents, Additional Insured by endorsement.

LAWS - ADHERENCE TO ALL LOCAL, STATE, AND FEDERAL LAWS AND REQUIREMENTS: The contractor shall adhere to all applicable health and safety laws and regulations including, but not limited to, those promulgated by CAL-OSHA, FED-OSHA, EPA, the California State Department of Health Services, and County Environmental Health Department.

LIQUIDATED DAMAGES: Time is of the essence of their contract. Failure to start and complete all work specified within the time allowed shall constitute material breach of contract. The "time allowed" will be calculated *from the* date of the Notice to Proceed through the "Maximum Completion/Delivery Time" indicated by the Contractor on their proposal for the completion work or delivery of the goods specified. Failure of Contractor to complete the work or deliver the goods within the time allowed will result in damages, and for each consecutive day in excess, the contractor shall pay to the City the sum of \$100.00 per calendar day. Such amount shall not be construed as a penalty but as a minimum value of liquidated damages that may be deducted from payment due to the contractor if such delay occurs.

LICENSES: Contractor must possess current California Contractors License and DIR Registration for duration of contract.

MEASUREMENTS: It is the responsibility of the Contractor to make all measurements to determine their proposed price. The City will not be responsible for determining the quantities of materials necessary to complete the work specified.

PERMITS: Unless otherwise specified herein, Contractor shall at their expense, obtain all permits and licenses and pay all charges and fees necessary for the performance of the contract, and shall give all public notices necessary for the lawful performance of the contract.

Contractor shall pay all taxes, levies, duties and assessments of every nature due in connection with any work under the contract, shall make any and all payroll deductions required by law, and shall indemnify and hold harmless the City from any liability on account of any and all such taxes, levies, duties, assessments and deductions.

PROTECTION OF PUBLIC: Adequate warning devices, barricades, guards, flagmen or other necessary precautions shall be taken by the contractor to give advised and reasonable protection, safety and warning to persons and vehicular traffic concerned in the area.

REJECTION OF WORK: Contractor agrees that the City has the right to make all final determinations as to whether the work has been satisfactorily completed.

UNKNOWN OBSTRUCTIONS: Should any unknown obstruction be encountered during the course of their contract the Contractor immediately bring it to the attention of the City. The contractor shall be responsible for the protection of all existing equipment, furniture, or utilities encountered within the work area.

WAGES: This contract requires the payment of **prevailing wages for the State of California** or the City of San Leandro Living Wage whichever is higher.

Detailed Scope of Work

To: Darin Terrazas
 Newton Construction & Management, Inc.
 PO Box 3260
 San Luis Obispo, CA 93403
 805-544-5583

From: Jennifer Auletta
 City of San Leandro - Facilities
 835 14th Street
 San Leandro, CA 94577
 (510) 577-6022

Date Printed: February 19, 2018

Work Order Number: 052092.00

Work Order Title: San Leandro Marina Community Center

Brief Scope: City of San Leandro - Marina Community Center Renovation - Budget is \$140,000. Work to consist of small kitchen remodel, flooring replacement, drywall repairs and painting. Additional details to follow. Please schedule a Joint Scope Meeting after Labor Day. Coordinate with Jennifer and Gary Sclafini.

Preliminary

Revised

Final

The following items detail the scope of work as discussed at the site. All requirements necessary to accomplish the items set forth below shall be considered part of this scope of work.

See Attached Detaile City of San Leandro - Marina Community Center proposed scope of work Scope of Work as follows:

Kitchen. 1. Demo – Remove and dispose of existing Dishwasher. Cap water line. 2. FRP - Remove and Replace the existing FRP on two (2) walls (1 wet and 1 dry) Floor to Ceiling, including the removal and replacement of the existing drywall substrate behind the FRP. New FRP to be installed on the existing commercial sink wall and the ice maker/hand wash sink wall. (See attached “Kitchen Floor Plan” drawing) 3. Ceiling - Remove and replace existing suspended Ceiling tiles and Tbar Grid including two (2) grill diffusers. 4. Paint - Paint Two (2) Walls. 5. Interior Doors/Frames - Paint all interior doors and frame (3) both sides. 1 coat prime, 2 coats paint. Approx. 300 sq. ft. 6. Appliances - Remove all existing appliances. Furnish and install new appliances as follows: 1 - 6 Burner Stove, 1 - Stove Griddle, 2 - commercial Stacked ovens and 1 - ~~Ice Maker with new filtration system.~~ 7. Garbage Disposal – Furnish and install one (1) new commercial grade Garbage Disposal on existing stainless steel sink. Utilize power from dishwasher. 8. Floor drain - Replace Floor drain as necessary. 9. Flooring – Furnish and install new Sheet Vinyl with welded seams with cove base. 10. Locker - Provide a movable wardrobe metal locker with one side shelving. Multipurpose Room “C” 1. Flooring – Remove existing VCT flooring and provide a ~~Polished Concrete finish. Furnish and install 6” Rubber Base on walls.~~ 2. Demo - Remove and dispose of all cabinets. 3. Cabinets – Furnish and install Base cabinet(s) commercial grade plywood with a Formica finish and pull handles and lock, with adjustable shelving. Next to sink provide ADA counter top. No Drawers for base cabinet. 4. Cabinet counter top – Furnish and install new Corian with 4” Corian back splash.. 5. Chair Rail - Add along walls with no Cabinetry. Match Room “B”. Paint - Paint all walls, with the exception of the “Skylight Atrium” areas. 6. Interior Doors/Frames - Paint all interior doors and frame (4) both sides and interior storefront with metal frame. 1 coat prime, 2 coats finish paint. 7. ~~Ceiling Lights - Remove and dispose of 30 Ceiling Lights 1X4. Furnish and install 15 new LED 1X4 Lights. Repair Ceiling Tiles as necessary.~~ Multipurpose Room “B” 1. Flooring – Remove existing VCT flooring and provide a ~~Polished Concrete finish. Furnish and install 6” Rubber Base on walls.~~ 2. Demo - Remove and dispose of all cabinets. 3. Cabinets – Furnish and install Base cabinet(s) commercial grade plywood with a Formica finish and pull handles and lock, with adjustable shelving. Next to sink provide ADA counter top. No Drawers for base cabinet. 4. Cabinet counter top – Furnish and install new Corian with 4” Corian back splash. 5. Paint - Paint all walls, with the exception of the “Skylight Atrium” areas. 6. Interior Doors/Frames - Paint all interior doors and frame (4) both sides and interior storefront with metal frame. 1 coat prime, 2 coats finish paint. 7. ~~Ceiling Lights - Remove and dispose of 30 existing Ceiling Lights 1X4. Furnish and install new 15 LED 1X4 Lights. Repair Ceiling Tiles as necessary.~~ d Scope of Work

Kitchen area

Room C Sheet vinyl - unwelded with topset base

Remove and replace ceiling lights with LED in kitchen area only new t bar grid and tiles in kitchen area

Detailed Scope of Work Continues..

Work Order Number: 052092.00

Work Order Title: San Leandro Marina Community Center

Contractor

Date

Owner

Date



Work Order Signature Document

NJPA EZIQC Contract No.: CA02CO-061416-NCM

New Work Order

Modify an Existing Work Order

Work Order Number.: 052092.01

Work Order Date: 02/05/2018

Work Order Title: San Leandro Marina Community Center Cabinet Supplemental

Owner Name: City of San Leandro - Facilities Contractor Name: Newton Construction & Management, Inc.

Contact: Jennifer Auletta Contact: Darin Terrazas

Phone: (510) 577-6022 Phone: 805-544-5583

Work to be Performed

Work to be performed as per the Final Detailed Scope of Work Attached and as per the terms and conditions of NJPA EZIQC Contract No CA02CO-061416-NCM.

Brief Work Order Description:

City of San Leandro - Marina Community Center Renovation - Budget is \$140,000. Work to consist of small kitchen remodel, flooring replacement, drywall repairs and painting. Additional details to follow. Please schedule a Joint Scope Meeting after Labor Day. Coordinate with Jennifer and Gary Sclafini. Cabinet Supplemental

Time of Performance Estimated Start Date:

Estimated Completion Date:

Liquidated Damages

Will apply:

Will not apply:

Work Order Firm Fixed Price: \$74,621.52

Owner Purchase Order Number:

Approvals

Owner Date

Contractor Date



Detailed Scope of Work

To: Darin Terrazas
Newton Construction & Management, Inc.
PO Box 3260
San Luis Obispo, CA 93403
805-544-5583

From: Jennifer Auletta
City of San Leandro - Facilities
835 14th Street
San Leandro, CA 94577
(510) 577-6022

Date Printed: February 05, 2018

Work Order Number: 052092.01

Work Order Title: San Leandro Marina Community Center Cabinet Supplemental

Brief Scope: City of San Leandro - Marina Community Center Renovation - Budget is \$140,000. Work to consist of small kitchen remodel, flooring replacement, drywall repairs and painting. Additional details to follow. Please schedule a Joint Scope Meeting after Labor Day. Coordinate with Jennifer and Gary Sclafini. Cabinet Supplemental

Preliminary

Revised

Final

The following items detail the scope of work as discussed at the site. All requirements necessary to accomplish the items set forth below shall be considered part of this scope of work.

Cabinet proposal

Contractor

Date

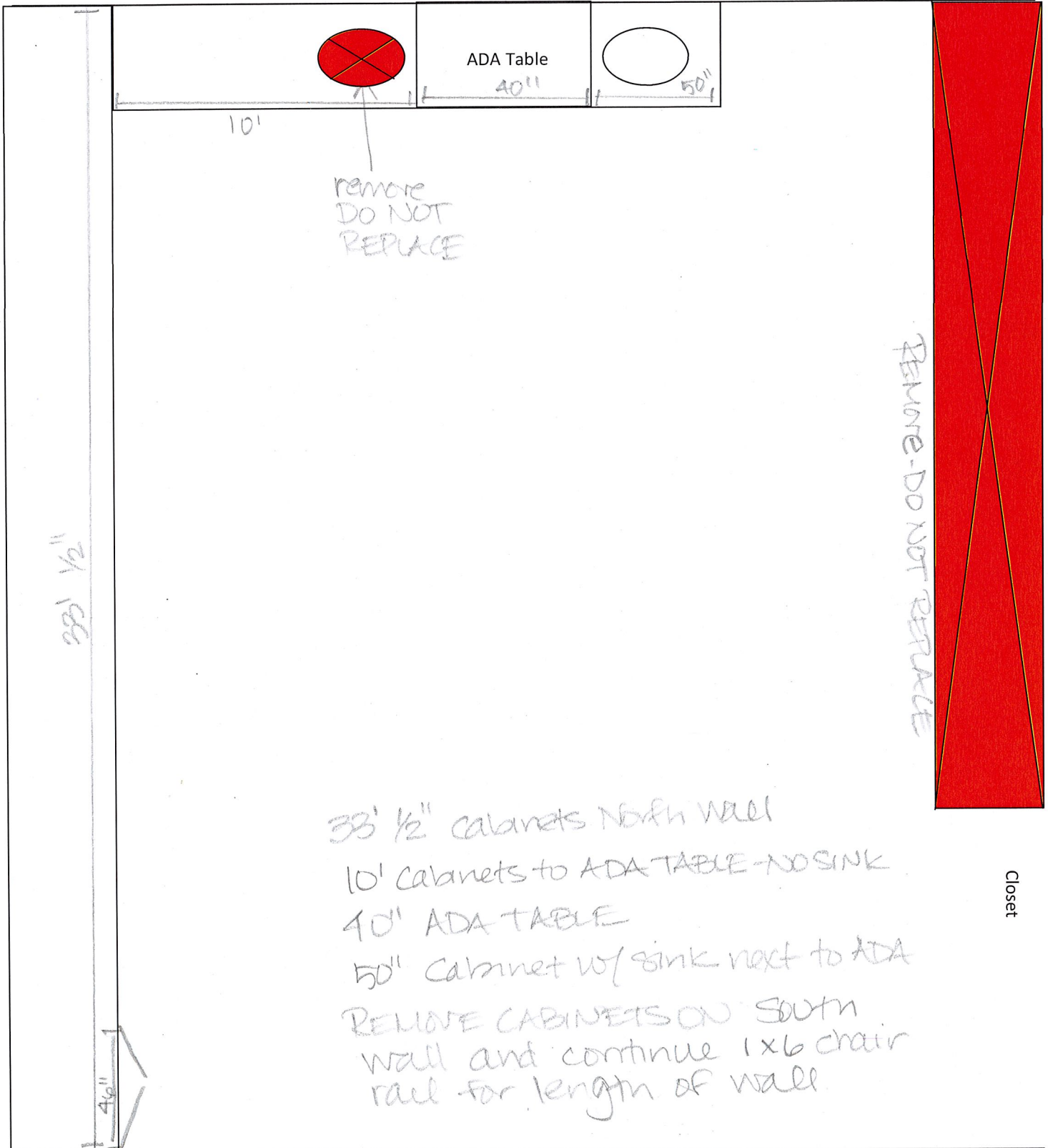
Owner

Date

← 2

Activity Room B

Windows



38' 1/2" cabinets North wall
10' cabinets to ADA TABLE NO SINK
40" ADA TABLE
50" cabinet w/ sink next to ADA
REMOVE CABINETS ON South
wall and continue 1x6 chair
rail for length of wall.

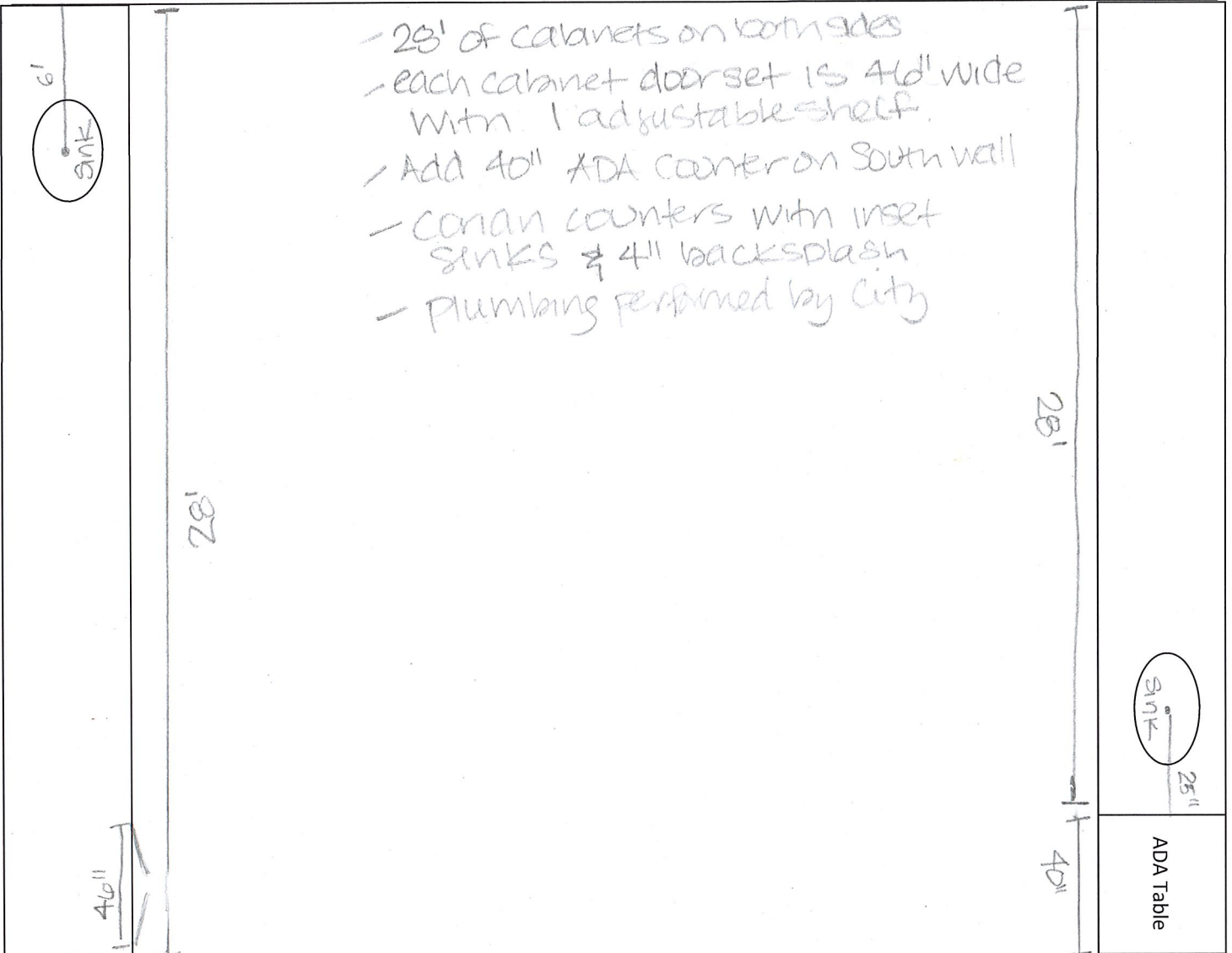
Interior



Activity Room C

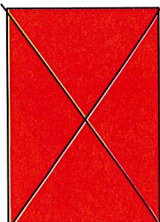
Windows

- 28' of cabinets on both sides
- each cabinet doorset is 46" wide with 1 adjustable shelf.
- Add 40" ADA counter on South wall
- Corian counters with inset sinks & 4" backsplash
- Plumbing performed by City



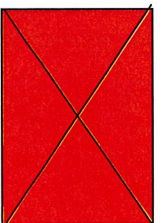
Closet

Exterior Door



REMOVE
DO NOT
REPLACE

REMOVE
DO NOT
REPLACE



Interior

EXHIBIT B
COMPENSATION SCHEDULE & REIMBURSABLE EXPENSES

Contractor's Price Proposal - Summary

Date: February 19, 2018

Re: IQC Master Contract #: CA02CO-061416-NCM
Work Order #: 052092.00
Owner PO #:
Title: San Leandro Marina Community Center
Contractor: Newton Construction & Management, Inc.
Proposal Value: \$114,249.00

Appliances	\$32,494.85
Bond	\$2,356.00
ceiling tiles	\$6,904.19
chair rail	\$629.43
demo	\$19,272.32
drywall	\$3,494.78
Electrical	\$8,193.11
Finish protection	\$694.22
Finishes	\$2,447.78
flooring	\$21,117.66
hvac	\$385.40
Locker	\$1,119.32
paint	\$14,277.35
Plumb	\$862.59
Proposal Total	\$114,249.00

This total represents the correct total for the proposal. Any discrepancy between line totals, sub-totals and the proposal total is due to rounding.

Contractor's Price Proposal - Detail

Date: February 19, 2018

Re: IQC Master Contract #: CA02CO-061416-NCM
 Work Order #: 052092.00
 Owner PO #:
 Title: San Leandro Marina Community Center
 Contractor: Newton Construction & Management, Inc.
 Proposal Value: \$114,249.00

Sect.	Item	Mod.	UOM	Description	Line Total
Labor	Equip.	Material	(Excludes)		
Appliances					
1	01 22 23 00-1190		DAY	1-1/2 Ton Capacity, 8' To 10' Bed, 4 x 2 Flat Bed Truck With Full-Time Truck Driver	\$1,006.35
			Installation	Quantity: 1.00 x Unit Price: 782.79 x Factor: 1.2856 = Total: 1,006.35 appliance equipment delivery and disposal	
2	11 44 13 00-0007		EA	Gas Range, Vulcan #260LSix 12" burners, open top sections, porcelain on steel aeration plates and grates. 24" griddle/broiler, two 26-1/4" x 22" x 14-1/2" ovens porcelain on steel liner and aluminized steel construction, nickel plated oven racks.	\$5,638.45
			Installation	Quantity: 1.00 x Unit Price: 4,280.51 x Factor: 1.2856 = Total: 5,503.02	
			Demolition Kitchen	Quantity: 1.00 x Unit Price: 105.34 x Factor: 1.2856 = Total: 135.43	
3	11 44 16 00-0003		EA	Bake Oven - Double Deck	\$21,156.81
			Installation	Quantity: 2.00 x Unit Price: 8,152.70 x Factor: 1.2856 = Total: 20,962.22	
			Demolition Kitchen	Quantity: 1.00 x Unit Price: 151.36 x Factor: 1.2856 = Total: 194.59	
4	11 44 19 00-0004		EA	48" Wide x 24" Deep Electric Griddle	\$4,693.24
			Installation	Quantity: 1.00 x Unit Price: 3,537.10 x Factor: 1.2856 = Total: 4,547.30	
			Demolition Kitchen	Quantity: 1.00 x Unit Price: 113.52 x Factor: 1.2856 = Total: 145.94	
Subtotal for Appliances					\$32,494.85

Bond					
5	01 22 16 00-0002		EA	Reimbursable Fees Reimbursable Fees will be paid to the contractor for eligible costs. The base cost of the Reimbursable Fee is \$1.00. Insert the appropriate quantity to adjust the base cost to the actual Reimbursable Fee (e.g. quantity of 125 = \$125.00 Reimbursable Fee). If there are multiple Reimbursable Fees, list each one separately and add a comment in the "note" block to identify the Reimbursable Fee (e.g. sidewalk closure, road cut, various permits, extended warrantee, expedited shipping costs, etc.). A copy of each receipt shall be submitted with the Price Proposal.	\$2,356.00
			Installation	Quantity: 2,356.00 x Unit Price: 1.00 x Factor: 1.0000 = Total: 2,356.00 2% Bond per NJPA Contract.	
Subtotal for Bond					\$2,356.00

ceiling tiles					
6	09 51 13 00-0040		SF	2' x 4' x 3/4" Wood Fiber Acoustical Ceiling Panels	\$4,118.03
			Installation	Quantity: 770.00 x Unit Price: 3.61 x Factor: 1.2856 = Total: 3,573.58	
			Demolition	Quantity: 770.00 x Unit Price: 0.55 x Factor: 1.2856 = Total: 544.45	

Contractor's Price Proposal - Detail Continues..

Work Order Number: 052092.00
Work Order Title: San Leandro Marina Community Center

ceiling tiles								
7	09 53 23 00-0005	SF	2' x 4' Grid, 15/16" T Bar Ceiling Suspension System				\$2,049.12	
		Installation	Quantity	Unit Price	Factor	=	Total	
		Kitchen	770.00	2.07	1.2856		2,049.12	
			x	x				
8	09 53 23 00-0005	0121	MOD For UL Listed (Fire Guard), Add				\$0.00	
		Installation	Quantity	Unit Price	Factor	=	Total	
			0.00	0.07	1.2856		0.00	
			x	x				
9	09 53 23 00-0005	0129	MOD For Compression Struts With Splay Wires, Add				\$0.00	
		Installation	Quantity	Unit Price	Factor	=	Total	
			0.00	0.23	1.2856		0.00	
			x	x				
10	09 53 23 00-0005	0384	MOD For Ceilings >10' High, Add				\$0.00	
		Installation	Quantity	Unit Price	Factor	=	Total	
			0.00	0.12	1.2856		0.00	
			x	x				
11	09 53 23 00-0005	SF	2' x 4' Grid, 15/16" T Bar Ceiling Suspension System				\$386.07	
		Installation	Quantity	Unit Price	Factor	=	Total	
			0.00	2.07	1.2856		0.00	
		Demolition	Quantity	Unit Price	Factor	=	Total	
		Kitchen	770.00	0.39	1.2856		386.07	
			x	x				
12	09 53 23 00-0005	0121	MOD For UL Listed (Fire Guard), Add				\$58.49	
		Installation	Quantity	Unit Price	Factor	=	Total	
			650.00	0.07	1.2856		58.49	
			x	x				
13	09 53 23 00-0005	0129	MOD For Compression Struts With Splay Wires, Add				\$192.20	
		Installation	Quantity	Unit Price	Factor	=	Total	
			650.00	0.23	1.2856		192.20	
			x	x				
14	09 53 23 00-0005	0384	MOD For Ceilings >10' High, Add				\$100.28	
		Installation	Quantity	Unit Price	Factor	=	Total	
			650.00	0.12	1.2856		100.28	
			x	x				
Subtotal for ceiling tiles							\$6,904.19	
chair rail								
15	06 46 23 00-0003	LF	5/8" x 3-1/2" White Pine Shaped Chair Rail				\$629.43	
		Installation	Quantity	Unit Price	Factor	=	Total	
		Multipurpose rooms C	80.00	6.12	1.2856		629.43	
			x	x				
Subtotal for chair rail							\$629.43	
demo								
16	01 22 20 00-0015	HR	LaborerFor tasks not included in the Construction Task Catalog® and as directed by owner only.				\$538.26	
		Installation	Quantity	Unit Price	Factor	=	Total	
			6.00	69.78	1.2856		538.26	
			x	x				
			Used to uninstall/Re-install fire extinguishers, soap dispensers, signs, and paper towel dispensers.					
17	01 66 19 00-0005	CY	Handling Material For Over 125' Per CY Of Material Per 125'For delivery, demolition or miscellaneous moving required by owner.				\$821.18	
		Installation	Quantity	Unit Price	Factor	=	Total	
			175.00	3.65	1.2856		821.18	
			x	x				
			used for moving cabs in , new kitchen equipment - materials and supplies for construction and demo					

Contractor's Price Proposal - Detail Continues..

Work Order Number: 052092.00
Work Order Title: San Leandro Marina Community Center

demo							
18	01 74 19 00-0015	EA	20 CY Dumpster (3 Ton) "Construction Debris" Includes delivery of dumpster, rental cost, pick-up cost, hauling, and disposal fee. Non-hazardous material.				\$1,902.69
			Quantity		Unit Price	Factor	Total
		Installation	2.00	x	740.00	1.2856	1,902.69
			used for demo of cabs, drywall frp lights ceiling flooring				
19	06 41 13 00-0018	LF	>24" To 30" Width, 34-1/2" High x 24" Deep Built In Place Base Cabinet Prefinished with solid hardwood face frames, hardwood door frames and drawer fronts. Hardwood veneer on raised door panels. Excludes top.				\$8,984.18
			Quantity		Unit Price	Factor	Total
		Installation	0.00	x	198.04	1.2856	0.00
		Demolition	138.00	x	50.64	1.2856	8,984.18
			Multipurpose rooms B & C				
20	06 83 00 00-0002	SF	Fiberglass Reinforced Polyester (FRP) Paneling Including Adhesive And Trim				\$1,015.11
			Quantity		Unit Price	Factor	Total
		Installation	0.00	x	3.40	1.2856	0.00
		Demolition	560.00	x	1.41	1.2856	1,015.11
			Kitchen				
21	09 65 19 19-0002	SF	1/8" Thick, Class 2 Through Pattern, Vinyl Composition Tile (VCT) (Armstrong® Standard Excelon Imperial Texture®)				\$3,204.23
			Quantity		Unit Price	Factor	Total
		Installation	0.00	x	2.70	1.2856	0.00
		Demolition	1,860.00	x	1.34	1.2856	3,204.23
			Kitchen & Multipurpose room C				
22	12 35 70 13-0037	LF	25" Self Edge Laminate Countertop With Backsplash				\$2,806.67
			Quantity		Unit Price	Factor	Total
		Installation	0.00	x	174.79	1.2856	0.00
		Demolition	138.00	x	15.82	1.2856	2,806.67
Subtotal for demo						\$19,272.32	
drywall							
23	03 01 30 71-0006	SF	Thin Patch/Skim Coat				\$3,153.32
			Quantity		Unit Price	Factor	Total
		Installation	1,680.00	x	1.46	1.2856	3,153.32
			Skim behind frp after removal				
24	09 01 20 00-0006	SF	>16 To 32 SF, Cut And Patch Hole In Drywall To Match Existing Per location. See CSI section 09 29 00 00-0001 for "Gypsum Board" repairs > 32 SF.				\$341.46
			Quantity		Unit Price	Factor	Total
		Installation	32.00	x	8.30	1.2856	341.46
			Kitchen				
Subtotal for drywall						\$3,494.78	
Electrical							
25	01 22 20 00-0010	HR	Electrician For tasks not included in the Construction Task Catalog® and as directed by owner only.				\$1,762.40
			Quantity		Unit Price	Factor	Total
		Installation	16.00	x	85.68	1.2856	1,762.40
			Used to secure lights prior to demo, wire up appliances, trace circuits. Uninstall/Re-install Fire alarm pull, Fire alarm strobe, Emergency Lighting (Bug eyes), Exit sign, and electrical conduit/octagon box.				
26	26 01 50 51-0129	EA	Recycle 4' Length Linear Fluorescent Lamps				\$16.31
			Quantity		Unit Price	Factor	Total
		Installation	27.00	x	0.47	1.2856	16.31

Contractor's Price Proposal - Detail Continues..

Work Order Number: 052092.00
Work Order Title: San Leandro Marina Community Center

Electrical

27	26 51 13 00-0410	EA	4,000 Lumens, 4' Length, LED Linear Low Bay Fixture (Lithonia MSL)						\$6,414.40
			Quantity	Unit Price	Factor	=	Total		
		Installation	9.00	507.22	x	1.2856	=	5,868.74	
		Demolition	9.00	47.16	x	1.2856	=	545.66	
		Kitchen							

Subtotal for Electrical **\$8,193.11**

Finish protection

28	01 56 16 00-0059	SF	Masonite For Temporary Floor Protection						\$694.22
			Quantity	Unit Price	Factor	=	Total		
		Installation	400.00	1.35	x	1.2856	=	694.22	
		Used to protect new floor during installation of cabs and kitchen equip							

Subtotal for Finish protection **\$694.22**

Finishes

29	06 83 00 00-0002	SF	Fiberglass Reinforced Polyester (FRP) Paneling Including Adhesive And Trim						\$2,447.78
			Quantity	Unit Price	Factor	=	Total		
		Installation	560.00	3.40	x	1.2856	=	2,447.78	
		Kitchen							

Subtotal for Finishes **\$2,447.78**

flooring

30	09 05 71 00-0004	SF	Vinyl, Linoleum, LVT And Vinyl Strip Flooring Acoustical Underlayment (Impacta, Soundseal VC300)						\$3,416.82
			Quantity	Unit Price	Factor	=	Total		
		Installation	1,356.00	1.96	x	1.2856	=	3,416.82	
31	09 65 13 13-0003	LF	6" High, 1/8" Vinyl Plastic Base, All Colors						\$2,065.50
			Quantity	Unit Price	Factor	=	Total		
		Installation	302.00	3.98	x	1.2856	=	1,545.24	
		Demolition	302.00	1.34	x	1.2856	=	520.26	
		Kitchen, Multipurpose room C							
32	09 65 16 23-0004	SF	0.080" Overall Thickness, 0.050" Wear Layer, Inlaid With Polyglass Backing, Commercial Vinyl Sheet Flooring (Armstrong® Connection Corlon®)						\$6,188.62
			Quantity	Unit Price	Factor	=	Total		
		Installation	1,356.00	3.55	x	1.2856	=	6,188.62	
33	09 65 16 23-0007	SF	0.080" Overall Thickness, 0.020" Wear Layer, Slip Retardant Surface, Commercial Vinyl Sheet Flooring (Armstrong® Safeguard®)						\$7,691.62
			Quantity	Unit Price	Factor	=	Total		
		Installation	770.00	7.77	x	1.2856	=	7,691.62	
		Kitchen							
34	09 65 16 23-0010	LF	Heat Weld Patterned Vinyl Sheet Flooring Seams						\$902.80
			Quantity	Unit Price	Factor	=	Total		
		Installation	112.00	6.27	x	1.2856	=	902.80	
		Kitchen							
35	09 65 16 23-0012	EA	Forming Vinyl Sheet Flooring Inside/Outside Cove Corners						\$209.30
			Quantity	Unit Price	Factor	=	Total		
		Installation	11.00	14.80	x	1.2856	=	209.30	
		Kitchen							

Contractor's Price Proposal - Detail Continues..

Work Order Number: 052092.00
Work Order Title: San Leandro Marina Community Center

flooring

36	09 65 16 23-0014	LF	1/2" Radius Vinyl Cove Filler Strip						\$407.48
			Installation	Quantity	Unit Price	Factor	=	Total	
				112.00	2.83	1.2856		407.48	
			Kitchen						
37	09 65 16 23-0017	LF	1/8" Aluminum Cove Cap						\$235.52
			Installation	Quantity	Unit Price	Factor	=	Total	
				80.00	2.29	1.2856		235.52	
			Kitchen						

Subtotal for flooring **\$21,117.66**

hvac

38	23 37 13 00-0025	EA	20" x 20" Ceiling Diffuser With Perforated Face, Flush Mount, Aluminum Construction With Damper						\$385.40
			Installation	Quantity	Unit Price	Factor	=	Total	
				2.00	149.89	1.2856		385.40	
			Kitchen						

Subtotal for hvac **\$385.40**

Locker

39	10 51 13 00-0133	EA	33" x 18" x 76" Open Front, All-Welded Steel Stadium Locker (Penco 6WFD43)Includes shelf, foot locker, security box and 4" high integral base.						\$1,119.32
			Installation	Quantity	Unit Price	Factor	=	Total	
				1.00	870.66	1.2856		1,119.32	
			Kitchen						

Subtotal for Locker **\$1,119.32**

paint

40	09 91 23 00-0062	SF	Paint Interior Plaster/Drywall Walls, 1 Coat Primer, Brush/Roller Work						\$3,671.67
			Installation	Quantity	Unit Price	Factor	=	Total	
				4,760.00	0.60	1.2856		3,671.67	
			Kitchen, Multipurpose rooms B & C						
41	09 91 23 00-0064	SF	Paint Interior Plaster/Drywall Walls, 2 Coats Paint, Brush/Roller Work						\$7,343.35
			Installation	Quantity	Unit Price	Factor	=	Total	
				4,760.00	1.20	1.2856		7,343.35	
			Kitchen, Multipurpose rooms B & C						
42	09 91 23 00-0242	LF	Paint Interior Metal Door Frame And Trim, 1 Coat Primer, Brush/Roller Work						\$222.15
			Installation	Quantity	Unit Price	Factor	=	Total	
				180.00	0.96	1.2856		222.15	
			Kitchen, Multipurpose rooms B & C						
43	09 91 23 00-0244	LF	Paint Interior Metal Door Frame And Trim, 2 Coats Paint, Brush/Roller Work						\$488.27
			Installation	Quantity	Unit Price	Factor	=	Total	
				180.00	2.11	1.2856		488.27	
			Kitchen, Multipurpose rooms B & C						
44	09 91 23 00-0249	EA	Paint Interior Metal Door, Both Faces, 1 Coat Primer, Brush/Roller Work						\$921.13
			Installation	Quantity	Unit Price	Factor	=	Total	
				10.00	71.65	1.2856		921.13	
			Kitchen, Multipurpose rooms B & C						

Contractor's Price Proposal - Detail Continues..

Work Order Number: 052092.00
Work Order Title: San Leandro Marina Community Center

paint

45	09 91 23 00-0251	EA	Paint Interior Metal Door, Both Faces, 2 Coats Paint, Brush/Roller Work						\$1,630.78	
			Installation	Quantity		Unit Price		Factor	Total	
				10.00	x	126.85	x	1.2856	= 1,630.78	
			Kitchen, Multipurpose rooms B & C							

Subtotal for paint **\$14,277.35**

Plumb

46	01 22 20 00-0025	HR	PlumberFor tasks not included in the Construction Task Catalog® and as directed by owner only.						\$862.59	
			Installation	Quantity		Unit Price		Factor	Total	
				8.00	x	83.87	x	1.2856	= 862.59	
			Remove and reinstall sinks and cap off dish wash line - reinstall sinks & hand spray hose, gas , water lines, filtration for ice maker.							

Subtotal for Plumb **\$862.59**

Proposal Total **\$114,249.00**

This total represents the correct total for the proposal. Any discrepancy between line totals, sub-totals and the proposal total is due to rounding.

Contractor's Price Proposal - Summary

Date: February 05, 2018

Re: IQC Master Contract #: CA02CO-061416-NCM
Work Order #: 052092.01
Owner PO #:
Title: San Leandro Marina Community Center Cabinet Supplemental
Contractor: Newton Construction & Management, Inc.
Proposal Value: \$74,621.52

06 - Wood, Plastic, and Composites **\$72,998.49**

22 - Plumbing **\$1,623.03**

Proposal Total **\$74,621.52**

This total represents the correct total for the proposal. Any discrepancy between line totals, sub-totals and the proposal total is due to rounding.

The Percentage of NPP on this Proposal: 79.83%

Contractor's Price Proposal - Detail

Date: February 05, 2018

Re: IQC Master Contract #: CA02CO-061416-NCM
 Work Order #: 052092.01
 Owner PO #:
 Title: San Leandro Marina Community Center Cabinet Supplemental
 Contractor: Newton Construction & Management, Inc.
 Proposal Value: \$74,621.52

Sect.	Item	Mod.	UOM	Description	Line Total	
Labor	Equip.	Material	(Excludes)			
06 - Wood, Plastic, and Composites						
1	06 00 00 00-0001		Ea	San Leandro Comm Center	\$59,571.15	
		NPP		Installation		
			Quantity	Unit Price	Factor	Total
			1.00	46,500.00	1.2811	59,571.15
			x	x	=	
			Based on 134 Linear feet of custom cabs plus ADA table. Includes casework and corian counter top with 4' back splash. 3 sink cutouts.			
2	06 41 13 00-0017		LF	>18" To 24" Width, 34-1/2" High x 24" Deep Built In Place Base Cabinet Prefinished with solid hardwood face frames, hardwood door frames and drawer fronts. Hardwood veneer on raised door panels. Excludes top.	\$13,427.34	
		X		Installation		
			Quantity	Unit Price	Factor	Total
			138.00	75.95	1.2811	13,427.34
			x	x	=	
			Labor Only to install. Material excluded			

Subtotal for 06 - Wood, Plastic, and Composites \$72,998.49

22 - Plumbing

3	22 42 16 00-0106		EA	21" x 18" x 5-1/2" Deep, Single Compartment Stainless Steel Sink, Undermount, 18 Gauge (Just Manufacturing Co. US-ADA-1821-A)	\$1,623.03	
		X		Installation		
			Quantity	Unit Price	Factor	Total
			3.00	422.30	1.2811	1,623.03
			x	x	=	
			Owner to install. Excluded labor.			

Subtotal for 22 - Plumbing \$1,623.03

Proposal Total \$74,621.52

This total represents the correct total for the proposal. Any discrepancy between line totals, sub-totals and the proposal total is due to rounding.

The Percentage of NPP on this Proposal: 79.83%

EXHIBIT C
PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, the **City of San Leandro**, State of California, has awarded to **Newton Construction & Management, Inc.**, hereinafter designated as the "Principal," a contract for the Marina Community Center Renovation Project; and,

WHEREAS, said Principal is required under the terms of said contract to furnish a bond for the faithful performance of said contract.

NOW, THEREFORE, we the Principal, and _____ as Surety, are held and firmly bound unto the City of San Leandro in the penal sum of **\$188,870.52** lawful money of the United States for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, or assigns jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that if the above bounden Principal, or Principal's heirs, executors, administrators, successors, or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions, and agreements in said contract and any alteration thereof made as therein provided, on the Principal's part, to be kept and performed at the time and in the manner therein specified and in all respects according to their true intent and meaning; and shall defend, indemnify and save harmless the City of San Leandro, its officers and agents as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and virtue.

And the Surety, for value received hereby stipulates and agrees that, in accordance with the Plans, Standard Specifications, Special Provisions, and other contract documents, no change, extension of time, alteration, or addition to the terms of the contract, or to the work to be performed hereunder, or to the specifications accompanying the same shall in anywise affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration of additions to the terms of the Contract to the work, or to the specifications.

The City reserves the right to refuse use of any Contractor assigned by any surety to complete the work.

IN WITNESS WHEREOF, the above-bound parties have executed this instrument under their seals this _____ day of _____, the name and corporate seals of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

(Corporate Seal)

Principal _____

By _____

Title _____

(Attach Notarial Acknowledgment)

(Corporate Seal)

Surety _____

Address _____

Phone No.: () _____ Fax No.: () _____

By _____

Attorneys-in-Fact

Title _____

(Attach Notarial Acknowledgment)

NOTE TO SURETY COMPANY: There must be submitted a certified copy of unrevoked resolution of authority for the attorneys-in-fact.

(Seal)

Witness _____

Approved as to form:

Risk Manager

**EXHIBIT D
PAYMENT BOND**

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, the **City of San Leandro**, a municipal corporation, has awarded to **Newton Construction & Management, Inc.**, hereinafter designated as the "Principal," a contract for the Marina Community Center Renovation Project; and,

WHEREAS, said Principal is required to furnish a bond in connection with said contract, to secure payment of claims of laborers, mechanics, or materialmen employed on work under said contract, as provided by law.

NOW, THEREFORE, we the undersigned Principal and Surety are held and firmly bound unto the City of San Leandro in the sum of **\$188,870.52**, said sum being equal to the estimated amount payable by said City of San Leandro under the terms of the contract, for which payment well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, or assigns jointly and severally, firmly by these presents.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH that if said Principal, or Principal's heirs, executors, administrators, successors, or assigns, or subcontractors shall fail to pay for any material, provisions, provender, or other supplies, implements, or machinery used in, upon, for or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, or for amounts due under the Unemployment Insurance Code with respect to such work or labor, or for any amounts required to be deducted, withheld, and paid over to the Franchise Tax Board from these wages of employees of the Contractor and Contractor's subcontractors pursuant to the Revenue and Taxation Code, with respect to such work and labor, the Surety or Sureties hereon will pay for the same in an amount not exceeding the sum specified in this bond, otherwise the above obligation shall be void. In case suit is brought upon this bond, said Surety will pay a reasonable attorney's fee to be fixed by the court.

This bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims under Section 3138 of the Civil Code of the State of California so as to give a right of action to them or their assigns in any suit brought upon this bond.

Said Surety, for value received, hereby stipulates and agrees that, in accordance with the Plans, Standard Specifications, Special Provisions, and other Contract Documents, no change, extension of time, alteration or addition to the terms of the contract, or to the work to be performed there under, or to the specifications accompanying the same, shall in anywise affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work, or to the specifications. IN WITNESS WHEREOF, the above-bound parties have executed this instrument under their seals this _____ day of

EXHIBIT E

PROVISIONS REQUIRED FOR PUBLIC WORKS CONTRACTS PURSUANT TO CALIFORNIA LABOR CODE SECTION 1720 *ET SEQ.*

HOURS OF WORK:

- A. In accordance with California Labor Code Section 1810, 8 hours of labor in performance of the services described in Exhibit A shall constitute a legal day's work under this contract.
- B. In accordance with California Labor Code Section 1811, the time of service of any worker employed in performance of the services described in Exhibit A is limited to 8 hours during any one calendar day, and 40 hours during any one calendar week, except in accordance with California Labor Code Section 1815, which provides that work in excess of 8 hours during any one calendar day and 40 hours during any one calendar week is permitted upon compensation for all hours worked in excess of 8 hours during any one calendar day and 40 hours during any one calendar week at not less than one-and-one-half times the basic rate of pay.
- C. The Contractor and its subcontractors shall forfeit as a penalty to the City \$25 for each worker employed in the performance of the services described in Exhibit A for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day, or more than 40 hours in any one calendar week, in violation of the provisions of California Labor Code Section 1810 and following.

WAGES:

- A. In accordance with California Labor Code Section 1773.2, the City has determined the general prevailing wages in the locality in which the services described in Exhibit A are to be performed for each craft or type of work needed to be as published by the State of California Department of Industrial Relations, Division of Labor Statistics and Research, a copy of which is on file in the City Public Works Office and shall be made available on request. The Contractor and subcontractors engaged in the performance of the services described in Exhibit A shall pay no less than these rates to all persons engaged in performance of the services or work.
- B. In accordance with California Labor Code Section 1775, the Contractor and any subcontractors engaged in performance of the services described in Exhibit A shall comply with California Labor Code Section 1775, which establishes penalties per day for each worker engaged in the performance of the services described in Exhibit A that the Contractor or any subcontractor pays less than the specified prevailing wage. The amount of such penalty shall be determined by the Labor Commissioner and shall be based on consideration of the mistake, inadvertence, or neglect of the Contractor or subcontractor in failing to pay the correct rate of prevailing wages, or the previous record of the Contractor or subcontractor in meeting applicable prevailing wage obligations, or the willful failure by the Contractor or subcontractor to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rate of prevailing wages is not excusable if the Contractor or subcontractor had knowledge of their

obligations under the California Labor Code. The Contractor or subcontractor shall pay the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate. If a subcontractor worker engaged in performance of the services described in Exhibit A is not paid the general prevailing per diem wages by the subcontractor, the Contractor is not liable for any penalties therefore unless the Contractor had knowledge of that failure or unless the Contractor fails to comply with all of the following requirements:

1. The contract executed between the Contractor and the subcontractor for the performance of part of the services described in Exhibit A shall include a copy of the provisions of California Labor Code Sections 1771, 1775, 1776, 1777.5, 1813, and 1815.
 2. The Contractor shall monitor payment of the specified general prevailing rate of per diem wages by the subcontractor by periodic review of the subcontractor's certified payroll records.
 3. Upon becoming aware of a subcontractor's failure to pay the specified prevailing rate of wages, the Contractor shall diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for performance of the services described in Exhibit A.
 4. Prior to making final payment to the subcontractor, the Contractor shall obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the specified general prevailing rate of per diem wages for employees engaged in the performance of the services described in Exhibit A and any amounts due pursuant to California Labor Code Section 1813.
- C. In accordance with California Labor Code Section 1776, the Contractor and each subcontractor engaged in performance of the services described in Exhibit A shall keep accurate payroll records showing the name, address, social security number, work, 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 in performance of the services described in Exhibit A. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:
1. The information contained in the payroll record is true and correct.
 2. The employer has complied with the requirements of California Labor Code Sections 1771, 1811, and 1815 for any work performed by the employer's employees on the public works project.

The payroll records required pursuant to California Labor Code Section 1776 shall be certified and sent directly to the Labor Commissioner, and available for inspection by the Owner and its authorized representatives, the Division of Labor Standards Enforcement, the Division of

Apprenticeship Standards of the Department of Industrial Relations and shall otherwise be available for inspection in accordance with California Labor Code Section 1776.

- D. In accordance with California Labor Code Section 1777.5, the Contractor, on behalf of the Contractor and any subcontractors engaged in performance of the services described in Exhibit A, shall be responsible for ensuring compliance with California Labor Code Section 1777.5 governing employment and payment of apprentices on public works contracts.

- E. In case it becomes necessary for the Contractor or any subcontractor engaged in performance of the services described in Exhibit A to employ for the services described in Exhibit A any person in a trade or occupation (except executive, supervisory, administrative, clerical, or other non manual workers as such) for which no minimum wage rate has been determined by the Director of the Department of Industrial Relations, the Contractor or subcontractor shall pay the minimum rate of wages specified therein for the classification which most nearly corresponds to services described in Exhibit A to be performed by that person. 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.