



AGENDA
NEWTON TOWN COUNCIL
APRIL 9, 2012
7:00 P.M.

- I. PLEDGE OF ALLEGIANCE**
- II. ROLL CALL**
- III. OPEN PUBLIC MEETINGS ACT STATEMENT**
- IV. APPROVAL OF MINUTES**

- MARCH 26, 2012 - REGULAR MEETING
MARCH 26, 2012 - EXECUTIVE SESSION

V. OPEN TO THE PUBLIC

AT THIS POINT IN THE MEETING, THE TOWN COUNCIL WELCOMES COMMENTS FROM ANY MEMBER OF THE PUBLIC ON ANY TOPIC. TO HELP FACILITATE AN ORDERLY MEETING AND TO PERMIT THE OPPORTUNITY FOR ANYONE WHO WISHES TO BE HEARD, SPEAKERS ARE ASKED TO LIMIT THEIR COMMENTS TO 5 MINUTES. IF READING FROM A PREPARED STATEMENT, PLEASE PROVIDE A COPY AND EMAIL A COPY TO THE CLERK'S OFFICE AFTER MAKING YOUR COMMENTS SO IT MAY BE PROPERLY REFLECTED IN THE MINUTES.

VI. COUNCIL & MANAGER REPORTS

- a. PROCLAMATIONS (FOR THE RECORD ONLY – ALREADY DISTRIBUTED BY MAYOR)
 - i. MICHAEL J. BENCIVENGA
 - ii. JOHN (JACK) PHLEGAR
 - iii. EDMUND A. C. ZUKOWSKI
 - iv. CHARLIE A. THOM
 - v. NEWTON FIRE DEPARTMENT

VII. ORDINANCES

- a. 2ND READING AND PUBLIC HEARING

ORDINANCE 2012-10

A FULLY FUNDED WATER SEWER CAPITAL IMPROVEMENT ORDINANCE IN THE AMOUNT OF \$450,000 FOR THE MAPLE AVENUE PROJECT IN THE TOWN OF NEWTON, COUNTY OF SUSSEX, NEW JERSEY

- i. OPEN HEARING TO PUBLIC
- ii. CLOSE HEARING TO PUBLIC
- iii. ACT ON ORDINANCE

ORDINANCE 2012-11

AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 307, VEHICLES AND TRAFFIC, OF THE TOWN OF NEWTON CODE BOOK FOR THE PROHIBITION OF ENGINE BRAKING

- i. OPEN HEARING TO PUBLIC
- ii. CLOSE HEARING TO PUBLIC
- iii. ACT ON ORDINANCE

ORDINANCE 2012-12

AN ORDINANCE TO AMEND THE CODE OF THE TOWN OF NEWTON BY DELETION AND REPEAL OF: CHAPTER 162, LAND SUBDIVISION; CHAPTER 240, SITE PLAN REVIEW; CHAPTER 320, ZONING; AND CHAPTER 139, HISTORIC PRESERVATION; AND BY ADOPTION OF THE FOLLOWING NEW CHAPTERS: CHAPTER 240, LAND SUBDIVISION & SITE PLAN; CHAPTER 320, FORM BASED CODE; AND CHAPTER 139, HISTORIC PRESERVATION

- i. OPEN HEARING TO PUBLIC
- ii. CLOSE HEARING TO PUBLIC
- iii. ACT ON ORDINANCE

ORDINANCE 2012-13

BOND ORDINANCE PROVIDING FOR VARIOUS CAPITAL IMPROVEMENTS OF THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX, NEW JERSEY, APPROPRIATING THE AGGREGATE AMOUNT OF \$1,000,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$950,000 IN BONDS OR NOTES OF THE TOWN TO FINANCE PART OF THE COST THEREOF

- i. OPEN HEARING TO PUBLIC
- ii. CLOSE HEARING TO PUBLIC
- iii. ACT ON ORDINANCE

b. INTRODUCTION

ORDINANCE 2012-14

A FULLY FUNDED GENERAL CAPITAL IMPROVEMENT ORDINANCE IN THE AMOUNT OF \$30,500 FOR VARIOUS IMPROVEMENTS IN THE TOWN OF NEWTON, COUNTY OF SUSSEX, NEW JERSEY

ORDINANCE 2012-15

AN ORDINANCE AUTHORIZING THE SALE OF MUNICIPAL LANDS NOT NEEDED FOR PUBLIC USE BLOCK 18.02, LOT 32 FORMERLY KNOWN AS BLOCK 1301, LOT 1.07

VIII. OLD BUSINESS

- a. UTILITY BOARD APPEAL – 19 DILLER AVENUE

IX. CONSENT AGENDA

ALL ITEMS LISTED WITH AN ASTERISK (*) ARE CONSIDERED TO BE ROUTINE AND NON-CONTROVERSIAL BY THE TOWN COUNCIL AND WILL BE APPROVED BY ONE MOTION. THERE WILL BE NO SEPARATE DISCUSSION OF THESE ITEMS UNLESS A COUNCIL MEMBER SO REQUESTS, IN WHICH CASE THE ITEM WILL BE REMOVED FROM THE CONSENT AGENDA AND CONSIDERED IN ITS NORMAL SEQUENCE ON THE AGENDA.

- a. RESOLUTION #60-2012* AWARD PURCHASE CONTRACTS FOR THE ACQUISITION OF CHEMICALS
- b. RESOLUTION #61-2012* AWARD PURCHASE CONTRACT FOR SLUDGE AND CHEMICAL WASTE TRUCKING
- c. RESOLUTION #62-2012* AWARD PURCHASE OF SINGLE-AXLE ROLL OFF RECYCLING TRUCK
- d. RESOLUTION #63-2012* APPROVE TAX APPEAL SETTLEMENT AND AUTHORIZE CREDIT FOR BLOCK 9.03, LOT 16, WEIS MARKETS, INC.
- e. RESOLUTION #64-2012* APPROVE TAX APPEAL SETTLEMENT AND AUTHORIZE REFUND OF OVERPAYMENT FOR BLOCK 6.05, LOT 4, NEWTONIAN ASSOCIATES, LLC
- f. RESOLUTION #65-2012* RESOLUTION TO SUPPORT THE SUBMISSION OF A TONNAGE GRANT APPLICATION FOR RECYCLING TO THE STATE OF NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
- g. RESOLUTION #66-2012* AUTHORIZE ENTERING INTO A INTERLOCAL SHARED SERVICES AGREEMENT WITH THE TOWNSHIP OF ANDOVER FOR SALE AND SHARING OF SPECIALIZED VEHICULAR EQUIPMENT
- h. RESOLUTION #67-2012* RESOLUTION OF THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX, NEW JERSEY, AUTHORIZING SITE ACCESS AGREEMENT WITH RESPECT TO THE NEWTON ARMORY
- i. RESOLUTION #68-2012* APPROVE FIREWORKS DISPLAY AT MEMORY PARK FOR NEWTON DAY 2012
- j. RESOLUTION #69-2012* AUTHORIZE AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT FOR TOWN PLANNER
- k. RESOLUTION #70-2012* APPROVE BILLS AND VOUCHERS FOR PAYMENT
- l. RESOLUTION #71-2012* AWARD CONTRACT TO CAPITOL SUPPLY CONSTRUCTION PRODUCTS, INC., FOR THE PURCHASE OF PIPE MATERIALS AND FITTINGS FOR THE MORAN STREET WATERMAIN PROJECT

m. APPLICATIONS*

AN APPLICATION FOR AN ON-PREMISE RAFFLE (50/50) FROM THE PRIDE FOUNDATION, INC., 44 RYERSON AVENUE, NEWTON, NJ TO BE HELD ON MONDAY, MAY 21, 2012 AT 2:30 PM AT THE HALSTED MIDDLE SCHOOL, 59 HALSTED STREET, NEWTON, NJ

X. INTERMISSION

XI. DISCUSSION

XII. OPEN TO THE PUBLIC

XIII. COUNCIL & MANAGER COMMENTS

XIV. EXECUTIVE SESSION

a. RESOLUTION #72-2012

A RESOLUTION PROVIDING FOR A MEETING NOT OPEN TO THE PUBLIC IN ACCORDANCE WITH THE PROVISIONS OF THE NEW JERSEY OPEN PUBLIC MEETINGS ACT, N.J.S.A. 10:4-12

1. LAND ACQUISITION
2. POTENTIAL LITIGATION

XV. ADJOURNMENT

Office of the Mayor

Newton, New Jersey

Proclamation

Michael J. Bencivenga

WHEREAS, Michael J. Bencivenga first became a firefighter with the Newton Fire Department in January 1969 as part of the Kittatinny Hose and Ladder Company #1; and

WHEREAS, through the years, Mike has volunteered numerous hours of his time to answer the call of those in distress offering life-saving assistance; and

WHEREAS, Mike has dedicated his time and efforts over the years serving as Assistant Foreman and Foreman of the Kittatinny Hose and Ladder Company #1 and currently serves as one of the Department's Trustees; and

WHEREAS, Mike has been instrumental in the planning oversight for the Department by serving on the two Truck Committees for the 1974 and 1992 Ladder trucks;

NOW, THEREFORE, we the Mayor and Town Council of the Town of Newton, hereby proclaim our appreciation and gratitude to Michael J. Bencivenga for his over forty years of community service and thank him for continuing to answer the call to assist those in need.

*In witness whereof I have hereunto set my
hand and caused this seal to be affixed.*

Attest: _____

Date: March 31, 2012

Office of the Mayor

Newton, New Jersey

Proclamation

John (Jack) Phlegar

WHEREAS, Jack Phlegar first became a firefighter with the Newton Fire Department in September 1960 as part of the Hose Company #3; and

WHEREAS, through the years, Jack has volunteered numerous hours of his time to answer the call of those in distress offering life-saving assistance; and

WHEREAS, Jack has dedicated his time and efforts over the years serving as Assistant Foreman and Foreman of the Hose Company #3; and

WHEREAS, Jack also served his country as a member of the United States Navy for 7 years; and

WHEREAS, Jack currently serves as an active member of the Newton Fire Department Museum Committee, bringing years of knowledge in educating visitors on the great history of the Department;

NOW, THEREFORE, we the Mayor and Town Council of the Town of Newton, hereby proclaim our appreciation and gratitude to Jack Phlegar for his over fifty years of community service and his dedication to the Newton Fire Department.

*In witness whereof I have hereunto set my
hand and caused this seal to be affixed.*

Attest: _____

Date: _____ March 31, 2012 _____

Office of the Mayor

Newton, New Jersey

Proclamation

Edmund A. C. Zukowski

WHEREAS, Edmund A. C. Zukowski first became a firefighter with the Newton Fire Department in December 1968 as part of the Steamer Company; and

WHEREAS, through the years, Ed has volunteered numerous hours of his time to answer the call of those in distress offering life-saving assistance; and

WHEREAS, Ed has dedicated his time and efforts over the years serving as Assistant Foreman in 1974 and Foreman in 1975 of the Newton Fire Department; and

WHEREAS, Ed helped to lead the Fire Department by serving as Assistant Chief from 1990-1993 and Department Chief in 1994, and also as the Department's first President; and

WHEREAS, Ed has lent his knowledge and expertise to his fellow firefighters by serving as an instructor with the Sussex County Fire Academy; and

WHEREAS, Ed served on the By-Laws Committee which merged Newton's 5 separate fire companies into one Department and on the Truck Committees for Engine 801 in 1992 and 2009;

NOW, THEREFORE, we the Mayor and Town Council of the Town of Newton, hereby proclaim our appreciation and gratitude to Edmund Zukowski for his over forty years of service to his community and his dedication to the Newton Fire Department.

*In witness whereof I have hereunto set my
Hand and caused this seal to be affixed.*

Attest: _____

Date: _____ March 31, 2012 _____

Office of the Mayor

Newton, New Jersey

Proclamation

Charlie A. Thom

WHEREAS, Charlie A. Thom first became a firefighter with the Newton Fire Department in January 1960 as part of the Kittatinny Hose and Ladder Company #1; and

WHEREAS, through the years, Charlie has volunteered numerous hours of his time to answer the call of those in distress offering life-saving assistance; and

WHEREAS, Charlie has dedicated his time and efforts over the years serving as Assistant Foreman in 1969 and Foreman in 1970; and

WHEREAS, Charlie helped to lead the Fire Department by serving as Assistant Chief from 1979-1981 and 1997-2000, and as Department Chief in 1982 and 2001, and he also served as the Department's President for four years; and

WHEREAS, Charlie has proven his dedication to firefighting by also serving as Sussex County Fire Marshal from 1971-1991; and

WHEREAS, Charlie served as Chairman on the By-Laws Committee which merged Newton's 5 separate fire companies into one Department;

NOW, THEREFORE, we the Mayor and Town Council of the Town of Newton, hereby proclaim our appreciation and gratitude to Charlie Thom for his over fifty years of service to his community and his dedication to the Newton Fire Department.

*In witness whereof I have hereunto set my
Hand and caused this seal to be affixed.*

Attest: _____

Date: March 31, 2012

Office of the Mayor

Newton, New Jersey

Proclamation

Newton Fire Department

WHEREAS, the Newton Fire Department was established in December 1835, and is currently comprised of a dedicated group of volunteers who sacrifice their time to help those in need; and

WHEREAS, in 2011 under the direction of Chief Mike Teets, the Newton Fire Department responded to 457 calls and performed over 40 training drills, expending over 4,446 man hours while operating 3 Engines, 1 Ladder Truck, 1 Rescue, and 1 Brush Truck; and

WHEREAS, in June, the Newton Fire Department proudly took delivery of a custom built 95 ft. mid-mount aerial ladder truck which was used to rescue a family of six during a fire in a second story apartment building in October; and

WHEREAS, the caring and loyalty of these dedicated volunteers has been evident throughout the years and continues to serve as a sense of comfort and security to the Town's residents and businesses. The Newton Fire Department also works closely with the Newton First Aid & Rescue Squad and Newton Police Department, as well as providing mutual aid to neighboring municipalities; and

WHEREAS, the Newton Fire Department assists in any kind of emergency; in 2011 they answered over 175 calls during Hurricane Irene, Tropical Storm Lee, and the October Snow Storm;

NOW THEREFORE, WE, the Mayor and Town Council of the Town of Newton, hereby proclaim our gratitude and appreciation to the **Newton Fire Department** for their endless hours of support and service to the Town of Newton and its residents and thank each and every one of their members for their dedication and service.

*In witness whereof I have hereunto set my
Hand and caused this seal to be affixed.*

Attest: _____

Date: _____ March 31, 2012 _____

TOWN OF NEWTON

ORDINANCE #2012-10

A FULLY FUNDED WATER SEWER CAPITAL IMPROVEMENT ORDINANCE IN THE AMOUNT OF \$450,000.00 FOR THE MAPLE AVENUE PROJECT IN THE TOWN OF NEWTON, COUNTY OF SUSSEX, NEW JERSEY.

BE IT ORDAINED by the Town Council of the Town of Newton, in the County of Sussex, as follows:

Section 1. \$450,000.00 is hereby appropriated from the Capital Improvement Fund in the Water Sewer Capital Fund for the construction of a new watermain, connection services to the watermain, milling and paving of Maple Avenue in the Town of Newton, including all costs necessary therefore or incidental thereto;

Section 2. The Water Sewer Capital Budget of the Town of Newton is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. The resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director of the Division of Local Government Services is on file with the Clerk and is available there for public inspection.

Section 3. This ordinance shall take effect as provided by the law.

TAKE NOTICE that the above Ordinance was introduced at a regular meeting of the Town Council of the Town of Newton conducted on March 26, 2012. It was adopted, after final reading and public hearing thereon, at a meeting of the Newton Governing Body conducted at 7:00 pm on April 9, 2012 in the Council Chambers at the Newton Municipal Building, 39 Trinity Street, Newton, New Jersey, and shall take effect according to law.

Lorraine A. Read, RMC
Municipal Clerk

TOWN OF NEWTON
Sussex County, New Jersey

ORDINANCE No. 2012-11

**AN ORDINANCE TO AMEND AND SUPPLEMENT
CHAPTER 307, VEHICLES AND TRAFFIC, OF THE NEWTON CODE BOOK
FOR THE PROHIBITION OF ENGINE BRAKING**

WHEREAS, it is the desire of the Town Council of the Town of Newton (“Town”) to enhance traffic safety and create peace and order for the residents of the Town by amending the Newton Code book to prohibit “engine braking” on Town roadways and to authorize the installation of the appropriate signage.

BE IT ORDAINED by the Town Council of the Town of Newton that certain sections within Chapter 307, Vehicles and Traffic, of the Code of the Town of Newton be amended as follows:

SECTION 1. Chapter 307, ARTICLE III, Traffic Regulation, Section 307-18, *Engine Braking* is created to include the following:

The purpose of this section is to prohibit engine braking within the Town of Newton in order to enhance traffic safety and create peace and order for the residents of the Town.

Subsections:

- 307-18.1 Definitions
- 307-18.2 Prohibition
- 307-18.3 Exceptions to Prohibition
- 307-18.4 Posting Signs
- 307-18.5 Enforcement
- 307-18.6 Violations and Penalties
- 307-18.7 Severability

SECTION 2. Chapter 307, Section 307-18.1, *Definitions* is created to include the following:

For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this Chapter clearly demonstrates a different meaning. The word “shall” is always mandatory and not merely directory.

"Engine braking" shall mean the use or operation of any mechanical exhaust device designed to aid in the braking, decompression or deceleration of any motor vehicle which results in the excessive, loud, unusual or explosive noise from such vehicle.

SECTION 3. Chapter 307, Section 307-18.2, *Prohibition* is created to include the following:

It shall be unlawful for the driver of any motor vehicle to use or operate or cause to be used or operated, at any time and on any road within the Town of Newton, any mechanical exhaust or decompression device which results in the practice known as "engine braking."

SECTION 4. Chapter 307, Section 307-18.3, *Exceptions to Prohibition* is created to include the following:

The provisions of this section shall not apply to noise caused by the application of engine braking, if necessary for the health, safety and welfare of the community, or noise created by emergency vehicles for emergency purposes. These items are exempt from the provisions of this section.

SECTION 5. Chapter 307, Section 307-18.4, *Posting Signs* is created to include the following:

The Town of Newton is hereby authorized and directed to post signs at reasonable locations within the Town indicating the prohibition of engine braking.

SECTION 6. Chapter 307, Section 307-18.5, *Enforcement* is created to include the following:

The Town Manager shall enforce the provisions of this section through the Chief of Police and the Police Department whom will be trained in distinguishing "engine braking" noise from normal engine or braking noises. It shall be unlawful for any reason to violate any part of this ordinance adopted by the Newton Town Council.

SECTION 7. Chapter 307, Section 307-18.6, *Violations and Penalties* is created to include the following:

Any person who violates this section shall be subject to a fine as follows:

- | | | |
|----|---------------------------------|----------|
| A. | First Offense: | \$100.00 |
| B. | Second and Subsequent Offenses: | \$200.00 |

SECTION 8. Chapter 307, Section 307-18.7, *Severability* is created to include the following:

It is the intention of the Town Council that every provision of this Section shall be considered separable and the invalidity of any article, clause or provision of this Section shall not affect the validity of any other portion of this Section or this Chapter.

SECTION 9. Effective date:

This ordinance shall take effect upon final adoption and will be published as required by law.

ORDINANCE 2012-11

TAKE NOTICE that the above Ordinance was introduced at a regular meeting of the Town Council of the Town of Newton conducted on March 26, 2012. It was adopted, after final reading and public hearing thereon, at a meeting of the Newton Governing Body conducted at 7:00 pm on April 9, 2012 in the Council Chambers at the Newton Municipal Building, 39 Trinity Street, Newton, New Jersey, and shall take effect according to law.

Lorraine A. Read, RMC
Municipal Clerk

TOWN OF NEWTON

ORDINANCE # 2012-12

**AN ORDINANCE TO AMEND THE CODE OF THE TOWN OF NEWTON BY
DELETION AND REPEAL OF:
CHAPTER 162, LAND SUBDIVISION;
CHAPTER 240, SITE PLAN REVIEW;
CHAPTER 320, ZONING; AND
CHAPTER 139, HISTORIC PRESERVATION; AND
BY ADOPTION OF THE FOLLOWING NEW CHAPTERS:
CHAPTER 240, LAND SUBDIVISION & SITE PLAN;
CHAPTER 320, FORM BASED CODE;
AND CHAPTER 139, HISTORIC PRESERVATION**

BE IT ORDAINED, by the Town Council of the Town of Newton as follows:

Section 1.

The Code of the Town of Newton is hereby amended by deleting and repealing: Chapter 162, Land Subdivision; Chapter 240, Site Plan Review; Chapter 320, Zoning; and Chapter 139, Historic Preservation.

Section 2.

The Code of the Town of Newton is hereby amended by adding thereto a new chapter to replace Chapter 162 and Chapter 240 hereinabove repealed, to be Chapter 240, Land Subdivision & Site Plan, which is attached to and made part of this ordinance as "Schedule A".

Section 3.

The Code of the Town of Newton is hereby amended by adding thereto a new chapter to replace Chapter 320 hereinabove repealed, to be Chapter 320, Form Based Code, which is attached to and made part of this ordinance as "Schedule B".

Section 4.

The Code of the Town of Newton is hereby amended by adding thereto a new chapter to replace Chapter 139 hereinabove repealed, to be Chapter 139, Historic Preservation, which is attached to and made part of this ordinance as "Schedule C".

Section 5.

The provisions of this ordinance are declared to be severable, and if any section, subsection, sentence, clause or part thereof is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses or parts of this ordinance.

Section 6.

This ordinance shall take effect upon final adoption, publication and the filing of a copy of said ordinance with the Sussex County Planning Board, all in accordance with the law, and applies to any new or pending application and to any matter on appeal to any municipal agency or to any Court.

Section 7.

The Town Clerk is hereby directed to give notice at least ten (10) days prior to the hearing on the adoption of this ordinance to the Sussex County Planning Board and to all others entitled thereto pursuant to the provisions of N.J.S. 40:55D-15. Upon adoption of this ordinance after public hearing thereon, the Town Clerk is further directed to publish notice of the passage thereof and to file a copy of the ordinance as finally adopted with the Sussex County Planning Board, as required by N.J.S. 40:55D-16.

TAKE NOTICE that the above Ordinance was introduced at a regular meeting of the Town Council of the Town of Newton conducted on March 26, 2012. It was adopted, after final reading and public hearing thereon, at a meeting of the Newton Governing Body conducted at 7:00 pm on April 9, 2012 in the Council Chambers at the Newton Municipal Building, 39 Trinity Street, Newton, New Jersey, and shall take effect according to law.

Lorraine A. Read, RMC
Municipal Clerk

ORDINANCE 2012-12

SCHEDULE A

CHAPTER 240, LAND SUBDIVISION & SITE PLAN

On file in the Clerk's Office.

ORDINANCE 2012-12

SCHEDULE B

CHAPTER 320, FORM BASED CODE

On file in the Clerk's Office.

ORDINANCE 2012-12

SCHEDULE C

CHAPTER 139, HISTORIC PRESERVATION

On file in the Clerk's Office.

**TOWN OF NEWTON
ORDINANCE 2012-13**

BOND ORDINANCE PROVIDING FOR VARIOUS CAPITAL IMPROVEMENTS OF THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX, NEW JERSEY, APPROPRIATING THE AGGREGATE AMOUNT OF \$1,000,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$950,000 BONDS OR NOTES OF THE TOWN TO FINANCE PART OF THE COST THEREOF.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

Section 1. The several improvements described in Section 3 of this bond ordinance are hereby respectively authorized to be undertaken by the Town of Newton, in the County of Sussex, New Jersey (the "Town") as general improvements. For the several improvements or purposes described in Section 3, there are hereby appropriated the respective sums of money therein stated as the appropriation made for each improvement or purpose, such sums amounting in the aggregate to \$1,000,000, including the aggregate sum of \$50,000 as the several down payments for the improvements or purposes required by the Local Bond Law. The down payments have been made available by virtue of provision for down payment or for capital improvement purposes in one or more previously adopted budgets.

Section 2. In order to finance the cost of the several improvements or purposes not covered by application of the several down payments, negotiable bonds are hereby authorized to be issued in the principal amount of \$950,000 pursuant to the Local Bond Law. In anticipation

of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. The several improvements hereby authorized and the several purposes for which the bonds are to be issued, the estimated cost of each improvement and the appropriation therefor, the estimated maximum amount of bonds or notes to be issued for each improvement and the period of usefulness of each improvement are as follows:

<u>Purpose</u>	<u>Appropriation and Estimated Cost</u>	<u>Estimated Maximum Amount of Bonds or Notes</u>	<u>Period of Usefulness</u>
a) Road improvements consisting of reconstruction of Moran Street, Memory Park parking areas, pool parking areas, access road from Memory Park to South Park Drive, DPW complex, Lot Number 2 Main Street Parking Lot and Howard Street, including drainage improvements, milling, paving, striping, reconstruction or installation of sidewalks and curbs, bicycle grates and appurtenances	\$165,000	\$156,750	20 years
b) Phase I of Drainage Improvement Program in area of Fairview Avenue to Liberty Street, consisting of drainage study, mapping, engineering and design work	\$25,000	\$23,750	40 years
c) Acquisition of equipment consisting of a street sweeper, a chipper and a crack sealer	\$289,000	\$274,550	15 years
d) Acquisition and installation of chain link fence near slate quarry off West End Avenue	\$30,000	\$28,500	10 years

<u>Purpose</u>	<u>Appropriation and Estimated Cost</u>	<u>Estimated Maximum Amount of Bonds or Notes</u>	<u>Period of Usefulness</u>
e) Phase I of Firehouse No. 2 Renovation Project consisting of design and preliminary planning	\$20,000	\$19,000	20 years
f) Renovation of Fire Museum, including planning, design and construction	\$207,000	\$196,650	20 years
g) Improvement of various municipal buildings consisting of upgrades, renovations and acquisition and installation of furnishings and equipment	\$20,000	\$19,000	20 years
h) Acquisition and installation of park and playground equipment, including design work	\$35,000	\$33,250	15 years
i) Construction of a wall at the upper portion of Memory Park near South Park Drive and the Recycling Center, including design work, stone, topsoil, gravel, trees and other natural barriers and plantings	\$30,000	\$28,500	15 years
j) Improvement of Memory Park involving design, acquisition and installation of guard rail and fencing and field improvements	\$47,000	\$44,650	15 years
k) Acquisition and installation of new exchange email server for Police Department	\$19,000	\$18,050	7 years
l) Acquisition and installation of a solar-powered traffic data/message trailer for Police Department	\$17,000	\$16,150	7 years

<u>Purpose</u>	<u>Appropriation and Estimated Cost</u>	<u>Estimated Maximum Amount of Bonds or Notes</u>	<u>Period of Usefulness</u>
m) Acquisition of four-wheel drive vehicle for Police Department, including appurtenances	\$30,000	\$28,500	5 years
n) Acquisition and installation of security system at Municipal Building consisting of magnetic security locks, security cameras and security system intercoms	\$6,500	\$6,175	15 years
o) Supplemental appropriation for redevelopment planning	\$55,000	\$52,250	15 years
	(in addition to the \$75,000 appropriated by bond ordinance #2011-5 finally adopted 4/25/11, the \$250,000 appropriated by bond ordinance #2009-5 finally adopted 2/23/09, the \$50,000 appropriated by bond ordinance #2005-8 finally adopted 5/9/05, the \$75,000 appropriated by bond ordinance #2007-8 finally adopted 6/11/07, the \$250,000 appropriated by bond ordinance #2007-21 finally adopted 8/27/07 and \$50,000 available from an Office of Smart Growth grant)	(in addition to the \$71,250 bonds or notes authorized by bond ordinance #2011-5 finally adopted 4/25/11, the \$238,000 bonds or notes authorized by bond ordinance #2009-5 finally adopted 2/23/09, the \$47,500 bonds or notes authorized by bond ordinance #2005-8 finally adopted 5/9/05, the \$71,400 bonds or notes authorized by bond ordinance #2007-8 finally adopted 6/11/07, the \$238,000 bonds or notes authorized by bond ordinance #2007-21 finally adopted 8/27/07 and the \$25,000 grant received under the 2005 ordinance, reducing the debt authorization)	
p) Supplemental appropriation for repair and/or reconstruction of Town Hall retaining wall	\$4,500	\$4,275	20 years
	(in addition to the \$75,000 appropriated by bond ordinance #2011-5 finally adopted 4/25/11)	(in addition to the \$71,250 bonds or notes authorized by bond ordinance #2011-5 finally adopted 4/25/11)	

<u>Purpose</u>	<u>Appropriation and Estimated Cost</u>	<u>Estimated Maximum Amount of Bonds or Notes</u>	<u>Period of Usefulness</u>
TOTALS	<u>\$1,000,000</u>	<u>\$950,000</u>	

The excess of the appropriation made for each of the improvements or purposes aforesaid over the estimated maximum amount of bonds or notes to be issued therefor, as above stated, is the amount of the down payment for each purpose.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the Chief Financial Officer; provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer. The Chief Financial Officer shall determine all matters in connection with notes issued pursuant to this ordinance, and the Chief Financial Officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law. The Chief Financial Officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The Chief Financial Officer is directed to report in writing to the Governing Body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the notes sold, the price obtained and the name of the purchaser.

Section 5. The Town hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Town is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

(a) The purposes described in Section 3 of this bond ordinance are not current expenses. They are all improvements that the Town may lawfully undertake as general improvements, and no part of the costs thereof has been or shall be specially assessed on property specially benefitted thereby.

(b) The average period of usefulness, computed on the basis of the respective amounts of obligations authorized for each purpose and the reasonable life thereof within the limitations of the Local Bond Law, is 16.96 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Town as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$950,000, and the obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An aggregate amount not exceeding \$245,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated costs indicated herein for the purposes or improvements.

Section 7. The Town hereby makes the following covenants and declarations with respect to obligations determined to be issued by the Chief Financial Officer on a tax-exempt basis. The Town hereby covenants that it will comply with any conditions subsequent imposed by the Internal Revenue Code of 1986, as amended (the "Code"), in order to preserve the exemption from taxation of interest on the obligations, including, if necessary, the requirement to rebate all net investment earnings on the gross proceeds above the yield on the obligations. The Chief Financial Officer is hereby authorized to act on behalf of the Town to deem the obligations authorized herein as bank qualified for the purposes of Section 265 of the Code, when appropriate. The Town hereby declares the intent of the Town to issue bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use the proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3 of this bond ordinance. This Section 7 is a declaration of intent within the meaning and for purposes of Treasury Regulations §1.150-2 or any successor provisions of federal income tax law.

Section 8. Any grant moneys received for the purposes described in Section 3 hereof shall be applied either to direct payment of the cost of the improvements or to payment of the obligations issued pursuant to this ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

Section 9. The Chief Financial Officer of the Town is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in

connection with the sale of obligations of the Town and to execute such disclosure document on behalf of the Town. The Chief Financial Officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Town and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Town fails to comply with its undertaking, the Town shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

Section 10. The full faith and credit of the Town are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Town, and the Town shall be obligated to levy *ad valorem* taxes upon all the taxable real property within the Town for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 11. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

TAKE NOTICE that the above Ordinance was introduced at a regular meeting of the Town Council of the Town of Newton conducted on March 26, 2012. It was adopted, after final reading and public hearing thereon, at a meeting of the Newton Governing Body conducted at 7:00 pm on April 9, 2012 in the Council Chambers at the Newton Municipal Building, 39 Trinity Street, Newton, New Jersey, and shall take effect according to law.

Lorraine A. Read, RMC
Municipal Clerk

TOWN OF NEWTON

ORDINANCE #2012-14

**A FULLY FUNDED GENERAL CAPITAL IMPROVEMENT
ORDINANCE IN THE AMOUNT OF \$30,500.00 FOR
VARIOUS IMPROVEMENTS IN THE TOWN OF
NEWTON, COUNTY OF SUSSEX, NEW JERSEY**

BE IT ORDAINED by the Town Council of the Town of Newton, in the County of Sussex, as follows:

Section 1. \$30,500.00 is hereby appropriated from the Capital Improvement Fund in the General Capital Fund for the following various improvements in the Town of Newton, including all costs necessary therefore or incidental thereto:

High Band Portable Radios/ Pagers/ MDT's	\$12,000.00
Hurst Hydraulic Lines & Appurtenances	\$ 5,500.00
Turnout Gear Dryers	<u>\$13,000.00</u>
TOTAL	\$30,500.00

Section 2. The General Capital Budget of the Town of Newton is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. The resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director of the Division of Local Government Services is on file with the Clerk and is available there for public inspection.

Section 3. This ordinance shall take effect as provided by the law.

TAKE NOTICE that the above entitled Ordinance was introduced at a regular meeting of the Town Council of the Town of Newton held on April 9, 2012. It will be considered for adoption, after public hearing and final reading thereon, at a regular meeting of said Governing Body conducted on April 23, 2012, and shall take effect according to law.

Lorraine A. Read, RMC
Municipal Clerk

TOWN OF NEWTON

ORDINANCE NO. 2012-15

**AN ORDINANCE AUTHORIZING THE SALE OF
MUNICIPAL LANDS NOT NEEDED FOR PUBLIC USE
BLOCK 18.02, LOT 32
FORMERLY KNOWN AS BLOCK 1301, LOT 1.07**

WHEREAS, the Town of Newton has title to a certain parcel of real property which is Lot 32 in Block 18.02 (formerly known as Lot 1.07 in Block 1301) as shown on the Newton Tax Map, which parcel is not needed for public use; and

WHEREAS, Lot 32 in Block 18.02 (formerly known as Lot 1.07 in Block 1301) is less than the minimum size required for development under the municipal zoning ordinance and is without any capital improvements thereon; and

WHEREAS, N.J.S.A. 40A:12-13.2 requires that such a parcel be offered to the owner or owners of real property contiguous to said parcel being offered for sale prior to it being offered at a public sale.

NOW, THEREFORE BE IT ORDAINED, BY THE TOWN COUNCIL OF THE TOWN OF NEWTON IN THE COUNTY OF SUSSEX AND STATE OF NEW JERSEY AS FOLLOWS:

1. The Town Manager of the Town of Newton is hereby authorized to notify in writing, by certified mail, return receipt requested, all contiguous property owners of Lot 32 in Block 18.02 (formerly known as Lot 1.07 in Block 1301) that said lot is being offered for sale at a minimum price of \$24,000. Said notice shall state that:

(a) The minimum price requested for Lot 32 in Block 18.02 (formerly known as Lot 1.07 in Block 1301) as \$24,000.

(b) An acceptance of an offer by a contiguous owner to purchase said lot shall not be binding upon the Town but shall be subject to confirmation by the Town Council, which confirmation shall be done by Resolution.

(c) In the event the Town accepts the offer of a contiguous offer and the conveyance is made, that the parcel shall annex to, merge with, and be considered one tract of land with the contiguous owner's existing property and modified March 26, 2007. A copy of said lease and modifications are on file in the Newton Town Clerk's Office.

(d) The Town of Newton reserves the right, in its sole discretion, to accept or reject any offer it deems in the best interest of the Town of Newton.

(e) Any contiguous property owner who wishes to purchase said lot shall execute an Offer to Purchase in the form attached hereto and pay a deposit by cash, bank check, cashier's check or attorney's trust account check in the amount of ten percent (10%) of the offered price. The balance of the monies due pursuant to the Offer to Purchase shall be paid in cash or certified check on delivery of a Deed which shall be no later than 2:00 p.m. on May 29, 2012, at the offices of the municipal attorney, Hollander, Strelzik, Pasculli, Pasculli, Hinkes, Gacquin, Vandenberg & Hontz, LLC, located at 40 Park Place, Newton, New Jersey 07860, or at such other location as mutually agreed upon.

(f) The Town of Newton expressly disclaims any and all implied warranties of habitability or usability with respect to this property. The Offer to Purchase shall be in a "AS IS" condition, the Offeror having had ample and sufficient opportunity to inspect premises, examine its title, and review municipal ordinances and laws affecting said premises. No representations regarding the value, character, quality, habitability or condition thereof, including environmental conditions, have been made to the Buyer on behalf of the Town of Newton prior to making any offer. The Buyer of the lot, after closing, shall be responsible for all present and future defects of any and in any part of the property. This Agreement will survive the closing of title.

(g) The property will be conveyed by Bargain and Sale Deed and shall be subject to covenants, restrictions, conditions, reservations of record, easements of record, or by prescription and such state of facts as an accurate survey and inspection of the premises may disclose.

(h) In the event all the owners of contiguous property do not make an offer to purchase within sixty (60) days of the date of mailing of the notice of Offer to Sell to them, the lot may be sold at public auction at some future date to any member of the public at such price as will be acceptable to the Town of Newton at that time.

(i) In the event the Town receives more than one (1) offer to buy from a contiguous property owner, at the same price, said property shall then be sold to the highest bidder, at auction, from among all the contiguous property owners, after written notice of time and place of said auction, to all contiguous property owners.

(j) In the event that two (2) or more contiguous property owners would like to divide the lot between them and increase each of their properties by a portion of the offered lot, the Town may or may not agree to such division of the lot. Any legal or engineering fees necessary to accomplish such a subdivision will be the responsibility of the adjoining property owners.

2. The lot offered for sale is a portion of the same land and premises which the Town of Newton took title to by virtue of the following:

(a) A 6.873 acre tract of land as described in a Deed of Conveyance from Thomas F. Patten and Ralph S. Tyler, Jr., Trustees of the Erie Lackawanna Railway Company to the Town of Newton dated October 25, 1982 and recorded in the Sussex County Clerk's Office in Newton, New Jersey in Book 1091 of Deeds on pages 682, etc.;

(b) A 4,352 square foot parcel of land as described in a Deed of Conveyance from Betty Heemer, Unmarried, to the Town of Newton, a Municipal Corporation, dated May 1979, and recorded in the Sussex County Clerk's Office in Newton, New Jersey in Book 1033 of Deeds on pages 989, etc.;

(c) A parcel of land as described in a Deed of Conveyance from Peter John Kays and Beverly A. Kays, His Wife, to the Town of Newton, dated June 3, 1977 and recorded in the Sussex County Clerk's Office in Newton, New Jersey in Book 989 of Deeds on pages 470, etc.;

3. The premises shall be sold subject to:
 - (a) The rights of any utilities or easements of record, should any exist;
 - (b) The rights of the public in Sparta Avenue, also known as Sussex County Route 616;
 - (c) A ground lease agreement between the Town of Newton and Thor Labs, Inc. dated April 2003 as outlined in Town of Newton Ordinance No. 2003-2.
 - (d) Existing storm drainage infrastructure on Block **1301**, Lot **1.05**, discharging through Block **1301**, Lot **1.07**, to storm drainage in Sparta Avenue (Sussex County Route 616).
4. The purchaser of Lot 32 in Block 18.02 (formerly known as Lot 1.07 in Block 1301) shall have the right, at its sole cost and expense, to obtain a new survey of the lot. Provided such survey depicts the lot and is certified to be correct to the Town of Newton, the Town of Newton shall utilize the legal description drawn in accordance with such survey in the Deed of Conveyance provided the Purchaser provides such legal description and a copy of the certified survey to the Town of Newton not less than one (1) week prior to the date set for closing.
5. An Offer to Purchase Lot 32 in Block 18.02 (formerly known as Lot 1.07 in Block 1301) shall be accepted or rejected by a Resolution of the Newton Town Council no later than the second regular meeting of the governing body following May 14, 2012, or the date of any auction sale. No offer may be withdrawn prior to such Resolution.
6. The notice of any auction sale of said lot shall be advertised in The New Jersey Herald at least once a week during two consecutive weeks, the last publication being no earlier than seven (7) days prior to the date of such sale.

ORDINANCE 2012-15

NOTICE

TAKE NOTICE that the above Ordinance was introduced at a regular meeting of the Town Council of the Town of Newton conducted on April 9, 2012. It will be considered for adoption, after final reading and public hearing thereon, at a meeting of the Newton Governing Body conducted at 7:00 pm on April 23, 2012 in the Council Chambers at the Newton Municipal Building, 39 Trinity Street, Newton, New Jersey, and shall take effect according to law.

Lorraine A. Read, RMC
Municipal Clerk



TOWN OF NEWTON
RESOLUTION #60-2012

April 9, 2012

"Award Purchase Contracts for the Acquisition of Chemicals"

WHEREAS, specifications were prepared for the purchase of various chemicals needed to operate the Newton Wastewater Treatment Plant and the Newton Water Filtration Plant, and bids were subsequently solicited and publicly opened and read on Tuesday, March 27, 2012 as follows:

Usalco 1120 Middle River Road Baltimore, MD 21220	Liquid Sodium Carbonate	Liquid Aluminum Sulfate	Liquid/gas Sulfur Dioxide	Liquid Chlorine/gas	CES PACI 2500/Del Pac 2950	Liquid Sodium Hydroxide	Liquid Hydrofluosilic Acid	Sodium Hypochoirite
	\$ <u>No Bid</u> gal total	\$ <u>1.07</u> 3,000 per gal \$ <u>1.015</u> 5,000 per gal \$ <u>3,210</u> total (<u>3,000</u>) \$ <u>5,075</u> total (<u>5,000</u>)	\$ <u>No Bid</u> lb total	\$ <u>No Bid</u> lb total	\$ 4.86 gal \$ 77.760 total	\$ <u>No Bid</u> gal total	\$ <u>No Bid</u> gal total	\$ <u>No Bid</u> gal total
Univar 532 E. Emmaus St. Middletown, PA 18641	\$ <u>No Bid</u> gal total	\$ <u>No Bid</u> gal total	\$ <u>.694</u> lb total	\$ <u>.744</u> lb total	\$ <u>No Bid</u> gal total	\$ <u>1.87</u> gal total	\$ <u>4.84</u> gal total	\$ <u>1.89</u> gal total
Coyne Chemical Co. 3015 State Rd Croydon, PA 19021	\$ <u>0.84</u> gal total	\$ <u>No Bid</u> gal total	\$ <u>No Bid</u> lb total	\$ <u>No Bid</u> lb total	\$ <u>3.84</u> gal total	\$ <u>No bid</u> gal total	\$ <u>4.86</u> gal total	\$ <u>No Bid</u> total
Main Pool & Chemical 501 Main Street Avoca, PA 18641	\$ <u>No Bid</u> gal total	\$ <u>No Bid</u> gal total	\$ <u>1.15</u> lb total	\$ <u>.70</u> lb total	\$ <u>No Bid</u> gal total	\$ <u>1.49</u> gal total	\$ <u>4.89</u> gal total	\$ <u>1.44</u> gal total
JCI - Jones Chemical, Inc. 103 River Street Warwick, NY 10990	\$ <u>No Bid</u> gal total	\$ <u>No Bid</u> gal total	\$ <u>.713</u> lb total	\$ <u>.667</u> gal total	\$ <u>No Bid</u> gal total	\$ <u>No Bid</u> gal total	\$ <u>No Bid</u> gal total	\$ <u>No Bid</u> gal total
	\$ <u>7,807.35</u> total	\$ <u>7,300</u> total	\$ <u>7,599.30</u> total	\$ <u>7,665.00</u> total	\$ <u>7,300</u> total	\$ <u>8,195</u> total	\$ <u>6,112.50</u> total	\$ <u>10,800</u> total

WHEREAS, the bids for chemicals listed above were reviewed by the Qualified Purchasing Agent and she has recommended the awards for the following purchase of chemicals based on submission of the low bids which are in the best interest of the Town of Newton;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton, that it hereby awards bids for the purchase of chemicals as follows:

Chemical

Liquid Sodium Carbonate
Liquid Aluminum Sulfate
Liquid/Gas Sulfur Dioxide
Liquid Chlorine/Gas
CES PACI 2500
Liquid Sodium Hydroxide
Liquid Hydrofluosilic Acid
Sodium Hypochlorite

Bidder Receiving Award

Coyne Chemical Co.
Usalco
Univar
JCI-Jones
Coyne Chemical Co.
Main Pool & Chemical
Univar
Main Pool & Chemical

BE IT FURTHER RESOLVED, that the Water and Sewer Supervisor is hereby authorized to issue purchase order contracts to the above listed chemical suppliers for the corresponding chemical purchases, and that certified copies of this Resolution be forwarded to each of the bidders.

CERTIFICATION

THIS IS TO CERTIFY that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, April 9, 2012.

Lorraine A. Read, RMC
Municipal Clerk



TOWN OF NEWTON

RESOLUTION #61-2012

April 9, 2012

“Award Purchase Contract for Sludge and Chemical Waste Trucking”

WHEREAS, the services of a private company are required by the Town of Newton to provide equipment and personnel for sludge trucking services and chemical waste trucking services; and

WHEREAS, specifications were prepared indicating that the successful bidder shall remove an estimated total of 120,000 gallons of sludge per month from the Newton Wastewater Treatment Plant and an estimated total of 45,000 gallons of chemical waste from the Newton Water Filtration Plant located in Sparta for a period of one year; and

WHEREAS, bids for sludge trucking services and chemical waste trucking services were solicited and publicly opened and read on Tuesday, March 27, 2012 as follows:

	<u>Sludge Trucking</u>	<u>Chemical Waste Trucking</u>
--	------------------------	--------------------------------

Russell Reid 200 Smith Street PO Box 130 Keasbey, NJ 08832-0130	\$0.0587	\$0.0587
--	----------	----------

Earth Care Resource Management Corp. 99 Maple Grange Road Vernon, NJ 07462	\$0.0466	\$0.0294
---	----------	----------

R & D Trucking, Inc. 1874 Route 23 North West Milford, NJ 07480	\$0.037	\$0.025
--	---------	----------------

Accurate Waste Removal Services, Inc. 226 Prospect Point Road Lake Hopatcong, NJ 07849	\$0.0335	\$0.027
---	-----------------	---------

WHEREAS, Accurate Waste Removal Services, Inc., was the lowest bidder for sludge trucking and R&D Trucking, Inc. was the low bidder for chemical waste trucking; and

WHEREAS, after review of all bids submitted, Newton's Qualified Purchasing Agent, Debra J. Millikin, recommends awarding the contract for sludge trucking to Accurate Waste Removal Services, Inc., and awarding the contract for chemical waste trucking to R&D Trucking, Inc.;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that it hereby awards the contract for sludge trucking to Accurate Waste Removal Services, Inc., of Lake Hopatcong, NJ and chemical waste trucking to R&D Trucking, Inc., of West Milford, NJ and that a certified copy of this resolution be forwarded to the low bidders.

CERTIFICATION

THIS IS TO CERTIFY that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, April 9, 2012.

Lorraine A. Read, RMC
Municipal Clerk



TOWN OF NEWTON

RESOLUTION #62-2012

April 9, 2012

"Award Purchase of Single-Axle Roll Off Recycling Truck"

WHEREAS, the Town of Newton publicly opened and read bids for the purchase of a Single-Axle Roll Off Recycling Truck on Thursday, March 29, 2012 at 11:00 a.m. as follows:

<u>Name and Address of Bidder</u>	<u>Bid Price</u>	<u>Trade In Price</u>	<u>Total Amount</u>
Campbell Freightliner, LLC. 145 Talmadge Road PO Box 770 Edison, NJ 08818-0770	\$127,572.00	\$14,500.00	\$113,072.00

WHEREAS, after review of the bid documents, the Department of Public Works Supervisor, Kenneth Jaekel and Newton's Qualified Purchasing Agent, Debra J. Millikin recommend awarding the contract for purchase of a Single-Axle Roll Off Recycling Truck to Campbell Freightliner, LLC in the amount of \$113,072.00; and

WHEREAS, the Chief Financial Officer has certified funds are available based on the attached certification;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that the bid submitted for the purchase of Single-Axle Roll Off Recycling Truck be awarded to Campbell Freightliner, LLC, 145 Talmadge Road, Edison, NJ 08818-0770 in the amount of \$113,072.00. A copy of this resolution and the proposed Contract is to be forwarded to Campbell Freightliner, LLC for execution.

CERTIFICATION

THIS IS TO CERTIFY that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, April 9, 2012.

Lorraine A. Read, RMC
Municipal Clerk



TOWN OF NEWTON

CERTIFICATION OF THE AVAILABILITY OF FUNDS
(AS REQUIRED BY N.J.S.A. 40A:4-57, N.J.A.C. 5:34-5.1 et seq)

THIS IS TO CERTIFY THAT FUNDS ARE AVAILABLE AS FOLLOWS:

RESOLUTION #: 62-2012

APPROVING: CAMPBELL FREIGHTLINER, LLC.

FOR THE PURPOSE OF: SINGLE-AXLE ROLL OFF RECYCLING TRUCK

IN THE AMOUNT OF: \$113,072.00

APPROPRIATED BY:

CAPITAL Ord.#2011-5 ACQUISITION OF RECYCLING TRUCK
#30911057 \$113,072.00

DATED THIS 9TH DAY OF APRIL, 2012

BY  _____

DAWN L. BABCOCK
CHIEF FINANCIAL OFFICER



TOWN OF NEWTON

RESOLUTION #63-2012

April 9, 2012

“Approve Tax Appeal Settlement and Authorize Credit for Overpayment for Block 9.03, Lot 16, Weis Markets, Inc. ”

WHEREAS, Weis Markets, Inc., the owner of property identified as Block 9.03, Lot 16 (formerly Block 803, Lot 48.03), on the official Tax Map for the Town of Newton, located at 119 Water Street in the Town of Newton, filed State Tax Court appeals of the assessment on said block and lot for tax years 2010 and 2011; and

WHEREAS, negotiations took place between Michael Holenstein of Holzhauer & Holenstein, LLC, the Town of Newton's valuation expert, and the property owner's professionals; and

WHEREAS, as a result of said negotiations, the property owner is willing to accept a settlement as follows:

2010: \$500,000 reduction (against \$8,647,200) resulting in an assessment of \$8,147,200 and a refund liability of \$13,545, to be taken as a credit against future property taxes; and

2011: appeal withdrawn (no refund); and

WHEREAS, Mr. Holenstein has recommended accepting this settlement, and Newton's Tax Assessor, Scott J. Holzhauer concurs with this recommendation;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that the settlement negotiated by its professionals for a reduction of the tax assessment for Block 9.03, Lot 16, for tax year 2010 as aforesaid is approved, resulting in a property tax overpayment of \$13,545, and the Tax Collector is hereby authorized to process a tax credit for that amount in favor of Weis Markets, Inc., for the subject property to be applied to the next open quarter(s).

CERTIFICATION

THIS IS TO CERTIFY that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, April 9, 2012.

Lorraine A. Read, RMC
Municipal Clerk



TOWN OF NEWTON

RESOLUTION #64-2012

April 9, 2012

“Approve Tax Appeal Settlement and Authorize Refund of Overpayment for Block 6.05, Lot 4, Newtonian Associates, LLC”

WHEREAS, Newtonian Associates LLC, the owner of property identified as Block 6.05, Lot 4 (formerly Block 615, Lot 72), on the official Tax Map for the Town of Newton, located at 70 West End Avenue in the Town of Newton (a.k.a. Newtonian Garden Apartments), filed State Tax Court appeals of the assessment on said block and lot for tax years 2010 and 2011; and

WHEREAS, negotiations took place between Michael Holenstein of Holzhauer & Holenstein, LLC, the Town of Newton's valuation expert, and the property owner's professionals; and

WHEREAS, as a result of said negotiations, the property owner is willing to accept a settlement as follows:

2010: appeal withdrawn in favor of negotiated valuation of \$5,299,900 for 2012 (no refund); and

2011: \$449,900 reduction (against \$5,299,900) resulting in an assessment of \$4,850,000 and a refund liability of \$14,667; and

WHEREAS, Mr. Holenstein has recommended accepting this settlement, and Newton's Tax Assessor, Scott J. Holzhauer concurs with this recommendation;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that the settlement negotiated by its professionals for a reduction of the tax assessment for Block 6.05, Lot 4, for tax year 2011 as aforesaid is approved, and that the issuance of a payment to the property owner, Newtonian Associates LLC, in the amount of \$14,667 to refund property taxes per the settlement is authorized.

CERTIFICATION

THIS IS TO CERTIFY that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, April 9, 2012.

Lorraine A. Read, RMC
Municipal Clerk



TOWN OF NEWTON

RESOLUTION #65-2012

April 9, 2012

“Resolution to Support the Submission of a Tonnage Grant Application for Recycling to the State of New Jersey Department of Environmental Protection”

WHEREAS, the Mandatory Source Separation and Recycling Act, P.L. 1987, c.102, has established a recycling fund from which a tonnage grant may be made to municipalities in order to encourage local source separation and recycling programs; and

WHEREAS, it is the intent and the spirit of the Mandatory Source Separation and Recycling Act to use the tonnage grants to develop new municipal recycling programs and to continue and to expand existing programs; and

WHEREAS, the New Jersey Department of Environmental Protection has promulgated recycling regulations to implement the Mandatory Source Separation and Recycling Act; and

WHEREAS, the recycling regulations impose on municipalities certain requirements as a condition for applying for tonnage grants, including but not limited to, making and keeping accurate, verifiable records of materials collected and claimed by the municipality; and

WHEREAS, a resolution authorizing this municipality to apply for the **2011 Recycling Tonnage Grant** will memorialize the commitment of this municipality to recycling and to indicate the assent of the Newton Town Council of the Town of Newton to the efforts undertaken by the municipality and the requirements contained in the Recycling Act and recycling regulations; and

WHEREAS, a resolution should designate the individual authorized to ensure the application is properly completed and timely filed; and

WHEREAS, the Newton Town Council adopted Resolution #55-2012, authorizing entering into a Shared Services Agreement with the Sussex County Municipal Utilities Authority to provide a Certified Recycling Professional for the Town of Newton;

NOW, THEREFORE BE IT RESOLVED, by the Newton Town Council of the Town of Newton that the Town of Newton hereby endorses the submission of the recycling tonnage grant application to the New Jersey Department of Environmental Protection and designates Reenee Casapulla, Recycling Coordinator for SCMUA to ensure that the application is properly filed; and

BE IT FURTHER RESOLVED that the monies received from the recycling tonnage grant be deposited in a dedicated recycling trust fund to be used solely for the purpose of recycling.

CERTIFICATION

THIS IS TO CERTIFY that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, April 9, 2012.

Lorraine A. Read, RMC
Municipal Clerk



TOWN OF NEWTON

RESOLUTION #66-2012

April 9, 2012

“Authorize Entering into a Interlocal Shared Services Agreement with the Township of Andover for Sale and Sharing of Specialized Vehicular Equipment”

WHEREAS, the Town of Newton desires to enter into a shared services agreement with the Township of Andover to furnish the Township of Andover for sale and sharing of specialized vehicular equipment; and

WHEREAS, the parties desire to enter into an Agreement pursuant to the “Uniform Shared Services and Consolidation Act,” N.J.S.A. 40A:65-4, et seq., for the furnishing of such services;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton, in the County of Sussex, and State of New Jersey as follows:

1. The Mayor and Town Clerk are hereby authorized and directed to execute the Shared Services Agreement, a copy of which is attached hereto, with the Township of Andover for the sale and sharing of specialized vehicular equipment.
2. The Mayor and Clerk are hereby authorized to execute any additional non-substantial amendments and/or modifications to the Agreement without the consent of the Town Council.
3. This Resolution shall take effect immediately.

CERTIFICATION

THIS IS TO CERTIFY that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, April 9, 2012.

Lorraine A. Read, RMC
Municipal Clerk



TOWN OF NEWTON

RESOLUTION #67-2012

April 9, 2012

"Resolution of the Town of Newton, in the County of Sussex, New Jersey Authorizing Site Access Agreement with Respect to the Newton Armory"

WHEREAS, the Town of Newton owns that certain land known as the Newton Armory and identified on the Official Tax Map of the Town as Block 10.01, Lot 6 (formerly Block 801, Lot 49.01) (the "**Property**"); and

WHEREAS, Newton 213, L.L.C. (the "**LLC**"), has expressed interest in purchasing the Property, and has requested that the Town grant the LLC access to the Property and permission to conduct thereon certain investigations, surveys, testing and studies of the Property (collectively, the "**Investigations**"), all at the LLC's cost and expense and at no cost or expense to the Town; and

WHEREAS, the Town wishes to authorize the execution of a site access agreement (the "**Agreement**") establishing the terms and conditions of such access to the Property; and

WHEREAS, the LLC has agreed to coordinate its access to and Investigations on the Property with the Town, to provide to the Town copies of all work plans, and certain other documentation relating to the Investigations, and to provide insurance and hold the Town harmless in connection with claims and liabilities arising out of or in connection with the acts or omissions of the LLC or its "Representatives" (as defined in the Agreement) during the Investigations; and

WHEREAS, nothing in the Agreement shall constitute or be construed as an agreement by the Town to sell the Property to the LLC, or as creating any rights in the LLC other than a revocable, limited license for accessing the Property and conducting the Investigations on the terms and conditions set forth in the Agreement;

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Newton as follows:

Section 1. The aforementioned recitals are incorporated herein as though fully set forth at length.

Section 2. The Town hereby authorizes the execution of the Agreement in substantially the form attached hereto as **Exhibit A** and by this reference incorporated herein. The Mayor is hereby authorized to execute the Agreement in substantially the form attached hereto, with such additions, deletions and modifications as may be necessary or desirable in consultation with the Town Attorney and Special Counsel.

Section 3. If any part of this Resolution shall be deemed invalid, such parts shall be severed and the invalidity thereby shall not affect the remaining parts of this Resolution.

Section 4. A copy of this resolution shall be available for public inspection at the offices of the Town Clerk.

Section 5. This Resolution shall take effect immediately.

EXHIBIT A

FORM OF SITE ACCESS AGREEMENT

CERTIFICATION

THIS IS TO CERTIFY that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, April 9, 2012.

Lorraine A. Read, RMC
Municipal Clerk

SITE ACCESS AGREEMENT

SITE ACCESS AGREEMENT (“**Agreement**”) dated this ___ day of April, 2012 (the “**Effective Date**”), entered into between the **TOWN OF NEWTON** (“**Town**”), a public body corporate and politic of the State of New Jersey (the “**State**”), having its offices at 39 Trinity Street, Newton, New Jersey 07860, and **NEWTON 213 L.L.C.** (the “**LLC**”), a New Jersey limited liability company having its principal offices at Morris Canal Plaza, 1070 U.S. Highway 46, Ledgewood, New Jersey 07852-9735 (each hereafter sometimes referred to as a “**Party**” and together, the “**Parties**”).

W I T N E S S E T H

WHEREAS, the Town is the owner of a parcel of land designated on the Town’s tax maps as **Block 10.01, Lot 6** (formerly Block 801, Lot 49.01) (the “**Property**”); and

WHEREAS, the Town conveyed the Property to the State by deed dated October 8, 1956, which deed was recorded in the Office of the Sussex County Clerk in Book 595 at Page 251, subject to a reversionary interest in the Town upon a finding by the State that the Property is no longer needed for military purposes; and

WHEREAS, the State previously determined that the Property is no longer needed for military purposes, and as a result thereof title to the land has reverted to the Town; and

WHEREAS, the State has agreed to convey to the Town and the Town has agreed to acquire from the State the armory building and other improvements the State constructed on the Property during the period of the State’s ownership thereof (the “**Improvements**”), and the State and the Town are in the process of documenting and consummating the conveyance of the Improvements to the Town; and

WHEREAS, the Town previously determined the Property is not needed for public use and desires to sell it (together with the Improvements thereon, once title thereto is acquired by the Town) for redevelopment, either pursuant to and in accordance with the requirements of the *Local Lands and Buildings Law, N.J.S.A. 40A:12-1 et seq.*, or pursuant to and in accordance with the provisions of the *Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq.*, (the “**Redevelopment Law**”), as determined by the Town to be applicable; and

WHEREAS, the Town Council on two occasions previously offered the Property for sale upon certain terms and conditions and solicited bids for the Property pursuant to the provisions of the *Local Lands and Buildings Law*, and in the first instance the LLC was the only bidder but in which case the Town determined that the submission received did not conform to the terms of its resolutions and the bid specifications promulgated in connection therewith and therefore rejected the bids and in the second instance no bids were received; and

WHEREAS, the LLC has expressed its continued interest in purchasing the Property and the Improvements, and has requested that the Town grant the LLC access to the Property and permission to conduct thereon certain investigations, surveys, testing and studies of the Property

(collectively, the “**Investigations**”), all at the LLC’s cost and expense and at no cost or expense to the Town; and

WHEREAS, in connection with such access, investigations and studies, and all related activities the LLC has agreed to provide insurance and to indemnify and hold the Town harmless from all claims and liability resulting from the acts or omissions of the LLC, its employees, consultants, agents, contractors and/or subcontractors, to the extent and on the terms and conditions set forth in this Agreement; and

WHEREAS, the LLC has agreed to coordinate its access to and Investigations on the Property with the Town, and to provide to the Town copies of all work plans, resulting reports, surveys, test results, and other documentation comprising or relating to the Investigations, as and to the extent set forth in this Agreement; and

WHEREAS, providing the LLC with access to the Property and permission to conduct the Investigations on the terms and conditions set forth in this Agreement and having the Investigations performed and the results thereof provided to the Town at the LLC’s sole cost and expense benefits the taxpayers of the Town; and

WHEREAS, nothing in this Agreement shall constitute or be construed as an agreement by the Town to sell the Property to the LLC, or as creating any rights in the LLC other than a revocable, limited license for accessing the Property and conducting the Investigations on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, the Parties hereby agree, as follows:

Section 1. The Town hereby grants permission and a limited, revocable license to the LLC, and the LLC’s designated employees, consultants, agents, contractors and subcontractors (the “**Representatives**”), to access the Property for a period not to exceed sixty (60) days from the Effective Date to conduct the Investigations (the “**Investigative Period**”).

Section 2. The LLC shall defend, indemnify and hold the Town harmless from any and all liabilities, suits, demands, actions, claims, penalties, fines, losses, damages, costs and expenses (collectively, “**Claims**”), including but not limited to any liabilities or claims for personal injury by any person or property damages, and discharges of hazardous substances resulting from an act or omission of the LLC or its Representatives and not from the discovery of a pre-existing condition at the Property, which may result from or arise out of: (a) the conduct of all or any portion of the Investigations; (b) the actions or omissions of, or the use or occupancy of the Property by the LLC or any of its Representatives provided access to the Property pursuant to this Agreement; and/or (c) any failure of the LLC or its Representatives to comply with the obligations set out herein. Notwithstanding the foregoing, the LLC shall have no responsibility for any Claims for personal injury or property damage caused by the acts or omissions of the Town or its Representatives.

Section 3. The LLC shall notify the Town in writing of the name, address, contact person and telephone number of the Representatives and the identity of each of the respective

employees who are expected to require access to the Property during the Investigative Period and, thereafter, if the LLC changes any such Representatives during the Investigative Period, the LLC shall provide the Town with written notice of such changes. The LLC shall notify the Town in advance if the LLC intends to use a “Licensed Site Remediation Professional” as defined in the New Jersey *Site Remediation Reform Act, N.J.S.A. 58:10C-1 et seq.* to conduct the environmental portion of the Investigations. The LLC or its Representatives shall notify the Town at least three (3) business days prior to the date when they intend to enter the Property for non-intrusive Investigations. The LLC shall notify the Town at least five (5) business days prior to initiating any intrusive Investigations at the Property or any work under any New Jersey Department of Environmental Protection (“NJDEP”) approved work plan. The amount of required advanced notice may be modified by mutual consent of the Parties. The Town hereby identifies the Town Manager as the official who may give such consent on behalf of the Town.

Section 4. The following Town personnel (in the order set forth below) shall be the primary contacts for the Town at all times Representatives are present on the Property pursuant to this Agreement: (i) the Town Manager or his designee, and (2) the Town Engineer or his designee.

Section 5. The LLC shall:

(a) Cause its Representatives to maintain and keep in effect at all times entry is made upon the Property, the following minimum insurance:

- (i) Commercial General Liability Insurance: \$1,000,000 each occurrence, \$3,000,000 General Aggregate
- (ii) Business Auto Liability Insurance: \$1,000,000 combined single limits
- (iii) Worker’s Compensation Insurance: \$500,000 each accident, \$500,000 Disease – Policy Limit and \$500,000 Disease – Each Employee
- (iv) As to the LLC, an Umbrella Policy: \$5,000,000 per occurrence

(b) Require its Representatives to (1) name the Town as an additional insured, (2) procure coverage which is primary and non-contributory, and (3) include a waiver of subrogation on the insurance policies identified in subsections (i), (ii), and (iv) above. No policy shall be cancelled without thirty (30) days prior written notice to the Town.

Section 6. The LLC shall cause its Representatives engaged or otherwise utilized in connection with the performance of any portion of the Investigations to agree to be bound by the applicable terms and conditions of this Agreement.

Section 7. The Town shall provide to the LLC environmental studies and other public documents in its possession or control relating to the Property, but makes no representations or warranties of any kind or nature concerning the Property, including without limitation with respect to the environmental or physical condition of the Property, or the accuracy or completeness of the documents provided.

Section 8. The Town, at its option, shall have the right to have one or more Town employees or representatives accompany the LLC's Representatives at all times they may access the Property to perform any portion of the Investigations. On the Effective Date the LLC shall deposit with the Township the initial amount of **TEN THOUSAND and 00/100 (\$10,000.00) DOLLARS** (the "**Escrow Deposit**"), to be deposited and held by the Town in an escrow account and disbursed to defray the costs of the work of the Town's environmental consultant or consulting engineer arising out of or in connection with any discharge of hazardous substances at the Property during the Investigations resulting from an act or omission of the LLC or its Representatives, or any discrepancy discovered between the results of the LLC's Investigations and the Town's environmental reports previously provided to the LLC which the LLC believes is a material consideration in the possible negotiation of a redevelopment agreement between the LLC and the Town. No disbursements shall be made from the Escrow Deposit in respect of work performed by Town employees, or for work performed by the Town's environmental consultant or consulting engineer other than as described above. If at any time the balance in the escrow account is less than **FIVE THOUSAND and 00/100 (\$5,000.00) DOLLARS**, or if the escrow account otherwise contains insufficient funds to enable the Town to pay outstanding invoices and to continue to utilize the services of its environmental consultant or consulting engineer as described above, the Town shall provide the LLC with Notice of the insufficient Escrow Deposit balance and the LLC shall refresh the Escrow Deposit such that the total amount on deposit shall be not less than **TEN THOUSAND and 00/100 (\$10,000.00) DOLLARS**. Such additional deposit shall be made within five (5) business days of the Town's Notice, failing which the Town may unilaterally revoke the license hereby granted or deny the LLC access to the Property, without liability to the LLC. All disbursements from the Escrow Deposit shall be supported by an invoice or statement from the environmental consultant or consulting engineer, detailing the work performed and the charges therefor. At the end of the Investigative Period the Town shall refund to the LLC any balance remaining of the Escrow Deposit, once all outstanding invoices for services rendered by the environmental consultant or consulting engineer during the Investigative Period have been paid.

Section 9. The LLC and its Representatives shall be responsible for and shall take reasonable precautions to protect against damage to the Property with respect to the conduct of the Investigations. All environmental Investigations at the site shall be consistent with applicable NJDEP regulatory standards, and no intrusive environmental testing (such as, *e.g.*, test borings, groundwater testing, or soil sampling) shall be commenced or conducted without first providing to the Town, for the Town's review and acceptance, a work plan describing the proposed locations of such testing, provided that the Town's approval shall not be unreasonably withheld, conditioned or delayed. Intrusive testing solely for geotechnical Investigations shall not require the Town's prior approval. If the LLC or its Representatives are required under Applicable Law to report to NJDEP any conditions discovered during the course of the Investigations, the LLC and its Representatives agree to so inform the Town prior to making any such submission, to coordinate the submission thereof with the Town, and to provide to the Town copies of all correspondence, work plans, reports and laboratory data packages simultaneous to submission of same to the NJDEP, and of all responses received thereto from NJDEP. In addition, if the results of the Investigations reveal a material discrepancy between the results of the analyses previously performed by the Town's environmental consultant and provided by the town to the LLC and the Representatives' analyses, the LLC shall provide or

cause to be provided to the Town the documentation evidencing and relating to such discrepancy, irrespective of whether such discrepancy results in a reportable condition.

Section 10. The LLC and its Representatives shall perform Investigations in a workmanlike manner. The LLC and its Representatives shall provide split samples upon Town's request and at the LLC's sole cost. Except as required above in Section 9 with respect to documentation to be provided to the Town in connection with conditions reportable to NJDEP, if so requested by the Town the LLC shall make available or cause to be made available to the Town by the Representatives analyses of any samples taken from the Property, as of the earlier of (i) the date that the LLC and the Town have entered into a redevelopment agreement for the redevelopment of the Property pursuant to the Redevelopment Law or (ii) the first anniversary of the Effective Date.

Section 11. The LLC and its Representatives shall maintain in full force and effect and comply with all permits and licenses required from all local, state and federal governmental agencies pursuant to Applicable Laws (as hereinafter defined), for the commencement and conduct of the Investigations. The LLC and its Representatives shall comply with the requirements of all Applicable Laws in the conduct of the Investigations. For the purposes of this Agreement "**Applicable Laws**" means all federal, state and local laws, ordinances, approvals, rules, regulations and requirements applicable to the Property and the Investigations, and such other applicable sanitary, pollution and other environmental safety ordinances, laws and such rules and regulations promulgated thereunder, all applicable environmental laws, and all applicable federal and state labor standards.

Section 12. The LLC and its Representatives shall perform a mark-out of all subsurface utilities on the Property, if and as appropriate, for the Investigations. Within three (3) days of the Effective Date, Town shall provide to the LLC or its Representatives any documents reasonably known to be in its possession depicting any subsurface utilities or subsurface structures on the Property. The Town makes no representations or warranties of any kind or nature concerning the accuracy or completeness of the documents provided. The LLC and its Representatives shall use commercially reasonable efforts to confirm, prior to performing any invasive portions of the Investigation, the location of any subsurface utilities or other structures or infrastructure in the vicinity of such invasive work (such as the installation or performance of soil borings, test pits and monitoring wells). Without limiting the generality of the foregoing, prior to the performance of any invasive portions of the Investigation, The LLC and its Representatives shall fully comply with the requirements of the *New Jersey One-Call Damage Protection System* established by the *Underground Facility Protection Act, N.J.S.A. 48:2-73, et seq.*, and shall provide Town with written confirmation of such compliance prior to the commencement of such invasive work.

Section 13. Town shall not make any use of, or effect any improvement to, the Property during the Investigative Period which will have an adverse impact on any of the Investigations being performed or completed by the LLC under this Agreement, without the LLC's written consent, which consent shall not be unreasonably withheld, conditioned or delayed.

Section 14. In the event the LLC or its Representatives fail to comply with any term of this Agreement, the Town may, but shall not be required to, provide written Notice to the LLC

citing the specific provision of these terms and conditions as to which the LLC or its Representatives are deficient or have failed to satisfy; *provided, however*, that nothing herein shall require the giving of such Notice as a prerequisite to the Town's revocation of the license granted hereby.

Section 15. The LLC's or Representatives', duties, obligations and liabilities in this Agreement with respect to matters expressly set forth herein are in addition to and not in lieu of, any duties, obligations and liabilities otherwise imposed by Applicable Laws, and are not to be considered or construed in any way as compromising or limiting any rights and remedies available to Town under Applicable Laws.

Section 16. No legal title or leasehold interest in the Property shall be deemed or construed to be created or vested in the LLC or its Representatives, by anything contained herein. The LLC shall have access to the Property merely as licensee. It is expressly understood and agreed that the LLC is not a tenant, lessee or landlord with respect to the Property and that the LLC does not have such rights as exist at law regarding landlord/tenant rights, including without limitation *N.J.S.A. 2:18-61.1, et seq.* Neither this Agreement nor any memorandum hereof shall be recorded.

Section 17. At the conclusion of the Investigations the LLC shall return the Property to substantially the same condition it was in prior to the commencement of the Investigations, unless doing so would require the LLC or its Representatives to violate an Applicable Law.

Section 18. In addition to all of the terms and conditions set forth above, the following additional terms and conditions shall apply to any work performed at the Property by The LLC or any of its Representatives:

(a) The LLC agrees at its own cost and expense to arrange, or cause its Representatives to arrange, for the handling, storage, treatment and disposal of waste materials, including, but not limited to, drill cuttings, development water and purge water, generated as a result of the Investigations (the "**Project Wastes**") in accordance with Applicable Laws.

(b) Upon completion of the Investigation, the LLC or its Representatives shall promptly close, seal and/or remove in their entirety any well, boring, probe, hole or other openings created by the LLC or its Representatives when no longer needed at the Property in compliance with all Applicable Laws.

(c) This Agreement shall not create any liability or obligation of the LLC to conduct any work required by the NJDEP as a result of existing conditions at the Property discovered by the Investigations. The Investigations undertaken by the LLC pursuant to this Agreement are voluntary, and the LLC is not by virtue of this Agreement assuming any liability or obligation of the Town arising out of or in connection with existing environmental conditions identified at the Property as a result of the Investigations. The LLC shall be responsible for any discharge of hazardous substances or other environmental conditions requiring remediation resulting from a negligent act or omission by the LLC or its Representatives.

Section 19. The recitals to this Agreement are hereby incorporated by reference and made a part of this Agreement.

Section 20. Sections 2, 8, and 18 of this Agreement shall survive the conclusion of the Investigations and the termination or expiration of this Agreement and the license granted hereby.

Section 21. A notice or other communication given under this Agreement by any Party to the other (“**Notice**”) shall be in writing and shall be sufficiently given or delivered if dispatched by United States Registered or Certified Mail, postage prepaid and return receipt requested, or delivered by overnight courier or delivered personally (with receipt acknowledged), or by facsimile transmission (with receipt acknowledged) to the Parties at their respective addresses set forth herein, or at such other address or addresses with respect to the parties or their counsel as any party may, from time to time, designate in writing and forward to the others as provided in this Section 22:

As to the Town:

Town of Newton
39 Trinity Street
Newton, New Jersey 07860
ATTN: Thomas S. Russo, Jr., Town Manager

With a copy to:

Jennifer L. Credidio, Esq.
McManimon & Scotland, L.L.C.
1037 Raymond Boulevard, Suite 400
Newark, New Jersey 07102

As to the LLC:

Newton 213, L.L.C.
Morris Canal Plaza
1070 U.S. Highway 46
Ledgewood, New Jersey 07852-9735
ATTN: David P. Romano

With a copy to:

Newton 213, L.L.C.
Morris Canal Plaza
1070 U.S. Highway 46
Ledgewood, New Jersey 07852-9735
ATTN: James J. Scott, Esq.

From time to time either Party may designate a different person or address for all the purposes of

this Notice provision by giving the other party no less than ten (10) days Notice in advance of such change of address in accordance with the provisions hereof. Notices shall be effective upon the earlier of receipt or rejection of delivery by the addressee.

Section 22. The LLC warrants it has not paid or given, and will not pay or give, any third person any money or other consideration for obtaining this Agreement, other than normal costs of conducting business and costs of professional services such as architects, engineers, financial consultants and attorneys. The LLC further warrants it has not paid or incurred any obligation to pay any officer or official of the Town, any money or other consideration for or in connection with this Agreement.

Section 23. No modification, waiver, amendment, discharge, or change of this Agreement shall be valid unless the same is in writing, duly authorized, and signed by the LLC, the Guarantor, and the Town.

Section 24. This Agreement constitutes the entire agreement between the Parties hereto and supersedes all prior oral and written agreements between the Parties with respect to the subject matter hereof.

Section 25. This Agreement shall be construed and enforced in accordance with the internal laws of the State of New Jersey, without giving effect to the principles of conflicts of law, and without regard to or any presumption or other rule requiring construction against the party drawing or causing this Agreement to be drawn since counsel for both of the Parties have combined in their review and approval of same.

Section 26. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which taken together shall constitute one and the same Agreement.

**THE REMAINDER OF THIS PAGE IS INTENTIONALLY BLANK.
SIGNATURE PAGE FOLLOWS.**

IN WITNESS WHEREOF, the Parties have executed this Agreement effective on the date appearing on the cover page hereof.

TOWN OF NEWTON

(Seal)

Attest:

By: _____
Helen R. LeFrois, Mayor

By: _____
Lorraine Read, Municipal Clerk

Approved as to form and sufficiency:

Sanford Hollander
Town Attorney

The LLC:

Newton 213, L.L.C.

By: _____
Name:
Title:



TOWN OF NEWTON

RESOLUTION #68-2012

April 9, 2012

"Approve Fireworks Display at Memory Park for Newton Day 2012"

WHEREAS, a Resolution of the Newton Governing Body is required by the New Jersey Department of Labor, Division of Workplace Standards, to grant permission for the public display of fireworks; and

WHEREAS, Garden State Fireworks of Millington, New Jersey has submitted a proposal for a fireworks display with a copy of the permit application, certificate of insurance, a site diagram and other pertinent information, in conjunction with a fireworks display that will take place at Memory Park on Saturday, June 9, 2012 as part of the annual "Newton Day" celebration with a rain-date of June 16, 2012; and

WHEREAS, County Fire Marshal Joseph C. Inga has advised that the application for said fireworks display is complete and in order;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that the Greater Newton Chamber of Commerce is granted permission for a fireworks display during the "Newton Day" celebration to take place on June 9, 2012, with a rain-date of June 16, 2012 and that said fireworks display will be provided by Garden State Fireworks of Millington, NJ; and

BE IT FURTHER RESOLVED, that a certified original of this Resolution be forwarded to the New Jersey Department of Labor and Sussex County Fire Marshal, Joseph C. Inga.

CERTIFICATION

THIS IS TO CERTIFY that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, April 9, 2012.

Lorraine A. Read, RMC
Municipal Clerk



TOWN OF NEWTON

RESOLUTION #69-2012

April 9, 2012

"Authorize Amendment to Professional Services Agreement for Town Planner"

WHEREAS, the Town of Newton entered into a Professional Services Agreement on January 1, 2012 with Harold E. Pellow & Associates, Inc. for the planning services of "Jessica Caldwell, Professional Planner in the State of New Jersey, who is employed by Harold E. Pellow & Associates, Inc."; and

WHEREAS; effective March 29, 2012, the employment relationship between Jessica Caldwell and Harold E. Pellow & Associates, Inc. was severed; and

WHEREAS, the Town of Newton wishes to continue to utilize the planning services of Jessica Caldwell through her new professional affiliation, J. Caldwell & Associates, LLC, 122 Main Street, Newton, New Jersey 07860 for all of the services outlined in the aforementioned January 1, 2012 Professional Services Agreement; and

WHEREAS, the Town of Newton, by way of Resolution #16-2012, dated January 23, 2012, authorized Harold E. Pellow & Associates, Inc. to create a plan for the Railroad District for a cost not to exceed \$9,000.00; and

WHEREAS, the Town of Newton wishes to continue to utilize the planning services of Harold E. Pellow & Associates, Inc. to complete the plan for the Railroad District pursuant to Resolution #16-2012;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton as follows:

1. The January 1, 2012 Professional Services Contract with Harold E. Pellow & Associates, Inc. for the planning services of "Jessica Caldwell, Professional Planner in the State of New Jersey, who is employed by Harold E. Pellow & Associates, Inc."; is hereby amended by the replacement of Harold E. Pellow & Associates, Inc. with J. Caldwell & Associates, LLC, effective March 29, 2012, with all other material terms remaining unchanged;

2. The engagement of the professional planning services of Harold E. Pellow & Associates, Inc. for creation of a plan for the Railroad District, pursuant to Resolution #16-2012 shall not be altered or amended by the severance of the employment relationship between Jessica Caldwell and Harold E. Pellow & Associates.

3. Execution of all necessary amending documents to accomplish the above contract amendment with J. Caldwell & Associates, LLC is authorized.

CERTIFICATION

THIS IS TO CERTIFY that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, April 9, 2012.

Lorraine A. Read, R.M.C.
Municipal Clerk



TOWN OF NEWTON

RESOLUTION #70-2012

April 9, 2012

"Approve Bills and Vouchers for Payment"

BE IT RESOLVED by the Town Council of the Town of Newton that payment is hereby approved for all vouchers that have been properly authenticated and presented for payment, representing expenditures for which appropriations were duly made in the 2011 and 2012 Budgets adopted by this local Governing Body, including any emergency appropriations, and where unexpended balances exist in said appropriation accounts for the payment of such vouchers.

CERTIFICATION

THIS IS TO CERTIFY that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, April 9, 2012.

Lorraine A. Read, RMC
Municipal Clerk



TOWN OF NEWTON

RESOLUTION #71-2012

April 9, 2012

“Award Contract to Capitol Supply Construction Products, Inc., for the Purchase of Pipe Materials and Fittings for the Moran Street Watermain Project”

WHEREAS, the Town of Newton, in accordance with State statute, received three quotes from qualified vendors for pipe material and fittings for the Moran Street Watermain Project at 11:00 a.m. on Thursday, April 5, 2012; and

WHEREAS, Capitol Supply Construction Products, Inc., provided the most cost effective quote for the pipe materials and fittings for the Moran Street Watermain Project; and

WHEREAS, it is recommended by the Purchasing Agent, Debra J. Millikin and Municipal Engineer, Harold E. Pellow, that a contract for the purchase of pipe materials and fittings for the Moran Street Watermain Project be awarded to Capitol Supply Construction Products, Inc., in the amount of \$30,575.68; and

WHEREAS, the Chief Financial Officer, Dawn L. Babcock has certified that funds are available based on the attached certification;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton, that it hereby awards the contract for the purchase of pipe materials and fittings for the Moran Street Watermain Project to Capitol Supply Construction Products, Inc., of Denville, NJ in the amount of \$30,575.68.

CERTIFICATION

THIS IS TO CERTIFY that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, April 9, 2012.

Lorraine A. Read, RMC
Municipal Clerk



TOWN OF NEWTON

CERTIFICATION OF THE AVAILABILITY OF FUNDS
(AS REQUIRED BY N.J.S.A. 40A:4-57, N.J.A.C. 5:34-5.1 et seq)

THIS IS TO CERTIFY THAT FUNDS ARE AVAILABLE AS FOLLOWS:

RESOLUTION #: 71-2012

APPROVING: CAPITOL SUPPLY CONSTRUCTION PRODUCTS, INC.

FOR THE PURPOSE OF: PURCHASE OF PIPE MATERIALS AND FITTINGS
FOR THE MORAN STREET WATERMAIN PROJECT

IN THE AMOUNT OF: \$30,575.68

APPROPRIATED BY:

WATER/SEWER UTILITY - CAPITAL IMPROVEMENT FUND -
MORAN STREET PROJECT #6089319 \$30,575.68

DATED THIS 9TH DAY OF APRIL, 2012

BY 

DAWN L. BABCOCK
CHIEF FINANCIAL OFFICER



TOWN OF NEWTON

RESOLUTION #72-2012

April 9, 2012

“A Resolution Providing for a Meeting Not Open to the Public in Accordance with the Provisions of the New Jersey Open Public Meetings Act, N.J.S.A. 10:4-12”

WHEREAS, the Town Council of the Town of Newton is subject to certain requirements of the Open Public Meetings Act, N.J.S.A. 10:4-6, et seq.; and

WHEREAS, the Open Public Meetings Act, N.J.S.A. 10:4-12, provides that an Executive Session, not open to the public, may be held for certain specific purposes when authorized by Resolution; and

WHEREAS, it is necessary for the Town Council of the Town of Newton to discuss in a session not open to the public certain matters relating to the items authorized by N.J.S.A. 10:4-12b and designated below:

- (1) Land Acquisition
- (2) Contract Negotiations

NOW, THEREFORE, BE IT RESOLVED, by the Town Council of the Town of Newton, assembled in public session on April 9, 2012, that an Executive Session closed to the public shall be held on April 9, 2012, at _____ PM in the Town of Newton Municipal Building, 39 Trinity Street, Newton, NJ, for the discussion of matters relating to the specific items designated above.

It is anticipated that the deliberations conducted in closed session may be disclosed to the public upon the determination of the Town Council that the public interest will no longer be served by such confidentiality.

CERTIFICATION

THIS IS TO CERTIFY that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a public meeting of said Governing Body conducted on Monday, April 9, 2012.

Lorraine A. Read, RMC
Municipal Clerk