



**AGENDA  
NEWTON TOWN COUNCIL  
REGULAR HYBRID MEETING  
JUNE 26, 2023  
7:00pm**

Please click this URL to join:

<https://us02web.zoom.us/j/83897818208?pwd=b1I2VDYvLOVleVRlemRVVnRrT3ZBZz09>

Webinar ID: 838 9781 8208 Passcode: 594036

Or join by phone: Dial: US: +1 312 626 6799 or +1 929 205 6099 or +1 301 715 8592 or +1 346 248 7799 or +1 669 900 6833 or +1 253 215 8782

**I. PLEDGE OF ALLEGIANCE**

**II. ROLL CALL**

**III. OPEN PUBLIC MEETINGS ACT STATEMENT**

**IV. APPROVAL OF MINUTES**

- a. June 12, 2023, Regular Meeting

**V. OPEN TO THE PUBLIC (3 minutes each)**

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 take one turn at the microphone and please limit their comments to 3 minutes. The Clerk will keep time. 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. Council may choose to comment after the entire public portion has concluded. **Please identify yourself and spell your last name for the record.**

**VI. COUNCIL & MANAGER REPORTS**

- a. Town Manager Russo – Shade Tree Annual Report
- b. Councilmember Dickson
- c. Councilmember Diglio
- d. Councilmember Le Frois
- e. Deputy Mayor Couce
- f. Mayor Teets

**VII. UNFINISHED BUSINESS**

## VIII. ORDINANCES

- a. 2<sup>nd</sup> Reading and Public Hearing  
Ordinance 2023-16

An Ordinance Amending and Supplementing Chapter 307 of the Code of the Town of Newton Entitled "Vehicles and Traffic" and Chapter 100 of the Code of the Town of Newton Entitled "Fees and Costs" to Establish Regulations for Public Parking Spaces for Electric Vehicles

- i. Open Hearing to Public
- ii. Close Hearing to Public
- iii. Act on Ordinance

Ordinance 2023-17

An Ordinance Providing Funding for Improvements to Morris Lake Dam Gate House for the Water/Sewer Utility for the Town of Newton and Appropriating \$177,396.55 for Such Purpose

- i. Open Hearing to Public
- ii. Close Hearing to Public
- iii. Act on Ordinance

Ordinance 2023-18

An Ordinance to Amend, Revise, and Supplement Section 320-28 "Conditional Uses" of the Zoning Code of the Town of Newton to Regulate the Number of Approved Cannabis Retail Facilities and Delivery Businesses in Certain Zones Within the Town of Newton

- i. Open Hearing to Public
- ii. Close Hearing to Public
- iii. Act on Ordinance

- b. Introduction  
Ordinance 2023-19

A Bond Ordinance Amending Bond Ordinance Number 2022-18 Finally Adopted by the Town Council of the Town of Newton, New Jersey on August 15, 2022

## 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 #179-2023\*

Resolution Supporting the Dennis Branch of the Sussex County Library System Renovation Project  
Renewal of Plenary Retail Distribution Licenses for 2023-2024

- b. Resolution #180-2023\*

- c. Resolution #181-2023\*

Approval to Submit a Grant Application and Execute a Grant Contract with the New Jersey Department of Transportation for the Douma Drive, Douma Court, and Valley View Court Resurfacing Project

- d. Resolution #182-2023\* Resolution to Appoint a Temporary Judge for the Shared Municipal Court Between Green Township and the Town of Newton
- e. Resolution #183-2023\* Approval of Cooperative Purchasing Contract, Playground Equipment, Site Furnishing, Outdoor Circuit Training Equipment & Related Products – ESCNJ 20/21-22 Ben Shaffer Recreation Inc.
- f. Resolution #184-2023\* Authorizing a Change Order for the Procurement of Ferrara Cinder, 4-Door Full-Tilt OEM Cab, Extruded Aluminum Body, Single Axle, 77' Rear Mounted Telescoping Ladder and Accessories Through FF1 Apparatus, 34 Wilson Drive, Sparta, New Jersey 07871
- g. Resolution #185-2023\* Transfer of School Monies for the Period July 1, 2023 to December 31, 2023
- h. Resolution #186-2023\* Renewal of Club License
- i. Resolution #187-2023\* Renewal of Plenary Retail Consumption License for 1915-33-011-011
- j. Resolution #188-2023\* Renewal of Plenary Retail Consumption Licenses for 2023-2024
- k. Resolution #189-2023\* Resolution Authorizing the Execution of a Developer's Agreement with Punctuated Equilibrium, LLC (Thorlabs – Quantum Realm)
- l. Resolution #190-2023\* Authorizing Award of Bid for Drainage Improvements at Babe Ruth Field at Memory Park to Paving Materials and Contracting, LLC
- m. Resolution #191-2023\* Approve Bills and Vouchers

**X. OPEN TO THE PUBLIC (3 minutes each)**

**XI. COUNCIL & MANAGER COMMENTS**

**XII. ADJOURNMENT**

# TOWN OF NEWTON

## ORDINANCE #2023-16

### AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 307 OF THE CODE OF THE TOWN OF NEWTON ENTITLED "VEHICLES AND TRAFFIC" AND CHAPTER 100 OF THE CODE OF THE TOWN OF NEWTON ENTITLED "FEES AND COSTS" TO ESTABLISH REGULATIONS FOR PUBLIC PARKING SPACES FOR ELECTRIC VEHICLES

**BE IT ORDAINED** by the Town Council of the Town of Newton, County of Sussex, State of New Jersey, as follows:

Chapter 307 entitled "Vehicles and Traffic" of the Code of the Town of Newton is hereby supplemented with a new subsection as follows:

#### § 307-38.1 Public Parking Spaces for Charging of Electric Vehicles

- A. Definitions. For purposes of this Chapter, the following phrases and words shall have the meanings indicated:

**Charging Station** shall mean a location fitted with electric vehicle charging station equipment.

**Charging Station Equipment** shall mean the conductors, including ungrounded and grounded, and the electric vehicle connectors, attachment plugs, and all other fittings, devices, power outlets, charging status, or apparatus installed specifically for the purpose of delivering electrical energy from the Charging Station to the electric vehicle.

**Charging Station Space** shall mean a dedicated, marked parking space fitted with charging station equipment and exclusively used for the charging of electric vehicles.

**Electric Scooter and/or Electric Motorcycle** shall mean a 2-wheel or 3-wheel electric vehicle that operates exclusively on electrical energy stored in the vehicle's batteries.

**Electric Vehicle** shall mean any vehicle licensed and registered for operation on public and private highways, roads, and streets and operates, either partially or exclusively, on electrical energy from a Charging Station or other electrical energy source stored in the vehicle's battery for propulsion purposes. Electric vehicle includes: a battery electric vehicle; a plug-in hybrid electrical vehicle; a neighborhood electric vehicle; and electric scooters or electric motorcycles.

**Neighborhood Electric Vehicle** shall mean an electric vehicle that is a low-speed vehicle, built to have a top speed of twenty-five miles per hour and have a maximum loaded weight of 3,000 lb.

**Non-Electric Vehicle** shall mean a vehicle that does not meet the definition of "electric vehicle" as provided herein.

**Plug-In Hybrid Electric Vehicle or PHEV** shall mean an electric vehicle that: contains an internal combustion engine and also allows power to be delivered to drive wheels by an electric motor; charges its battery primarily by connecting to a charging station or other electrical source not on board the vehicle; may additionally be able to sustain a battery charge using an on-board internal-combustion-driven generator; and has the ability to be propelled through the use of electricity.

B. Public parking spaces for charging of electric vehicles.

The Town may designate public parking spaces for use as electric vehicle charging stations. Use of said charging station spaces shall be limited and restricted as follows:

- (1) Public parking spaces with charging stations for electric vehicles are available on a first come, first served basis.
- (2) Pavement markings painted on the surface of a public parking space and signage identifying public parking spaces as charging stations are provided to identify such spaces.
- (3) It shall be unlawful for any person to park or leave standing a vehicle in a stall or space designated as a charging station unless the vehicle is an electric vehicle and is connected for electric charging purposes.
- (4) Non-electric vehicles are prohibited from parking in charging station spaces.
- (5) Electric vehicles are authorized to park in spaces designated as charging station spaces during the time the vehicles are connected for electric charging purposes. When the vehicle is no longer charging, the owner or operator of said vehicle shall be required to remove the vehicle from the charging station space.
- (6) The Town will periodically check charging receptacles to ensure the devices are working and capable of safe operation.
- (7) Electric vehicles shall not park in any electric vehicle charging space for more than one (1) hour.

C. Charging station fees.

The fee to use public parking spaces within the Town identified as charging station spaces shall be set forth in Chapter 100 Fees and Costs for when the electric vehicle is connected to the charging station.

D. Designation of public parking spaces for electric vehicle charging.

The following location(s) shall be designated as public charging station spaces:

- 1) Two (2) public parking spaces in municipal Lot No. 4 Central Plaza

E. Violations.

- 1) Pursuant to N.J.S.A. 40:48-2, publicly accessible electric vehicle charging station parking spaces shall be monitored by the Newton Police Department, Newton Parking Authority, and any other law enforcement agency, and other enforcement agency, having jurisdiction for parking within the Town of Newton.
- 2) Violations of this ordinance shall result in a penalty of \$100 per offense.

100-15 Vehicles and traffic (Chapter 307).

- E. Public parking for charging of electric vehicles usage fees
1. For publicly accessible municipal electric vehicle charging stations: The fee to use public parking spaces within the municipality identified as electric vehicle charging station spaces shall range between \$.40 and \$.80 per kWh while an electric vehicle is connected to the electric vehicle charging station. The fee shall be set at least annually in writing by the Town Manager and Town Chief Financial Officer (CFO).
  2. Private electric vehicle charging stations: Nothing in this ordinance shall be deemed to preclude a private owner/designee of an electric vehicle charging station from collecting a fee for the use of the electric vehicle charging station, in accordance with applicable Local, County, State, and Federal regulations. Fees shall be available on the electric vehicle charging station or posted at or adjacent to the electric vehicle charging station parking space.

**Severability:**

If any section, paragraph, clause, or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, clause, or provision so adjudged and the remainder of the ordinance shall be deemed valid and effective.

**Repeal of Prior Ordinances:**

All ordinances or parts of ordinances inconsistent with or in conflict with this ordinance are hereby repealed to the extent of such inconsistency.

**Effective Date:**

This ordinance shall take effect after final passage and publication as provided by law.

**NOTICE**

**TAKE NOTICE** the above Ordinance was introduced at a regular meeting of the Town Council of the Town of Newton conducted on June 12, 2023. It was adopted, after final reading and public hearing thereon, at a meeting of the Newton Town Council conducted at 7:00 pm on June 26, 2023 in the Council Chambers at the Newton Municipal Building, 39 Trinity Street, Newton, New Jersey, and shall take effect in accordance with law.

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Teresa A. Oswin, RMC  
Municipal Clerk

# TOWN OF NEWTON

## ORDINANCE 2023-17

### **AN ORDINANCE PROVIDING FUNDING FOR IMPROVEMENTS TO MORRIS LAKE DAM GATE HOUSE FOR THE WATER/SEWER UTILITY FOR THE TOWN OF NEWTON AND APPROPRIATING \$177,396.55 FOR SUCH PURPOSE**

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

Section 1. The Town of Newton, in the County of Sussex, New Jersey, authorizes installation of a low level pump with butterfly valve and mechanism for Morris Lake Dam Gate House for the water/sewer utility, including all work and materials necessary therefor and incidental thereto, all as shown on and in accordance with the plans and specifications therefor on file in the Office of the Clerk for the Town of Newton to be funded from the sources specified in Section 2 of the Ordinance.

Section 2. The amount of \$177,396.55 is hereby appropriated for the purposes stated in Section 1 of the Ordinance and which amount is funded from the Reserve on Water Sewer Capital Balance Sheet in the amount of \$177,396.55.

Section 3. In connection with the purpose and the amount authorized in Sections 1 and 2 hereof, the Town determines the purpose described in Section 1 hereof is not a Current Expense and is an improvement which the Town of Newton may lawfully make as a general improvement.

Section 4. All ordinances or parts of ordinances which are inconsistent with the terms of this Ordinance be and the same are hereby repealed to the extent of their inconsistency.

Section 5. This Ordinance shall take effect immediately upon due passage and publication according to law.

### **NOTICE**

**TAKE NOTICE** the above Ordinance was introduced at a regular meeting of the Town Council of the Town of Newton conducted on June 12, 2023. It was adopted, after final reading and public hearing thereon, at a meeting of the Newton Town Council conducted at 7:00 pm on June 26, 2023, in the Council Chambers at the Newton Municipal Building, 39 Trinity Street, Newton, New Jersey, and shall take effect in accordance with law.

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Teresa A. Oswin, RMC  
Municipal Clerk

# TOWN OF NEWTON

## ORDINANCE 2023-18

### AN ORDINANCE TO AMEND, REVISE, AND SUPPLEMENT SECTION 320-28 "CONDITIONAL USES" OF THE ZONING CODE OF THE TOWN OF NEWTON TO REGULATE THE NUMBER OF APPROVED CANNABIS RETAIL FACILITIES AND DELIVERY BUSINESSES IN CERTAIN ZONES WITHIN THE TOWN OF NEWTON

**WHEREAS**, the Town Council of the Town of Newton adopted Ordinances 2021-12 and 2021-13 which regulate legal cannabis as to the processing, sales, and distribution within the Town of Newton as per P.L. 2021, c. 16 ("New Jersey Cannabis Regulatory, Enforcement Assistance and Marketplace Modernization Act"); and

**WHEREAS**, the Town Council wishes to adopt further regulations in regard to Class 5 Cannabis Retailer Licenses, for locations at which cannabis items and related supplies are sold to consumers, and Class 6 Cannabis Delivery Licenses, for businesses providing courier services for consumer purchases that are fulfilled by a licensed cannabis retailer in order to make deliveries of the purchased items to a consumer, and which service would include the ability of consumers to make a purchase directly through the cannabis delivery service which would be presented by the delivery service for fulfillment by a retailer and then delivered to a consumer;

**NOW, THEREFORE BE IT ORDAINED**, by the Town Council of the Town of Newton, County of Sussex, State of New Jersey, that Section 320-28 "Conditional Uses" of the Zoning Code of the Town of Newton is hereby amended, revised, and supplemented as follows:

#### SECTION 1

- A. Section 320-28 "Conditional Uses" shall be further revised as to Section M "Cannabis Retailer" by creating a new subsection (11), which shall read as follows:

"(11) Limits on the number of licensed cannabis retail facilities and delivery businesses in certain zones. The Town of Newton shall limit the total number of licensed Cannabis Retail facilities and Cannabis Delivery businesses in the Town of Newton as follows: (a) there shall be no more than two (2), in total, licensed Cannabis Retail facilities and Cannabis Delivery businesses approved by the Town of Newton for location on Water Street; (b) there shall be no more than two (2), in total, licensed Cannabis Retail facilities and Cannabis Delivery businesses approved by the Town of Newton for location on Mill Street; and (c) there shall be no more than one (1), in total, licensed Cannabis Retail facility and Cannabis Delivery business approved by the Town of Newton for location in the SD-3 Zone. No licenses in excess of the amounts established above shall be permitted/allowed by any Town employee, board, body, or commission.

[Brackets] mean deletions; Underlines means additions

- B. Section 320-28 "Conditional Uses" shall be further revised as to Section N "Cannabis Delivery" by creating a new subsection (10), which shall read as follows:

"(10) Limits on the number of licensed cannabis retail facilities and delivery businesses in certain zones. The Town of Newton shall limit the total number permitted on Water Street, Mill Street, and in the SD-3 Zone for cannabis delivery businesses in conjunction with the limits established in Section 320-28 (M) (11) above. No licenses in excess of the amounts established in Section 320-28 (M) (11) above shall be permitted/allowed by any Town employee, board, body, or commission.

[Brackets] mean deletions; Underlines means additions

## **SECTION 2**

### **SEVERABILITY AND REPEALER**

Should any part or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this Ordinance as a whole or any part thereof other than the part held invalid.

## **SECTION 3**

### **NOTICE**

The Town Clerk is hereby directed to give notice of the second (2<sup>nd</sup>) reading of this Ordinance pursuant to law. The Town of Newton Planning Board shall be instructed to review this Ordinance at the Board's June 21, 2023 Planning Board meeting. Furthermore, there shall be notice to other municipalities and the Sussex County Planning Board, pursuant to N.J.S.A. 40:55D-15. Upon adoption of this Ordinance, after public hearing and approval, the Town Clerk is further directed to publish notice of the passage and to file a copy of this Ordinance, as finally adopted, with the Sussex County Planning Board, as required by N.J.S.A. 40:55D-16.

## **SECTION 4**

### **EFFECTIVE DATE**

This Ordinance shall take effect immediately upon adoption and publication with law.

### **NOTICE**

**TAKE NOTICE** the above Ordinance was introduced at a regular meeting of the Town Council of the Town of Newton conducted on June 12, 2023. It was adopted, after final reading and public hearing thereon, at a meeting of the Newton Town Council conducted at 7:00 pm on June 26, 2023, in the Council Chambers at the Newton Municipal Building, 39 Trinity Street, Newton, New Jersey, and shall take effect in accordance with law.

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Teresa A. Oswin, RMC  
Municipal Clerk

# TOWN OF NEWTON

## ORDINANCE #2023-19

### **BOND ORDINANCE AMENDING BOND ORDINANCE NUMBER 2022-18 FINALLY ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF NEWTON, NEW JERSEY ON AUGUST 15, 2022**

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

Section 1. The Bond Ordinance of the Town Council of the Town of Newton, in the County of Sussex, New Jersey (the "Town") entitled "Bond Ordinance Providing An Appropriation Of \$894,909 For The Acquisition Of A Fire Truck With Accessories In And By The Town Of Newton, In The County Of Sussex, New Jersey And Authorizing The Issuance Of \$474,909 Bonds Or Notes Of The Town For Financing Part Of The Appropriation" finally adopted on August 15, 2022 (the "Ordinance") is hereby incorporated by reference in its entirety.

Section 2. (a) The Ordinance is hereby amended by (a) deleting the reference of "\$894,909" for the appropriation and estimated cost and "\$474,909" for the estimated maximum amount of bonds or notes and substituting in lieu therefor "\$961,109" and "\$537,799"; (b) deleting the reference of \$331.43 from the capital improvement fund and substituting in lieu therefor \$3,641.43 and (c) deleting the reference to "\$5,000" for Section 20 costs and substituting in lieu therefor "\$5,500".

Section 3. The capital budget of the Town is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. The resolutions 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 4. This Section 4 constitutes a declaration of official intent under Treasury Regulation Section 1.150-2. The Town reasonably expects to pay expenditures with respect to the Improvements prior to the date that the Town incurs debt obligations under this Bond Ordinance. The Town reasonably expects to reimburse such expenditures with the proceeds of debt to be incurred by the Town under this Bond Ordinance. The maximum principal amount of debt expected to be issued for payment of the costs of the Improvements is \$537,799.

Section 5. All other provisions of the Ordinance shall remain unchanged.

Section 6. This amendatory bond ordinance shall take effect twenty days after the first publication thereof after final adoption as provided by Local Bond Law.

**NOTICE**

**TAKE NOTICE** the above Ordinance was introduced at a regular meeting of the Town Council of the Town of Newton conducted on June 26, 2023. It will be considered for adoption, after final reading and public hearing thereon, at a meeting of the Newton Town Council to be conducted at 7:00 pm or as soon thereafter as the matter may be heard on July 17, 2023 in the Council Chambers at the Newton Municipal Building, 39 Trinity Street, Newton, New Jersey, and shall take effect in accordance with law.

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Teresa A. Oswin, RMC  
Municipal Clerk



## TOWN OF NEWTON

### RESOLUTION #179-2023

June 26, 2023

### “Resolution Supporting the Dennis Branch of the Sussex County Library System Renovation Project”

**WHEREAS**, the Sussex County Library System has been awarded a three-million-dollar matching grant from the New Jersey State Library for the renovation and expansion of the Dennis Branch Library in Newton, NJ; and

**WHEREAS**, the Dennis Branch Library provides library services to the residents of the Town of Newton; and

**WHEREAS**, the expansion was overwhelmingly supported in a countywide referendum in 2021; and

**WHEREAS**, the key aspect to the project will provide for compliance with the Americans with Disabilities Act (ADA) for access to the library and rest rooms;

**NOW, THEREFORE BE IT RESOLVED**, the Town Council of the Town of Newton, does hereby support the expansion and renovation of the Dennis Branch Library in Newton, NJ; and

**BE IT FURTHER RESOLVED**, copies of this Resolution be forwarded to the Sussex County Commissioners, Sussex County Administrator, and the Director of the Sussex County Library System.

### CERTIFICATION

**THIS IS TO CERTIFY** 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, June 26, 2023.

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Teresa A. Oswin, RMC  
Municipal Clerk



## TOWN OF NEWTON

### RESOLUTION #180-2023

June 26, 2023

### “Renewal of Plenary Retail Distribution Licenses for 2023-2024”

**BE IT RESOLVED**, by the Town Council of the Town of Newton, County of Sussex, State of New Jersey, that the following Plenary Retail Distribution Licenses be renewed for the licensing year 2023-2024, effective July 1, 2023:

**No. 1915-44-010-003** be issued to Bia Krishna, Inc., t/a Seplow's Liquors, 5 Woodside Avenue, Newton, New Jersey; and

**No. 1915-44-004-012** be issued to HV Patel Corporation, t/a Spring Liquors, 110 Spring Street, Newton, New Jersey.

### CERTIFICATION

**THIS IS TO CERTIFY** 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, June 26, 2023.

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Teresa A. Oswin, RMC  
Municipal Clerk



## TOWN OF NEWTON

### RESOLUTION #181-2023

June 26, 2023

**“Approval to Submit a Grant Application and Execute a Grant Contract with the New Jersey Department of Transportation for the Douma Drive, Douma Court, and Valley View Court Resurfacing Project”**

**NOW, THEREFORE BE IT RESOLVED**, that the Town Council of the Town of Newton, County of Sussex, State of New Jersey formally approves the grant application for the above stated project; and

**BE IT FURTHER RESOLVED**, the Town Manager and/or Mayor and Municipal Clerk are hereby authorized to submit an electronic grant application identified as MA-2024-Douma Dr., Douma Ct., & Valley View C-00140 to the New Jersey Department of Transportation on behalf of the Town of Newton; and

**BE IT FURTHER RESOLVED**, the Town Manager and/or Mayor and Municipal Clerk are hereby authorized to sign the grant agreement on behalf of the Town of Newton and that their signatures constitute acceptance of the terms and conditions of the grant agreement and approve the execution of the grant agreement.

### CERTIFICATION

**THIS IS TO CERTIFY** 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, June 26, 2023.

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Teresa A. Oswin, RMC  
Municipal Clerk



## TOWN OF NEWTON

### RESOLUTION #182-2023

June 26, 2023

**“Resolution to Appoint a Temporary Judge for the Shared Municipal Court of Green Township and the Town of Newton”**

**WHEREAS**, the Town of Newton has a need for a temporary Judge for the Shared Court of Green Township and the Town of Newton; and

**WHEREAS**, the Honorable Michael A. Carlucci, JMC has been assigned as temporary Judge for the Town of Newton effective June 15, 2023; and

**WHEREAS**, the monthly compensation for the Honorable Michael A. Carlucci, JMC will be the responsibility of the Town of Newton as follows:

Newton:	\$3,220.33
Green:	<u>\$416.67</u>
Monthly Total:	\$3,637.00

**NOW, THEREFORE BE IT RESOLVED**, the Honorable Michael A. Carlucci, JMC will serve as temporary Judge for the Shared Court of Green Township and the Town of Newton effective June 15, 2023.

#### CERTIFICATION

**THIS IS TO CERTIFY** 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, June 26, 2023.

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Teresa A. Oswin, RMC  
Municipal Clerk



## TOWN OF NEWTON

### RESOLUTION #183-2023

June 26, 2023

**“Approval of Cooperative Purchasing Contract, Playground Equipment, Site Furnishing, Outdoor Circuit Training Equipment & Related Products – ESCNJ 20/21-22 Ben Shaffer Recreation Inc.”**

**WHEREAS**, there is a need for ADA compliant playground and recreational opportunities within the Town of Newton; and

**WHEREAS**, this service can be purchased through Educational Services Commission of New Jersey (65MCESCCPS), Cooperative Contract # ESCNJ 20/21-22; and

**WHEREAS**, this service has been listed in accordance with Cooperative Contract at \$96,851.18 by the awarded vendor, Ben Shaffer Recreation Inc., PO Box 844, Lake Hopatcong, NJ 07849; and

**WHEREAS**, the Town of Newton can procure this through the ESCNJ Cooperative Contract under the authority of N.J.S.A. 40A:11-11 et. Seq; and

**WHEREAS**, the Chief Financial Officer certifies funds are available in the 2023 Capital Improvement Fund in the amount of \$96,851.18 as follows:

Ordinance 2023-10

Pine St Park ADA Playground

#3092310

**WHEREAS**, the Qualified Purchasing Agent concurs with the legality of the purchase in accordance with the New Jersey Local Public Contracts Law (N.J.S.A. 40A:11-11 et. Seq.);

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton, in the County of Sussex, New Jersey as follows: the Town Manager is authorized to enter into a contract with Ben Shaffer Recreation Inc., under the authority of Educational Services Commission of New Jersey (65MCESCCPS), Cooperative Contract ESCNJ 20/21-22, in the amount of \$96,851.18 for the Contract, Playground Equipment, Site Furnishings, Outdoor Circuit Training Equipment & Related Products.

### CERTIFICATION

**THIS IS TO CERTIFY** 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, June 26, 2023.

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Teresa A. Oswin, RMC  
Municipal Clerk



## TOWN OF NEWTON

### RESOLUTION #184-2023

June 26, 2023

**“Authorizing a Change Order for the Procurement of Ferrara Cinder, 4-Door Full-Tilt OEM Cab, Extruded Aluminum Body, Single Axle, 77’ Rear Mounted Telescoping Ladder and Accessories Through FF1 Apparatus, 34 Wilson Drive, Sparta, New Jersey 07871”**

**WHEREAS**, the Newton Town Council adopted Resolution #186-2022, awarding the Procurement of Ferrara Cinder, 4-Door Full-Tilt OEM Cab, Extruded Aluminum Body, Single Axle, 77’ Rear Mounted Telescoping Ladder and accessories Through FF1 Apparatus 34 Wilson Drive, Sparta, New Jersey 07871, HGAC National Cooperative FS12-19, in the amount of \$894,909.00; and

**WHEREAS**, FF1 Apparatus reports Ferrara Fire Apparatus due to unforeseen circumstances the Cummins L9 engine is not available and recommends measures that are prudent and satisfy identified recognized needs discovered which was not foreseen as part of the original National Cooperative purchase in accordance with N.J.A.C. 5:30-11.3; and

**WHEREAS**, FF1 Apparatus recommends changing to a Cummins X12 500 hp engine for a price of an additional \$65,594.00, the cab and chassis will become Ferrara's Inferno model, and the transmission will become an Allison 4000 EVS, for a new total contract price of \$960,503.00, an increase of 7.3%;

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton, that it hereby concurs with the change order and approves the Cummins X12 500 hp engine for a price increase of \$65,594.00, the cab and chassis will become Ferrara's Inferno model, and the transmission will become an Allison 4000 EVS, for a new total contract price of \$960,503.00, an increase of 7.3%.

### CERTIFICATION

**THIS IS TO CERTIFY** 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, June 26, 2023.

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Teresa A. Oswin, RMC  
Municipal Clerk



## TOWN OF NEWTON

### RESOLUTION #185-2023

June 26, 2023

**“Transfer of School Monies for the Period  
July 1, 2023 to December 31, 2023”**

**BE IT RESOLVED**, by the Town Council of the Town of Newton that the Town Treasurer be authorized to turn over to the Treasurer of School Monies, as monies become available, the amount of \$7,061,069.00 to meet the obligations of the Newton Board of Education, inclusive of Debt Service, in accordance with the Statutes and the request of the Board of Education of Newton;

Amount of Tax (Inclusive of Debt Service)	\$13,724,107.00
Amount Received to Date	0.00
Amount of This Request	<u>7,061,069.00</u>
Balance Due Board of Education	6,663,038.00

#### **CERTIFICATION**

**THIS IS TO CERTIFY** 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, June 26, 2023.

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Teresa A. Oswin, RMC  
Municipal Clerk



## TOWN OF NEWTON

### RESOLUTION #186-2023

June 26, 2023

“Renewal of Club License”

**BE IT RESOLVED**, by the Town Council of the Town of Newton, County of Sussex, State of New Jersey, that the following Club License be renewed for the licensing year 2023-2024, effective July 1, 2023:

**No. 1915-31-014-001** be issued to Newton Memorial Post 5360, Veterans of Foreign Wars, t/a Newton Memorial Post 5360, V.F.W., 85 Mill Street, Newton, New Jersey.

#### CERTIFICATION

**THIS IS TO CERTIFY** 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, June 26, 2023.

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Teresa A. Oswin, RMC  
Municipal Clerk



## TOWN OF NEWTON

### RESOLUTION #187-2023

June 26, 2023

**“Renewal of Plenary Retail Consumption License for 1915-33-011-011”**

**WHEREAS**, on June 22, 2022, the Town of Newton received a special ruling from the State of New Jersey, Office of the Attorney General, Department of Law and Public Safety, Division of Alcoholic Beverage Control, permitting the renewal of an inactive license, pursuant to N.J.S.A. 33:1-12.39 for the 2022-2023 and 2023-2024 License terms for License No. 1915-33-011-011 for License Name: Spring Alley Café, LLC: Docket No. 05-22-296; Job No. 517611; and

**NOW, THEREFOR BE IT RESOLVED**, by the Town Council of the Town of Newton, County of Sussex, State of New Jersey, that the following Plenary Retail Consumption License is renewed for licensing year 2023-2024:

**No. 1915-33-011-011** be issued to Spring Alley Café, LLC, 185 Spring Street, Newton, New Jersey.

### CERTIFICATION

**THIS IS TO CERTIFY** 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, June 26, 2023.

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Teresa A. Oswin, RMC  
Municipal Clerk



## TOWN OF NEWTON

### RESOLUTION #188-2023

June 26, 2023

### "Renewal of Plenary Retail Consumption Licenses for 2023-2024"

**BE IT RESOLVED**, by the Town Council of the Town of Newton, County of Sussex, State of New Jersey, that the following Plenary Retail Consumption Licenses are renewed for licensing year 2023-2024, effective July 1, 2023:

**No. 1915-33-001-006** be issued to Chenlin Chun Bo, Inc., t/a Chun Bo Chinese Restaurant, 66 Sparta Avenue, Newton, New Jersey; and

**No. 1915-33-002-009** be issued to B&M LLC, t/a O'Reilly's Pub & Grill, 271 Spring Street, Newton, New Jersey; and

**No. 1915-33-003-008** be issued to L & P Concessions, LLC, t/a L & P Concessions, 234 Spring Street, Newton, New Jersey; and

**No. 1915-33-006-013** be issued to the Sizzle BBQ Argentinian Food LLC, 216 Woodside Avenue, Newton, New Jersey; and

**No. 1915-33-007-005** be issued to Apple Food Service of Newton, LLC., t/a Applebee's Neighborhood Grill & Bar, 6 North Park Drive, Newton, New Jersey; and

**No. 1915-33-008-007** be issued to Newton Sports Bar & Grill, LLC t/a Newton Sports Bar and Grill, 173 Spring Street, Newton, New Jersey; and

**BE IT FURTHER RESOLVED** by the Town Council of the Town of Newton, County of Sussex, State of New Jersey, that the following Plenary Retail Consumption License w/Broad Package Privilege be renewed for licensing year 2023-2024, effective July 1, 2023:

**No. 1915-32-005-012** be issued to Newton 830, LLC t/a ShopRite Wines & Spirits of Newton, 127 Water Street, (Route 206 N.) Newton, New Jersey.

### CERTIFICATION

**THIS IS TO CERTIFY** 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, June 26, 2023.

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Teresa A. Oswin, RMC  
Municipal Clerk



## TOWN OF NEWTON

### RESOLUTION #189-2023

June 26, 2023

**“Resolution Authorizing the Execution of a Developer’s Agreement with Punctuated Equilibrium, LLC (Thorlabs – Quantum Realm)”**

**WHEREAS**, Punctuated Equilibrium, LLC (Thorlabs-Quantum Realm) is the owner/developer (“Developer”) of certain properties located on Lower Spring Street, Diller Avenue and Sparta Avenue, designated as Block 20.01, Lot 1, Block 22.04, Lots 3 & 6, as shown on the Tax Map of the Town of Newton (“Property”); and

**WHEREAS**, the Developer obtained from the Town of Newton Land Use Board preliminary and final site plan approval for its development of the Property (“Development”); and

**WHEREAS**, the Developer and the Town have negotiated a Developer's Agreement regarding the Development; and

**WHEREAS**, the Town wishes to authorize the execution of the Developer's Agreement, a copy of which is annexed hereto and shall be available in the Town Clerk's office;

**NOW, THEREFORE BE IT RESOLVED**, by the Mayor and Town Council of the Town of Newton, County of Sussex, State of New Jersey that the Town hereby authorizes the Town Manager and the Town Clerk to execute/attest said Developer's Agreement on behalf of the Town.

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Teresa A. Oswin, RMC  
Municipal Clerk

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Michelle J. Teets, Mayor  
Town of Newton

### CERTIFICATION

**THIS IS TO CERTIFY** 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, June 26, 2023.

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Teresa A. Oswin, RMC  
Municipal Clerk

## **DEVELOPER'S AGREEMENT**

**THIS AGREEMENT** is made and entered into this 16th day of June 2023, between **PUNCTUATED EQUILIBRIUM, LLC (THORLABS-QUANTUM REALM)** with a mailing address of 43 Sparta Avenue, Newton New Jersey 07860 ("Developer") and the **TOWN OF NEWTON, 39 Trinity Street, Newton, NJ** a municipal corporation of the State of New Jersey, with principal offices located at the Municipal Building, 39 Trinity Street, Newton, New Jersey ("Town") (collectively known as the "Parties").

**WHEREAS**, the Developer is the owner of certain properties located on Lower Spring Street, Diller Avenue, and Sparta Avenue, designated as Block 20.01, Lot 1, Block 22.04, Lots 3 & 6, as shown on the Tax Map of the Town of Newton ("Property"); and

**WHEREAS**, the Developer obtained from the Town of Newton Planning Board ("Board") approval for preliminary and final site plan approval ("Approval") on January 20, 2021 and memorialized by Resolution on February 17, 2021 ("Approving Resolution") (Exhibit "A" annexed hereto), and amended final site plan approval ("Amended Approval") on January 18, 2023, and memorialized by Resolution on March 15, 2023 ("Amended Approving Resolution") (Exhibit "B" annexed hereto) for its development of the Property ("Development") in two (2) phases consisting of the construction of a 103,000 square foot facility and the demolition of the existing 48,000 square foot facility (the "Phase 1 Project) and, at Developer's discretion, the construction of a 50,000 square foot addition to the Phase 1 Project (the "Phase 2 Project," together with the Phase 1 Project hereinafter referred to as the "Project").

**NOW, THEREFORE**, in consideration of the Board's approvals of the Developer's application, it is mutually agreed by and between the Parties as follows:

### **SECTION I**

### **IMPROVEMENTS**

1. Improvements to be Completed by Developer - The construction of the Development, in accordance with the Approval and Amended Approval is contingent upon the Developer, at its sole cost and expense, constructing and installing all of the on-tract public site improvements, if any (excluding buildings) shown on its submitted site plans that were to be constructed as part of the Approval and Amended Approval and that are detailed in the Board's Approving Resolution and Amended Approving Resolution as delineated above ("Public Improvements"). Developer shall comply with and provide proof to the Town Engineer and the Planning Board Engineer that all conditions set forth in the Approving Resolution and Amended Approving Resolution have been satisfied prior to the Final Certificate of Occupancy being issued.

2. Safety Measures During Construction - With the exception of site clearance, Developer shall not commence any construction until the Property is made safe for the public by installing fences, barricades, dust control measures, soil erosion, and mud abatement devices as required by the New Jersey Uniform Construction Code, the Sussex County Soil Conservation District, and/any other protective device that may be deemed necessary by the Town Engineer or municipal inspectors in order to prevent the possibility of personal injury, property damage, or nuisance. It shall be the Developer's responsibility to maintain such devices after commencement of construction and a failure to do so shall enable the Town to issue stop work orders at any time without notice. Thereafter, the Town may install any necessary protective devices at the Developer's sole expense.

3. Minor Modifications - The Town Engineer is authorized to approve and/or require minor modifications to the site plans if those modifications are necessitated by field conditions which would otherwise make it impractical for the Developer to complete the improvements in accordance with the plans approved by the Board; provided, however that any such modifications do not require any variance relief from the requirements of the Town's zoning Code and provided further that the

Developer shall, at any reasonable time if requested, submit amended plans or details reflecting the modifications. Any modifications deemed to be "major" shall only be granted by the Board. If a dispute arises between the Developer and Town Engineer over the distinction between "minor" and "major", the Board shall be the final arbiter.

4. Compliance with Law - All improvements shall be constructed and installed in accordance with County, State and Federal laws, along with specifications, ordinances, rules, and regulations which are validly enacted by the Town - all of which are subject to the rights granted the Developer by the Approving Resolution and Amended Approving Resolution delineated above. All structures and improvements are subject to inspection and approval by the applicable sub-code official with all other site improvements not under the jurisdiction of the Town Construction Code Official, subject to inspection and approval by the Town Engineer or his designee.

5. As-Built Drawings – The Developer shall provide the Town Engineer with "as-built" drawings indicating the location and size of all site improvements being dedicated or conveyed to the Town prior to formal acceptance of such public improvements, including but not limited to roadways and/or water and sewer utilities. Additionally, the Developer shall provide "as-built" drawings indicating the location and size, type of all utilities, municipal and/or private, in public roads, and/or rights-of-way.

6. Pre-construction Meeting - At least forty-eight (48) hours before initial construction of the Project commences, a pre-construction meeting shall be held with the Town's representatives, the Developer, its engineers, and contractors. The Project may be initiated in stages, each of which shall require a separate pre-construction meeting. Safety measures and permits and approvals required with respect to the Project shall be evaluated and required solely

on the basis of each stage of work contemplated. In the event of a temporary suspension of construction other than due to a force majeure event (stoppage beyond one hundred and twenty (120) hours, excluding weekends and holidays), the Town Engineer shall be notified of the renewed starting date in writing. The Town Engineer shall use his or her best efforts to complete inspections in a timely manner so as to permit the Developer to proceed with construction in an orderly, safe and expeditious way. No back-filling shall take place following the installation of any required improvements until inspection by the Town Engineer or designee or assign.

7. Inspection Fees - An escrow account shall be established to facilitate payment of all engineering inspection fees. Inspections by the Town Engineer or designee shall be charged against this account at the rate prescribed by Town Code. The fee should be calculated in order not to exceed five percent (5%) of the total cost of the site improvements to be constructed or installed, pursuant to N.J.S.A. 40:55D-53(h) (excluding building costs), but in no event to exceed Fifty Thousand Dollars (\$50,000.00), unless unusual and/or unanticipated issues occur. The Developer shall deposit sufficient funds to maintain an escrow account for the development of at least twenty-five percent (25%) of the original inspection fee due at the time construction is commenced based upon the cost estimate prepared by the Developer's engineer and approved by the Town Engineer. Developer may pay the inspection fees in installments, as provided for by the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. Installments shall be due and payable each time the balance falls to ten percent (10%) of the anticipated inspection fee. When the balance on deposit drops to ten percent (10%) of the inspection fees, the Developer shall make additional deposits in the amount of twenty-five percent (25%) of the inspection fees, within seven (7) calendar days of receipt of such notice. In no case shall the Town Engineer be required to make an inspection unless at least ten percent (10%) of the inspection fee is on deposit. The Town shall prepare and submit to the Developer, upon request, a detailed list of how the inspection monies have been utilized. The failure of the Developer

to sufficiently fund escrow accounts shall constitute a default under the terms of this Agreement and, if such failure continues for more than ten (10) calendar days after written notice to the Developer, the Town shall be entitled to pursue all legally available remedies. Upon completion of all required inspections and final approval, any funds remaining in such escrow account shall be returned to Developer, except for the amount the Town may keep for administrative purposes according to law.

8. Building and Engineering Permits - The Town Engineer shall not issue a Notice to Proceed in respect to any stage or phase of construction for the Project until the Developer obtains all necessary permits and approvals in respect to such stage of work or phase and provides a certification indicating it is in receipt of same for the portion of the site to be disturbed and the work to be performed. As used herein, the phrase "Notice to Proceed" means a written notice to proceed issued by the Town Engineer following delivery by the Developer of all required final revisions of all documents and plans along with all permits, approvals, licenses, and authorizations to the Town Engineer for the portion of the site to be disturbed and the stage of work to be performed. Prior to the issuance of a Notice to Proceed for any phase, the Developer shall submit proof of all required permits and approvals from the appropriate agencies for that phase, along with phase construction plans approved by the Town Engineer.

9. Time for Completion - Work on the Public Improvements, if any, performed under this Agreement shall be completed within the time frame provided by the Approving Resolution and Amended Approving Resolution or if no time frame is specified, in accordance with the time frame provided for in the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq., specifically N.J.S.A. 40:55D-52, subject to any extensions granted by the Board ("Completion Date"). In the event that any Public Improvements undertaken by the Developer is not completed in accordance with the Approving Resolution and Amended Approving Resolution by the Completion Date, the Town may require the issuance of a performance guarantee from the Developer and then may invoke the performance guarantee to pay for the completion of such unfinished Public Improvements. Prior to invoking the

performance guaranty, the Town shall provide written notice of the Developer's outstanding obligations and provide it thirty (30) calendar days from the date of the notice to cure the outstanding obligations. In the event that such outstanding obligations cannot be completed within the thirty (30) calendar day period, the time to cure shall be reasonably extended for an additional period of time, not to exceed sixty (60) calendar days with written approval of the Town Engineer and the Town Manager. It shall be the Developer's sole responsibility to pay for and renew any performance guarantee that is in danger of expiring prior to the fulfillment of the conditions of this Agreement by the Developer at least thirty (30) calendar days prior to its expiration. Failure of the Developer to renew or pay for the performance guarantee shall be a default under this Agreement which may only be waived by the Town. In the event the Developer is required to post, maintain, amend, and/or renew any performance and/or other guarantee as required by this Agreement, the Developer may fulfill its obligation by requiring its general contractor to fulfill Developer's obligations with regard to such guarantees and the Town will accept the performance of those obligations from Developer's general contractor, so long as Developer's general contractor's performance guarantee is in a form required by and in accordance with N.J.S.A. 40:55D-53.

10. Deeds and Easements – The Developer is responsible for preparing and submitting the right-of-way deeds, deed restrictions, and easements as required by the Approving Resolution and the Amended Approving Resolution, including the items listed in this section, in the form(s) approved by the Town. In addition, the Developer shall provide the Town with Affidavits of Title and other documents customarily required for the recording of Deeds in a form acceptable to the Town. In order to expedite the review of these deeds and easements, the Developer shall provide a title report from a title company authorized to do business in New Jersey confirming that, other than with respect to permitted exceptions, all deeds and easements are free and clear of any liens or encumbrances, including but not limited to mortgage liens. In the event that there are any unpermitted liens or encumbrances, the Developer must provide proof that such liens or

encumbrances have been subordinated, extinguished or released as to the deeds and easements that are being given to the Town prior to the Town formally accepting the deeds and easements. In addition to the deeds and easements, to the extent that any structures are being constructed and dedicated to the Town as part of the development, the Town reserves the right to require that a Bill of Sale, free and clear of all liens and encumbrances, be provided to the Town at the time the deeds and/or easements are accepted. These easements shall be approved as to form and substance by the Town Engineer and the Town Attorney and recorded by the Developer at Developer's sole expense. The easements shall be prepared by the Developer and presented to the Town for review and approval prior to the first (1<sup>st</sup>) Certificate of Occupancy being issued. Notwithstanding the fact that the Town may provide sample documents such as deeds, rights-of-way, easements, etc., the Town reserves the right to require modifications or use of other forms based on the recommendations of its professionals, in the Town's sole discretion. Notwithstanding all of the foregoing, the Town shall have no obligation to accept any of the deeds and easements until such time as the Town Council formally adopts an Ordinance accepting the easements.

11. Water/Sewer Systems

A. All construction of the water and sewer mains, water and sewer supply systems, service lines, facilities, and appurtenances shall be in accordance with the plans and specifications as approved, directed and supervised by the Town's Licensed Operator or Town Engineer if the Licensed Operator is not available. The Newton Town Utility Advisory Board has, pursuant to the Newton Town Code, imposed upon the Developer a fee of Ninety-Nine Thousand Seven Hundred and Forty-Three Dollars and Thirty-Six Cents (\$99,743.36) for water and sewer supply and storage applicable to Phase 1 of the Development Project (the "Phase 1 Tap Fees") and Seventy-One Thousand Two Hundred and Thirty-Nine Dollars and Forty-Nine Cents (\$71,239.49) applicable to Phase 2 of the Development Project (the "Phase 2 Tap Fees"), which amount shall only

be payable prior to Developer's commencement of Phase 2 of the Development Project. The Phase 1 and Phase 2 Tap Fee calculations are set forth on Exhibit "C" annexed hereto.

B. The water and sewer mains, water and sewer supply systems, service lines, facilities, and appurtenances from the point that they branch off from the main service lines to the point that they connect into the proposed buildings shall be and shall remain under the ownership and control of the Developer and shall remain the sole responsibility of the Developer.

C. Upon use of the water and sewer systems, irrespective of whether same has yet been conveyed or conveyed to or accepted by the Town, all revenues, connection fees, fees, and charges thereafter derived shall belong to the Town.

D. The pump station and water and sewer mains located off Diller Avenue shall be privately owned and will be constructed and maintained by the Developer.

E. The existing elevated sanitary sewer lateral shall be properly sealed and abandoned by the Developer.

F. The Town shall not be responsible for any capital contributions towards the cost to install the Development's distribution system.

G. All water and sewer system components shall be in conformance with the standards of the Newton Town Water/Sewer Utility and the New Jersey State Department of Environmental Protection (NJDEP).

H. The Developer shall provide one (1) water meter and water shut-off valve for each proposed building. The Developer shall also provide a separate water meter and shut-off valve for each fire line.

12. Performance Guarantee - To guarantee the performance of the terms and conditions of this Developer's Agreement and to guarantee that the Developer conforms with all appropriate ordinances, rules and regulations of the Town and its agencies regarding installation of public improvements in the

public right of way, which may include improvements to the Town's infrastructure, the Developer shall post a performance guarantee or shall cause its general contractor to post a performance guarantee, in accordance with the requirements of the Town's ordinances and the Municipal Land Use Law (MLUL) in an amount equal to one hundred and twenty percent (120%) of the established cost of the remaining improvements in the public right of way, as per N.J.S.A. 40:55D-53, prior to being issued any building or other permits (or at the election of the Developer, (a) a cash deposit in the amount of one hundred percent (100%) of the cost estimate contained on Exhibit "D" (the "Cost Estimate") or, (b) with approval from the Town Engineer, the Developer may self-guarantee the cost of the improvements in the public right of way to the extent the Cost Estimate does not exceed \$20,000) . Furthermore, to the extent not duplicative of the guarantee/bonding obligations above, the Developer shall post, or shall cause its general contractor to post, a performance guarantee in an amount deemed appropriate by the Town Engineer, not to exceed one hundred percent (100%) of the cost, for any work being undertaken within existing used public rights-of-way. The amount of the performance guarantee shall be determined in accordance with a cost estimate prepared by the Developer's Engineer. The cost estimate shall be subject to review and approval by the Town Engineer. The cost estimate is contained in Exhibit "D" annexed hereto. The guarantee shall be in a form approved by the Town Attorney and accepted and approved by the Town Council. Reduction in any amount of the guarantee due to improvements already installed shall be permitted in accordance with the procedure outlined in N.J.S.A. 40:55D-53. The performance guarantees will be released upon completion of the public improvements .

13. Procedure for Certificate of Substantial Completion - A Certificate of Substantial Completion shall be granted or denied by the Town Engineer within forty-five (45) calendar days of a written notice from the Developer declaring the substantial completion of the public improvements, as defined by N.J.S.A. 40:55D-53(d)(1), and as described in the notice. In addition to the

requirements of N.J.S.A. 40:55D-53(d)(1), the notice shall also be transmitted to the Town Engineer and the Town Clerk by certified mail, return receipt requested and/or hand delivered along with a copy provided to the Secretary of the Board. The Town Engineer shall inspect all such public improvements contained within the request and file a written report with the Board Secretary. In the event of rejection of all or a portion of such public improvements, the report shall state the reason(s).

14. Maintenance Guarantee - The Developer hereby agrees to guarantee the ongoing maintenance costs of on-site improvements dedicated to the Town, for a period of two (2) years from the date of final acceptance of all Dedicated Improvements.

15. Coordination - In addition to the items already set forth, it shall be the Developer's responsibility to ensure the following:

A. All areas on the site that are not to be disturbed during construction shall be demarcated, where required, by snow fence or silt fence during construction. Violation of these disturbance areas shall result in a stop work order for that area affected by the violation as determined by the Town Engineer and shall remain in full force and effect until the violation is corrected and any damaged area is restored to its original state.

B. Developer shall install soil sedimentation control measures prior to any disturbance on site. Failure to do so shall result in a stop work order. The Developer shall be required to continually maintain the soil erosion sediment control measures during construction. Failure to do so shall result in a stop work order being issued which shall remain in full force and effect until the violation is corrected and any damage to the Property is restored to its original state.

C. Cut sheets shall be provided, upon request, to the Town Engineer's office directly and to the on-site inspector during construction.

D. All conditions contained in the Approving Resolution and Amended Approving Resolution, as shown on Exhibits "A" and "B" to this Developer's Agreement, shall be incorporated into

four (4) sets of revised plans to be submitted to the Town Engineer prior to any construction or disturbance of the site. Certification from the Developer's design engineer that the plans are in accordance with the Approving Resolution and the Amended Approving Resolution shall be required on the revised plans.

## SECTION II

### GENERAL PROVISIONS

16. Engineering and Legal Charges - Reasonable engineering and legal fees (excluding inspection fees) incurred by the Town and Board, including but not limited to the drafting/revision/finalization of this Agreement and any enforcement proceedings, shall be reimbursed by the Developer at the hourly rates established by those professionals with the Town. An initial escrow amount of Ten Thousand (\$10,000.00) Dollars shall be tendered by the Developer to the Town in conjunction with the Developer's signing of this Agreement to the Town Planning Department. This escrow shall be maintained at this level throughout the duration of this Agreement. In the event Developer fails to replenish the escrow within ten (10) calendar days after demand for same by the Town, the Town and its professionals shall be under no obligation to further consider any submissions by the Developer unless and until the escrow is fully replenished. Such funds shall be released within thirty (30) calendar days of acceptance of the Dedicated Improvements.

17. Title Certification - Following execution of this Agreement by the Developer, the Developer shall file with the Town Clerk, and provide a courtesy copy to the Town Attorney, a certificate issued by an attorney-at-law of New Jersey certifying to the Town that title to all lands shown on the site plans required for all Public Improvements (with the exception of those off-tract areas) is held by Developer on or before the commencement of any construction whatsoever. Within ten (10) calendar days after any transfer of title, with the exception of the conveyance of individual lots not containing structures with easements in which the Town is a party or third (3<sup>rd</sup>) party beneficiary, a further certificate of title shall be

filed certifying as to the condition of the title and showing all ownership interests.

18. Transfers - Unless otherwise agreed to by the Town in writing, any assignment, transfer, or sale of the subject property, or any part thereof, shall not operate to relieve the Developer, its heirs, transferees, successors, representatives, designees, and/or assigns, from its obligations to complete the construction of all Public Improvements required in this Agreement and the Approving Resolution or Amending Approving Resolution in connection with the construction of the Project. The Developer shall remain obligated to the Town under this Agreement to build the Public Improvements in connection with the construction of the Project. Finally, in the event of a transfer, all provisions of this Developer's Agreement, along with the terms of the Approving Resolution and/or Amended Approving Resolution, shall specifically run with the land and the covenants shall be enforceable by the Town should it become necessary or advisable for it to institute legal proceedings in order to enforce provisions of this Agreement. Developer, its heirs, transferees, representatives, designees, successors, and/or assigns, shall be responsible and agree to pay all of the Town's costs in bringing any such action, including attorney fees.

19. Approvals by other Governmental Agencies - It is agreed and understood the Developer shall be responsible to secure, at its own cost and expense, all other approvals required by County, State, Federal, Town, and/or other agencies having jurisdiction prior to commencement of construction of the relevant improvement(s). Issuance of a building permit, Notice to Proceed, Certificate of Final Approval or other action by the Town or its agents shall not constitute a waiver of the Developer's obligation to secure other governmental approvals nor result in any estoppel being raised against the Town in the event that the Developer fails to secure the other necessary governmental approvals.

### SECTION III

### LIMITATION OF MUNICIPAL LIABILITY

20. Municipal Parties Not Liable to Third Parties - The Town and/or any of its officials, officers, representatives, designees, assigns, boards, and/or employees assume no contractual or other liability to any persons, firms, and/or corporations dealing with the Developer as a result of entering into this Developer's Agreement. Any activities taking place as part of the Development, including those taking place on site, shall be the sole responsibility of the Developer.

21. Municipal Parties Not Liable to Contractors or Suppliers – Nothing contained herein shall be construed to render the Town or any of its officers, officials, representatives, designees, assigns, boards, and/or employees liable for any charges, costs or debts or material, labor, or other expenses incurred in the making of the improvements.

22. Indemnification – The Developer shall be and shall remain liable for any and all damages and/or money loss (including all attorneys' fees, costs and interest) incurred by the Town, its officers, professionals, officials, employees, representatives, designees, boards, and/or agents as a result of any act, omission, negligence, or wrongdoing by the Developer, its successors, heirs, assigns representatives, designees, and/or any person, firm, or corporation acting on behalf of the Developer arising from the making of both on- and off-tract improvements and/or from the performance of the terms of this Agreement. The Developer shall defend, hold harmless and indemnify the Town, its officials, officers, employees, professionals, designees, agents, boards, and/or representatives from any and all damage, and/or money loss which may arise from any such claim, action, damage or money loss incurred by the Town, its officials, officers, employees, professionals, designees, representatives, board, and/or agents from the construction of improvements and the Developer's performance of the terms of this Agreement. This indemnification shall not affect the Developer's right to proceed against third (3<sup>rd</sup>) parties.

#### **SECTION IV**

#### **OPERATIONS**

23. Nuisance – The Developer agrees not to commit any public or private nuisance. The Developer shall comply with Town and State noise control laws, regulations, and/or ordinances, as well any applicable ordinances regulating construction. No provision of this Agreement shall be deemed to be a waiver of any right of the Town or its agencies under any statute, regulation, rule ordinance, Town Code, and/or other law.

24. Abatement of Unsafe Conditions – The Developer shall correct and make safe any dangerous or unsafe condition created by it or those acting for it adversely affecting the public safety or general welfare or affecting the safety or welfare of other occupants of the Project as determined by the appropriate enforcement official of the Town.

25. A. Insurance – The Developer shall procure general commercial liability insurance, including personal injury liability and property damage liability including contingent liability and contractual liability in the amounts and types required by the Town in relation to the performance of the work required under this Agreement and shall provide the Town prior to starting work with a Certificate of Insurance designating the Town as an additional insured and certificate holder under each policy which shall be in the minimum amount of \$2,000,000 per occurrence.

B. The Developer further covenants and agrees that it will provide motor vehicle liability and property damage insurance coverage and provide the Town with a Certificate of Insurance designating the Town as an additional insured and certificate holder under the policy which insurance coverage shall be in the minimum amount of \$2,000,000 per occurrence.

C. Developer further covenants and agrees it will provide workmen's compensation insurance coverage as required by New Jersey law for its employees and will require evidence of such coverage to be supplied by any subcontractor who may be employed to perform work under this Agreement and to provide all such policies to the Town and name the Town as an additional insured.

D. The Developer's Insurance shall provide primary coverage and shall waive subrogation

in favor of the Town of Newton. The insurance shall contain a written obligation from the insurer requiring advance notification to the Town prior to the insurance being cancelled, terminated, or non-renewed. The Policies and Certificates of Insurance for all insurance, including but not limited to, the Commercial General Liability and Motor Vehicle and Workman's Compensation insurance shall be delivered to, in a form acceptable to the Town prior to the commencement date of any Project work and no later than ten (10) calendar days prior to the expiration of any policy.

## **SECTION V**

### **MAINTENANCE OF PUBLIC IMPROVEMENTS**

26. Maintenance and Repair During Construction - The Town shall have the right, but not obligation, to maintain and inspect all improvements which are being constructed and to be dedicated to the Town by the Developer under this Agreement. In the event the Developer or owner fails to make repairs within a reasonable time period after written notice, the Town shall have the authority to undertake the necessary work for all site improvements being dedicated to the Town and to charge the Developer or owner for the cost of work completed.

## **SECTION VI**

### **MISCELLANEOUS**

27. Severability of Provisions - If any section of this Agreement shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect the remaining sections of this Agreement. The provisions of this Agreement are intended to be severable.

28. Payment of Taxes and Municipal Charges – Subject to its right to legally challenge any taxes or assessments, which right Developer expressly retains, the Developer shall timely pay all property taxes, payments in lieu of taxes, special assessments, and/or municipal charges that become due and owing during the term of this Agreement.

29. Successors Bound - This Agreement shall be binding upon all of the successors and assigns of the Parties signing it and each of the provisions of this Agreement shall have the same force and effect as if set forth at length as conditions of the grant of land use approvals by the Board in regard to this matter.

30. Recording - This Agreement shall be recorded at the sole cost and expense of the Developer. It is understood and agreed that the continuing easements and obligations contained in this Agreement run with the land.

31. Notices - All notices shall be served by Certified Mail, Return Receipt Requested and regular mail upon the Parties at the addresses shown on page one. Copies of all notices shall also be delivered to the Parties' attorneys via regular mail and fax:

As to Developer:

Robert P. Regimbal, Esq.  
Thorlabs, Inc.  
56 Sparta Avenue  
Newton, New Jersey 07860

Peter T. Donnelly, Esq.  
Donnelly, Minter & Kelly, LLC  
163 Madison Avenue, Suite 320  
Morristown, New Jersey 07960

As to Town of Newton:

Eric M. Bernstein, Esq.  
Eric M. Bernstein & Associates, LLC  
34 Mountain Blvd., Building A  
P.O. Box 4922  
Warren, New Jersey 07059-4922

Thomas S. Russo, Jr., MPA, CPM, Harvard PLC  
Town Manager  
Town of Newton Municipal Building  
39 Trinity Street  
Newton, New Jersey 07860

## SECTION VII

### DEFAULT

32. Upon default by the Developer and subject to the notice and cure provision within this Agreement, the Town shall be entitled to all rights and remedies under law and equity including but not

limited to those provided by N.J.S.A. 40:55D-53. A default shall occur if the Developer: (1) delays completion of the work beyond the time limit set forth in this Agreement; (2) delays completion of the work after notice by the Town to proceed as set forth in this Agreement; (3) departs from the requirements of the plans, resolution, specifications, rules, regulations, statutes, or ordinances in a material or consequential way, as determined solely by the Town, without the consent of the Town; and/or, (4) shall commit any act of insolvency or bankruptcy or apply for receivership. All remedies available to the Town in the event of default are cumulative in nature.

**IN WITNESS WHEREOF** the Parties have executed this Agreement on the day and year written at the top of the first page.

[SPACE INTENTIONALLY BLANK, SIGNATURES FOLLOW]



STATE OF NEW JERSEY )  
 )SS:  
COUNTY OF SUSSEX )

BE IT REMEMBERED, that on this 16th day of June, 2023, before me, the subscriber, a Notary Public of the State of New Jersey, personally appeared before me Robert P. Regimbal, who, being by me duly sworn on his/her oath, deposes and makes proof to my satisfaction, that he/she is the Manager of PUNCTUATED EQUILIBRIUM, LLC (THORLABS-QUANTUM REALM), a limited liability company, established and operated under the Laws of the State of New Jersey, the entity named in the within instrument and that he/she signed, sealed and delivered the attached document as and for his/her act and deed and the authorized act and deed of PUNCTUATED EQUILIBRIUM, LLC (THORLABS-QUANTUM REALM).

Sworn and subscribed to  
before me this 16 day of  
June, 2023.

  
Notary Public

**DAWN M. TORIELLO**  
**NOTARY PUBLIC OF NEW JERSEY**  
**My commission expires June 28, 2025**  
**License #2000959**

EXHIBIT A TO DEVELOPER'S AGREEMENT

**RESOLUTION  
TOWN OF NEWTON  
PLANNING BOARD  
In the Matter of Punctuated Equilibrium, LLC  
Application #P-15-2020  
Decided on January 20, 2021  
Memorialized on February 17, 2021  
Preliminary and Final Site Plan and Bulk/C Variance Approval**

**WHEREAS**, Punctuated Equilibrium, LLC has made application to the Town of Newton Planning Board for preliminary and final site plan approval and variance relief for property known as Block 20.01, Lot 1 and Block 22.04 Lots 3 & 6, as shown on the Tax Map of the Town of Newton, located on 1 Brooks Plaza, in the SD-4 Industrial Manufacturing Zone District; and,

**WHEREAS**, pursuant to N.J.S.A. 40:55D-25, the Town of Newton has by ordinance established the Town of Newton Planning Board which has dual powers of planning and zoning; and,

**WHEREAS**, a public hearing was conducted on January 20, 2021 by audio and video Zoom, upon proper notice, after the Board determined it had jurisdiction; and,

**WHEREAS**, the applicant was represented by Peter T. Donnelly, Esq.;

**NOW, THEREFORE**, the Town of Newton Planning Board makes the following findings of fact, based on evidence presented at its public hearing, at which a record was made.

The Applicant presented the testimony of professional engineer, Thomas F. Graham, P.E., to explain the civil engineering related to the project. The property is approximately seventy (70) acres and is currently occupied by a 48,000 square foot building on the industrial site. The proposal is to construct a 100,000 square foot building, demolish the existing 48,000 square foot building, and then add an additional 53,000 square feet to the newly constructed building. The building will be utilized primarily as a warehousing and distribution facility, with the bulk of the building to be utilized for storage. Finished goods will be stored on site for inventory, about 20,000 different items in the current catalog.

The property is flag lot shaped, with narrow frontage along Diller Avenue that widens deeper into the property. Steep slopes, a 140-foot JCP&L easement, wetlands, a flood hazard area, and tributary of the Paulinskill River are present on the property. The existing driveway will remain, with slight revisions. The driveway was shifted to accommodate monitoring wells

utilized by JCP&L. The driveway will maintain a thirty (30') foot width in its entirety, and will add a sidewalk.

The property is located within the SD-4 Zone and meets all bulk requirements, but for the proposed first floor height and paved area shading. A maximum building height of fifty (50') feet is permitted, but first story height is limited to twenty-four (24') feet, per Town Code §320-14.C, and the proposal is for a first story height of thirty-five (35') feet. The applicant explained that the proposed first floor height is beneficial because it meets storage requirements without an increase in impervious coverage. Variance relief is also required where the paved surface shading, per Code Section 320-24.G.2 is insufficient, where not 50% of the paved area is shaded by 15-year plantings. The lighting for the development will be revised to meet the ½-foot candle requirement criteria. The landscaping is sufficient, and will be added to. Only ten (10) of seventy (70) acres is being disturbed per the site plan, and the building is not visible from the road or to neighbors.

Four hundred fifty-seven (457) parking spaces are required per the Town Code, but the applicant's professionals explained that only one hundred ninety-five (195) total spaces are necessary at the most, considering if all employees are present at one time for a shift change. The applicant has requested to "bank" parking spaces in excess of one hundred ninety-five (195), by showing the ability to provide and grade for the required four hundred fifty-seven (457) spaces, but keep the excess parking spaces green until there is a demand for their use. Currently there are ninety-seven (97) parking spaces on site. The new construction is at least nine hundred eighty three (983') feet from the property line on Diller Avenue, and a one hundred forty (140') foot JCP&L utility easement also provides a buffer.

The applicant will expand the existing water system and sanitary sewer service. The Town's Fire Marshall and utility advisory board are to review the project's water and sewer proposal and use.

Two façade signs are proposed and the existing freestanding sign on Diller Avenue is to remain, and will be in compliance with Town Code requirements. The existing bike path will be preserved over the applicant's driveway, with new signage and cross walk installation, with the path only enhanced and not moved.

Board member questions concerned the imported fill, water capacity concerns, and lighting, which were answered by the applicant. The Board engineer opined that the Town has sufficient water and sewer capacity for the proposal.

Lance Blake, R.A., A.I.A., licensed architect, testified in support of the application. Phase 1 will include the construction of a 100,000 square foot industrial building containing a light manufacturing warehouse and distribution use. During Phase 2, the entrance of building will be enhanced, with glass, and architectural and branding elements. The building will be expanded to include a 53,000 square foot addition containing the same use plus office space. Board members commented on approved of the final architectural design, as aesthetically pleasing.

Robert P. Regimbal, Manager of Punctuated Equilibrium, LLC, testified as to the operations of the proposed facility. The facility is being expanded to provide additional storage that is needed for ThorLabs. Items being stored in the climate-controlled building are finished products, which are metal components, stored in boxes, and do not include gases. Finished goods will be stored on site for inventory, about 20,000 different items in the current catalog. Truck traffic remains largely as it does today, with increased local traffic. A total of fifty-eight (58) trucks are expected daily, including company box trucks, tractor trailers, and deliveries. Currently, forty-five (45) trucks per day access the site for the existing building- for an increase of twenty six (26) trips per day. Current operations are thirty (30) employees per shift per day. The expansion expects to increase to sixty-five (65) employees on the first shift, with potential additional administrative and technical support. Most employees already commute to Newton for work each day, and shift and traffic hours will remain the same. Hours of operation are 8:00 a.m-5:00 p.m. for the fifteen (15) administrative employees; and distribution employees currently number thirty (30) employee, to increase to seventy-five (75), for two shifts: 4:45 a.m.-1:15 p.m. and 1:15 p.m.-9:45 p.m. Truck traffic is expected from 8:00 am to 8:00 pm.

Board members had questions regarding forklifts and storage contents that were explained by the applicant.

Jessica Caldwell, P.P., A.I.C.P, Board planner, noted that elimination of the elevated sewer main near Brooks Drive is a benefit, and employee trips are generally off peak hours, with a minimal increase in truck traffic- so not much of an impact. Ms. Caldwell found that c(2) bulk variance standards apply, where benefits outweigh detriments.

A report from the Board Engineer, David B. Simmons, Jr., P.E., L.S., C.M.E., dated January 14, 2021, and a report from the Board Planner, Jessica Caldwell, dated January 14, 2021, were considered by the Board in its deliberations.

The meeting was then opened to the public at which time questions were asked, live and via the Zoom chat feature, by John and Darlene Kishpaugh, Ludmilla Mecaj, Peg Baldini, and Nicholas Ruggia. The public questions were regarding access, water capacity, water and sewer connections, fire protection, traffic, landscaping, and lighting.

Waivers were requested and recommended by the Board engineer, from Code Section 240-8.C.1 for landscaping less than 15% of the interior parking, and Section 240-8.C.3 where landscaping does not meet all Code requirements.

**NOW, THEREFORE**, the Town of Newton hereby makes the following conclusions of law, based upon the foregoing findings of fact.

The Municipal Land Use Law states that preliminary major site plan approval shall be granted based upon the submission of a "site plan and other such information as is reasonably necessary to make an informed decision as to whether the requirements necessary for preliminary site plan approval have been met." After careful review of the requirements under the site plan ordinance, the engineering plans, testimony and all other submissions, the Board finds that the detailed drawings, specifications and other evidence conform to the standards established by ordinance for preliminary site plan approval to be granted.

The Municipal Land Use Law states that final major site plan approval is an official action of this Board taken on a preliminary approved major site plan "after all conditions, engineering plans and other requirements have been completed or fulfilled and that the required improvements have been installed or guarantees properly posted for their completion, or approval conditioned upon the posting of such guarantees". The Board finds that the detailed drawings, specifications and estimates of the application for final approval conform to the standards established by ordinance for final approval as well as the conditions of preliminary approval. Therefore, both preliminary and final site plan approval are appropriate.

The Municipal Land Use Law, at N.J.S.A. 40:55D-70(c) provides Boards with the power to grant variances from strict bulk and other non-use related issues when the applicant satisfies certain specific proofs, which are enunciated in the Statute. Specifically, the applicant may be entitled to relief if the specific parcel is limited by exceptional narrowness, shallowness or shape.

An applicant may show that exceptional topographic conditions or physical features exist which uniquely affect a specific piece of property. Further, the applicant may also supply evidence that exceptional or extraordinary circumstances exist which uniquely affect a specific piece of property or any structure lawfully existing thereon and the strict application of any regulation contained in the Zoning Ordinance would result in a peculiar and exceptional practical difficulty or exceptional and undue hardship upon the developer of that property. Additionally, under the (c)(2) criteria, the applicant has the option of showing that in a particular instance relating to a specific piece of property, a purpose of the act would be advanced by allowing a deviation from the Zoning Ordinance requirements and the benefits of any deviation will substantially outweigh any detriment. In those instances, a variance may be granted to allow departure from regulations adopted, pursuant to the Zoning Ordinance. Those categories specifically enumerated above constitute the affirmative proofs necessary in order to obtain "bulk" or (c) variance relief. Finally, an applicant must also show that the proposed variance relief sought will not have a substantial detriment to the public good and, further, will not substantially impair the intent and purpose of the zone plan and Zoning Ordinance. It is only in those instances when the applicant has satisfied both these tests, that a Board, acting pursuant to the Statute and case law, can grant relief. The burden of proof is upon the applicant to establish these criteria.

Here, the proposal meets c(2) criteria to be entitled to variance relief. A variance is required for maximum building height, where although a total building height of fifty (50') feet is permitted, but first story height is limited to only twenty-four (24') feet, per Town Code §320-14.C. The applicant complies with overall building height, but requires variance relief due to the fact that first story height of thirty-five (35') feet is proposed. The increased first floor height is better planning in this instance where the building overall is less than that permitted by Code, and a taller first floor results in less impervious coverage. Variance relief is also required for the paved surface shading, per Code Section 320-24.G.2, where not 50% of the paved area is shaded by 15-year plantings. Given the size of the development and landscaping conditions, the benefits of the deviation will substantially outweigh any detriment.

The positives outweigh the negatives in this case, and there is no substantial detriment to the zone plan, zoning scheme or master plan. A current older building is being replaced with a new building on a large lot that will largely remain vacant. The applicant's proposal eliminates an elevated sewer main, improves the current driveway, and adds a sidewalk, which

is a benefit to the surrounding neighborhood and Town. Slightly increased employee trips are generally off peak hours, with a minimal increase in truck traffic. The Board planner specifically opined that a c(2) bulk variance was appropriate here, where benefits outweigh detriments. Improved aesthetics and landscaping and appropriate conditions also support the granting of variance relief.

A report from the Board Engineer, David B. Simmons, Jr., P.E., L.S., C.M.E., dated January 14, 2021, was considered by the Board in its deliberations.

A motion was made by Board Member Flaherty, seconded by Board Member Marion, to grant Preliminary and Final Site Plan Approval with Bulk/c Variances.

**NOW, THEREFORE, BE IT RESOLVED** by the Town of Newton Planning Board, that the application of Punctuated Equilibrium, LLC, for Block 20.01, Lot 1 and Block 22.04, Lots 3 & 6, as shown on the Tax Map of the Town of Newton, requesting land use relief, is granted, as follows:

A. Preliminary and Final Site Plan approval per N.J.S.A. 40:55D-46 and N.J.S.A. 40:55D-50; and

B. Variance relief per N.J.S.A. 40:55D-70(c)(2) for first floor story height (35 feet proposed where max first floor story height of 24 feet is permitted) per Code Section 320-14.C; and variance relief for paved surface shading, per Code Section 320-24.G.2, where not 50% of the paved area is shaded by 15 year plantings.

**IT IS FURTHER RESOLVED** that the above approvals are granted subject to the following terms and conditions:

1. The development of this parcel shall be implemented in accordance with the plans submitted and approved.

2. This approval is granted strictly in accordance with the plat prepared by Thomas F. Graham, PE, dated December 1, 2020, as may be amended by this approval.

3. The applicant is bound to comply with the representations made to the Board by the applicant and applicant's professionals.

4. All taxes, fees, assessments, escrows and other monies due to the Town of Newton shall be paid in full. Any monies are to be paid within twenty (20) days of said request by the Board's Secretary..

5. Certificate that taxes are paid to date of approval.

6. The Applicant shall obtain approval from all other governmental agencies with jurisdiction relating to the Application on the property.
7. Sussex County Planning Board review and/or approval, if required. Any substantial deviations from the plans shall require return to this board for review.
8. Upper Delaware Soil Conservation District approval.
9. New Jersey Department of Environmental Protection approval.
10. Obtain written confirmation from JCP&L that they do not object to the proposed site improvements.
11. Water and sewer approval from the Town of Newton Utility Advisory Board.
12. Pump station and water and sewer mains located off Diller Avenue shall be privately owned, to be constructed and maintained by the applicant, not the Town of Newton.
13. The existing elevated sanitary sewer lateral shall be properly sealed and abandoned by the applicant, not the Town of Newton.
14. The entire length of the driveway access to the property shall be thirty (30') feet wide.
15. Truck access for fill material related to this development shall only utilize Diller Avenue, between Sparta Avenue and Brooks Plaza.
16. Fire connections shall be provided as per the Town of Newton Fire Department and Sussex County Fire Marshall approvals. Any minor parking revisions due to fire connections are subject to the approval of the Board Engineer.
17. Approximately two hundred (200) parking spaces shall be constructed and the balance may remain as green space, and be banked. Grading, construction of retaining walls and infrastructure/storm drainage is required to be completed prior to granting of any certificate of occupancy. The Board engineer shall approve of the applicant's parking constructed.
18. Should the Town of Newton determine that additional parking spaces are to be provided; such additional parking shall be provided by the applicant within six (6) months of the Town of Newton's request for additional parking spaces.
19. The landscape plan shall be amended to include additional foundation plantings at the front of the building façade. Additional landscaping shall also be provided throughout the site, per the Board Engineer's approval.

20. The applicant shall prepare and submit a maintenance and operation manual for stormwater management facilities, for the approval of the Board Engineer.
21. There shall be no bulk/warehouse storage of chemicals, gases or combustibles on site.
22. There shall be no outside storage of items on the site.
23. Applicant shall remove existing storage trailers onsite.
24. The existing rail trail on site shall be combined with the proposed new sidewalk to prevent trail users from sharing the drive with trucks, subject to approval of the Board Planner and Board Engineer.
25. Lighting on the west side of the building shall be reviewed and improved upon by applicant and subject to Board Engineer approval.
26. Additional lighting shall be added along the sidewalk on Brooks Plaza and subject to Board Engineer approval.
27. The applicant shall install ADA ramps on the crosswalk at the intersection of Brooks Plaza and Diller Avenue.
28. The Applicant's New Jersey Licensed Land Surveyor to prepare an as-built plan upon completion of the project.
29. The Board recommends to the Governing Body execution of a Developer's Agreement by the applicant and the Governing Body, containing the conditions of approval including a sequence of construction which shall be recorded as a lien and notice upon this property of the developer's obligations concerning this approval.
30. Prior to the issuance of any construction permit for commencement of site work, the Applicant shall file with the Board and Construction Official an affidavit verifying that the Applicant is in receipt of all necessary agency approvals other than the Board, and supply a copy of any approvals received.
31. Before any work is commenced on the project, if requested by the Town Engineer, the Applicant shall attend a preconstruction meeting with the Town Engineer.
32. The Applicant shall comply with all rules, regulations, statues and ordinances of the United States of America, State of New Jersey, County of Sussex, and Town of Newton.

The undersigned secretary certifies the within resolution was adopted by this Board on January 20, 2021, and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on February 17, 2021.

  
Katherine Citterbart

FOR: Mr. Flaherty, Mr. Marion, Mrs. Vrahnos, Mrs. Hall-Romer, Mr. Dickson, Mr. Le Frois

AGAINST: \_\_\_\_\_

ABSTAIN: \_\_\_\_\_

**Board Members Eligible to Vote:**



# HAROLD E. PELLOW & ASSOCIATES, INC.

CONSULTING ENGINEERS • PLANNERS • LAND SURVEYORS

Established 1969

HAROLD E. PELLOW, *PRESIDENT*  
NJ - P.E. & L.S., NJ - P.P., NJ - C.M.E.

ANN PELLOW WAGNER  
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(5/26/84 - 7/27/89)

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NJ - P.E. & L.S., NJ - P.P., NJ - C.M.E.  
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MATTHEW J. MORRIS  
NJ - L.L.A., NJ - P.P.

THOMAS G. KNUTELSKY, *ASSOCIATE*  
NJ - P.E.

January 14, 2021

**MEMORANDUM TO:** Town of Newton Planning Board

**FROM:** David B. Simmons, Jr., P.E., L.S., C.M.E.

**SUBJECT:** Application #P-15-2020 – Site Plan for Thorlabs – Quantum Realm  
Block 20.01, Tax Lot 1 and Block 22.04, Tax Lots 3 & 6  
Located on Brooks Plaza  
Town of Newton, Sussex County  
HPA No. 20-262

Dear Board Members:

The Applicant is proposing to remove the existing 48,628 SF industrial building on Block 22.01, Tax Lot 1 and construct a 153,000 SF industrial building in two (2) phases. A total of 459 parking spaces, storm drainage, landscaping, lighting, and utility system improvements will also be constructed.

Based on a review of the documents submitted and an on-site inspection, I have the following comments:

1. The documents reviewed include the following:
  - a. Site plan prepared by Dykstra-Walker Design Group, consisting of the following sheets:

Sheet No.	Title	Latest Revision Date
1	Title Sheet	12/1/2020
2	Overall Site Layout Plan	12/1/2020
3	Site Layout Plan (Sheet A)	12/1/2020
4	Site Layout Plan (Sheet B)	12/1/2020
5	Site Layout Plan (Phase 1)	12/1/2020
6	Grading & Utility Plan (Sheet A)	12/1/2020
7	Grading & Utility Plan (Sheet B)	12/1/2020
8	Quantum Realm Drive Profile	12/1/2020
9	Quantum Realm Intersection Sight Distance Plan & Profile	12/1/2020
10	Site Lighting Plan (Sheet A)	12/1/2020
11	Site Lighting Plan (Sheet B)	12/1/2020
12	Site Landscaping Plan	12/1/2020

Sheet No.	Title	Latest Revision Date
13	Soil Erosion & Sediment Control Plan	12/1/2020
14	Environmental Map	12/1/2020
15	Diller Avenue Profile & Cross-Sections	12/1/2020
16	Soil Erosion & Sediment Control Construction Notes & Details	12/1/2020
17-20	Construction Notes & Details	12/1/2020

- b. Boundary & Topographic Survey prepared by Dykstra-Walker Design Group, Kenneth D. Dykstra, P.E., L.S., consisting of the following sheet:

Sheet No.	Title	Latest Revision Date
1 of 1	Boundary and Topographic Survey Plan	11/6/2020

- c. Architectural plans by Rotwein & Blake, consisting of the following sheets:

Sheet No.	Title	Latest Revision Date
A1.1	First Floor Plan	11/24/2020
A4.0	Elevations	11/24/2020

- d. Stormwater Management Calculations for Thorlabs – Quantum Realm prepared by Dykstra-Walker Design Group, dated December 1, 2020.
- e. Amendment letter from Peter Donnelly, Esq. dated December 17, 2020 regarding first floor height variance.
- f. Environmental Impact Statement for Thorlabs – Quantum Realm prepared by Dykstra-Walker Design Group, dated December 1, 2020.
- g. Seven (7) photos of the subject property taken by Dykstra-Walker Design Group, dated December 3, 2020.
- h. Facilities Impact Report prepared by Dykstra-Walker Design Group, dated December 1, 2020.

2. **ZONING**

- a. The subject property is located in the SD-4 Industrial Manufacturing Zone.
- b. The proposed building meets the bulk zoning requirements of the SD-4 Special District, with the following exception:

Section 320.14(c) allows a maximum first floor story height of 24 feet, and the proposed first floor story height is 35 feet.

3. SITE PLAN

- a. Sheet 1, Note #5 – Correct the Shift times to agree with the Facilities Report, i.e., correct 1:15 AM to 1:15 PM.
- b. Sheet 1, Note #16 indicates that approximately 25,000 CY ± of fill will be required for this project.

At approximately 16 CY per tandem truck, this volume of fill equates to almost 1,600 tandem truckloads.

The Applicant to discuss the route that these trucks would take, operating hours, and anticipated timeframes to help minimize the impact on the surrounding neighborhood.

- c. The limits of the existing JCP&L easements to be confirmed in writing with the utility company, as the proposed parking, retaining walls, fencing, and access drive are either adjacent to or in the power company's easements.
- d. ADA ramps to be provided for the crosswalk at the intersection of Diller Avenue and the access drive.
- e. The plan does not show a fence along the boulder retaining wall area, but the construction detail for the wall does. Fencing to be provided.
- f. There is proposed grading shown within the limits of the JCP&L easement. Approval from the power company to be obtained for this work.

4. PARKING

- a. The parking analysis on Sheet 2 indicates 459 parking spaces are required for the proposed 153,000 SF building on Lot 1. The Applicant is proposing 467 on-site parking spaces in the table. However, I find only 459 parking spaces shown on the site plan, which includes 97 compact parking spaces.
- b. I note that the parking provided includes a mixture of sizes, including 97 compact parking spaces (8' x 15'), and 10 ADA spaces.
- c. It is my understanding that some of the parking spaces near the proposed building may have to be eliminated to allow for fire department connections. Any eliminated parking spaces will have to be replaced in other areas of the site.

5. **STORMWATER MANAGEMENT**

- a. The proposed application meets the definition of a “Major Development”, and is therefore subject to meeting the current Town of Newton and NJDEP stormwater requirements. The design of the proposed stormwater management facility must adequately address three main criteria, which includes water quantity reductions, water quality treatment, and groundwater recharge. The proposed development, which spans over ± 13 acres, consists of one (1) point of analysis to compare pre-development and post-development conditions. The water quantity reductions and water quality treatment are being addressed by utilizing two (2) large under-ground structures and two (2) manufactured treatments devices. Runoff is conveyed through multiple stormwater systems ranging from 15” dia. HDPE to 36” dia. HDPE storm sewers.
- b. **Water Quantity**  
  
The required water quantity reductions have satisfactorily been met.
- c. **Water Quality**  
  
The current design meets the required 80% TSS removal rate, subject to providing the following additional information for review:
  - i. Sizing calculations by the manufacturer of the proposed water quality chambers.
- d. **Recharge**  
  
The recharge requirement has satisfactorily been addressed.
- e. A maintenance manual prepared in accordance with Chapter 8 of the NJDEP Best Practice manual is required. This document, once approved, shall be recorded as per NJAC 7:8-5.8(d).
- f. Grate capacity calculations to be submitted for review of all the proposed inlets.
- g. A construction detail of the proposed underground structures to be provided for review.
- h. Top and bottom spot elevations of the proposed retaining wall along the southeasterly end to be provided.

6. **UTILITIES**

a. **Water**

- i. The plans show a new 8" water main being constructed around the perimeter of the proposed building and tying into the existing 8" main in the access drive.

This new 8" water main is basically being constructed to serve the Applicant's property and buildings. Therefore, it will be a private water main owned, operated, and maintained by the Applicant.

- ii. The fire protection flow and pressure demand for the proposed building to be provided and the size of a separate fire water meter, to be provided by the Applicant.

In addition, calculations to be provided to confirm that adequate flow and pressure are available from the existing and proposed 8" water main.

- iii. The Applicant should coordinate the placement of fire hydrants on the subject property with the Fire Subcode Official and the Fire Marshal.

- iv. Verify with the Newton Water Department that the existing 8" water main in the access drive is connected to the 12" water main in Diller Avenue and not the smaller 6" water main.

- v. Confirm that the profile of the existing access drive is not going to be cut down, which would reduce the amount of cover material over the existing water main.

b. **Sanitary Sewer**

- i. The existing building on the subject property is served by an existing private sewer lateral running towards the Sparta Avenue pump station.

The Applicant proposes to abandon the existing private lateral and construct a new private pump station and force main to bring the sewage to the high point of the access drive. The Applicant would also construct approximately 530 LF of private 8" gravity sewer main from the high point to the tie-in at Diller Avenue.

- ii. The proposed private sanitary sewer pump station, force main, and gravity main to be reviewed by the Town's sanitary sewer engineer.

- iii. The existing private sanitary sewer lateral will have to be properly disconnected and sealed, as approved by Newton Water & Sewer Utility.

- iv. The sanitary sewer mains shown on the property survey from Sparta Avenue to the Sparta Avenue pump station to be revised to show the current alignment per Newton Sewer Department.

7. **LIGHTING**

- a. Note #2 on Sheet 10 calls for the site lighting to be turned off at a time agreed upon by the Board.

The Applicant to discuss the lighting times and what lights will be left on for security.

- b. There is an area of the parking lot near the middle of the northerly end of the building with slightly less than 0.5 footcandle.

The Applicant to review the lights in this area to see if this area can be illuminated to at least 0.5 footcandle.

- c. The Luminaire Schedule should be checked. All of the fixtures are called out as “single” fixtures. However, based on the footcandle values shown, it appears that some of the fixtures may actually be two fixtures on a pole to illuminate the back-to-back parking areas.
- d. Lighting Note #1 calls for pole-mounted light fixtures to be 14 feet in height. The Luminaire Schedule calls for 16 feet to 30 feet in height.
- e. There is a long section of the access drive that is not illuminated. The concern is there is a sidewalk leading from Diller Avenue to the subject property that will not be illuminated.

8. **BIKE PATH**

- a. The bike path from Diller Avenue to the end of the path constructed under the Punctuated Equilibrium parking lot project to be shown and clarified.
- b. Provide additional signage and striping as required for the bike path.
- c. Confirm the sight distance for the bicycle path crossing of Diller Avenue as well.
- d. As per the filed deed for Block 1301, Lot 1.02 states, the plans for the development of this property shall include a bike path centered within a 20 foot wide easement which shall be dedicated to the Town as part of any development application. The Applicant must show this easement on the site plans.

9. **LANDSCAPING**

- a. Per Section 240-8C(1) of the Town of Newton Code, 15% of the interior parking lot area shall be landscaped. This requirement has not been met and a design waiver will be required.
- b. Per Section 240-8C(3) of the Town of Newton Code, areas between trees shall be planted with shrubs or groundcover and covered with mulch. The planting plan proposes only trees. The Applicant should consider planting a mixture of shrubs, grasses, and perennials throughout the site specifically along the southwestern foundation of the building, in parking lot islands, and around the periphery of the parking lots.
- c. Per Section 320-24G(2) of the Town of Newton Code, 50% of the paved parking lots' surface shall be shaded by tree canopies within 15 years of planting. With the current plan, there are not enough trees for this to be possible and a variance will be required.

10. **SIGNAGE**

- a. Sheet 4.0 of the architectural plans shows two (2) "Thorlabs" signs on the south elevation.  
  
Details and dimensions of the proposed building signage to be provided.
- b. A list of all the directional signs on the subject property to be provided.

11. **ARCHITECTURAL PLANS**

- a. The proposed building is to be constructed in two phases:
  - i. Phase 1 is a 100,000 SF warehouse.
  - ii. Phase 2 is a 53,000 SF office/warehouse area.
- b. The location of the buildings' mechanical/HVAC equipment to be shown on the plans, along with any noise impact it may have on the surrounding area.
- c. The location of the main utility room to be specified, and in particular, fire suppression equipment, so the impact on parking spaces can be evaluated.

12. **ENVIRONMENTAL IMPACT STATEMENT**

- a. There are several existing monitoring wells located on the subject property and the access road leading to the site. The status of the wells to be provided, and who is responsible for any adjustment of the wells/testing in the future.
- b. The Environmental Map (Sheet 14) shows several restricted areas located to the south of the proposed building and site improvements. The proposed building and site improvements are not in the restricted areas shown on the plan. The Applicant should update the Board on the status of the restricted areas.
- c. **Generator**
  - i. There is a 600 kW generator proposed along the southeasterly side of the proposed building.
  - ii. The specifications for the proposed generator to be provided, including the fuel source and information on the sound generated by the unit.
  - iii. The days and times for normal testing of the generator to be noted on the site plan, and be in conformance with the Town's ordinance.

13. **FACILITIES IMPACT REPORT**

- a. The water and sewer demands shown in the report will be evaluated by the Newton Utility Advisory Board.
- b. The traffic analysis indicates there will be a net increase of 18 truck trips per day, utilizing two shifts when the project is ultimately built out.

14. **CONSTRUCTION DETAILS**

- a. Details are needed for the proposed generator and any enclosure.
- b. **Water System Components**
  - i. Verify the correct make and model number of the fire hydrant with the Newton Water Department.
  - ii. Provide a typical trench detail for the proposed water main.
- c. Additional details are needed for the proposed retaining walls and fencing (based on manufacturer chosen) and structural stability calculations prepared by a licensed New Jersey professional engineer.

- d. The proposed guide rail should be steel post and rail, due to the truck traffic on the site.
- e. Trench repair detail for work in Diller Avenue to be provided.

15. **APPROVALS REQUIRED**

- a. Newton Construction Official (Buildings and ADA)
- b. Newton Fire Subcode Official and Fire Marshal
- c. Sussex County Planning Board
- d. Town of Newton – Road Opening Permit
- e. Newton Water and Sewer Utility
- f. Newton Utility Advisory Board
- g. Upper Delaware Soil Conservation District
- h. NJDEP – Wetlands and Transition Areas/Permits as Needed
- i. NJDEP – Water Main Extension Permit/or confirmation a permit is not required.
- j. NJDEP – Treatment Works Approval Permit
- k. Town of Newton – Developer’s Agreement
- l. JCP&L – Improvements within easements.

16. **MISCELLANEOUS**

- a. There are existing trailers on site (see Site Plan Sheet 4) that are called out to be removed.
- b. Upon completion of the project, an as-built plan of the site to be prepared by the Applicant’s licensed New Jersey professional land surveyor.

Very truly yours,



David B. Simmons, Jr., P.E., L.S., C.M.E. for  
**HAROLD E. PELLOW & ASSOCIATES, INC.**  
Town of Newton Engineers

DBS:mac  
K:\Projects\Municipal\Newton\FB\20-262 - Thorlabs Quantum Realm\FB1.docx

cc: **VIA E-MAIL**

Kathy Citterbart, Newton Planning/Zoning Administrator (& USPS 1<sup>st</sup> Class Mail)  
Ursula Leo, Esq., Newton Planning Board Attorney  
Jessica C. Caldwell, P.P., A.I.C.P., Newton Planner  
Fred Margron, P.E., Newton Sanitary Sewer Engineer  
Joseph Carr, Newton Licensed Water & Sewer Operator  
Peter Donnelly, Esq.  
Thomas Graham, P.E. – Dykstra-Walker Design Group  
Robert Regimbal – Thorlabs



**J Caldwell  
& Associates, LLC**  
Community Planning Consultants

January 14, 2021

**MEMORANDUM TO:** Newton Planning Board

**FROM:** Jessica C. Caldwell, P.P., A.I.C.P., Planning Board Planner

**SUBJECT:** ThorLabs- Quantum Realm (Punctuated Equilibrium, LLC)  
Site Plan Review – #P-15-2020  
Block 20.01, Lot 1, Block 22.04, Lots 3 & 6  
1 Brooks Plaza  
Town of Newton, Sussex County

Dear Board Members:

The Applicant is proposing to remove the existing 48,268 square foot industrial building and construct a new 153,000 square foot industrial building. The building is proposed to be constructed in two phases and contain light manufacturing, warehouse, distribution and office uses. The Subject property is located in the SD-4 Industrial Manufacturing District.

1. **Items Submitted:** The Applicant has submitted the following:

- i. Twenty (20) sheets site plans titled, "Preliminary Site Plan,." prepared by Dykstra Walker Design Group, dated December 1, 2020. Sheets 1 and 2 revised December 23, 2020.
- ii. One (1) report titled, "Environmental Impact Statement for Thorlabs- Quantum Realm," prepared by Dykstra Walker Design Group, dated December 1, 2020.
- iii. One (1) report titled, "Facilities Impact Report for Thorlabs – Quantum Realm," prepared by Dykstra Walker Design Group, dated December 1, 2020.
- iv. One (1) report titled, "Stormwater Management Calculations for Thorlabs-Quantum Realm," Prepared by Dykstra Walker Design Group, dated December 1, 2020.
- v. One (1) sheet Boundary and Topographic Survey Plan titled" Block 20.01, Lot 1", prepared by Dykstra Walker Design Group, dated November 6, 2020.
- vi. Two (2) sheets Preliminary titled "First Floor Plan," prepared by Rotwein + Blake, dated November 24, 2020.
- vii. Copy of application, checklist and additional supporting documents.

2. **Existing Development:** The subject property is 70.671 acres and is developed with a pre-existing 48,268 SF industrial/manufacturing and distribution center with 92 existing parking spaces. The subject property is located in the SD-4 Industrial Manufacturing District. The general configuration of the property with respect to circulation, access and general location of the building will remain the same.
  
3. **Proposed Development:** The Applicant is proposing to remove the existing building and construct a new 153,000 square foot industrial building in two phases. The first phase of construction will include a 100,000 SF building containing light manufacturing, warehouse and distribution uses and the second phase will include a 53,000 SF addition to the Phase I building containing the same uses plus office space. The Applicant is proposing to add 467\* parking spaces surrounding the building and other associated site improvements. (\*Parking number to be confirmed).
  
4. **SD-4 Special District 4: Industrial/ Manufacturing Zone Standards:**

Standard	SD-4 Zone Required	Existing	Proposed
Min. Lot Area	N/A	70,671 acres	70,671 acres
Min. Lot Width	50 FT	87.3 FT	87.3 FT
Front Yard	30 FT	996.8 FT	983.8 FT
Rear Yard	30 FT	596.6 FT	681.1 FT
Side Yard	30 FT	470.0 FT	265.5 FT
Maximum Impervious Coverage	70%	4.5 %	15 %
Max. Building Height	4 Stories 50 FT	< 50 FT/ 4 Stories	35 FT/ 1 Story
Maximum First Floor Story Height	24 Ft	24 Ft	35 Ft <b>(V)</b>

(E) = Existing Non-Conforming (V) = Variance Required

- i. **Building Configuration:** The Applicant proposes a single-story structure with the height of 35 FT in a zone that permits a maximum height of 24 feet for a first floor, floor to ceiling height according to section 320- 14C. **A variance is required.**

**5. Parking:**

Items	Required	Provided
Minimum Number of parking Spaces required Light Industrial/ Office Use 153,000 SF x 3 Spaces / 1,000 SF= 459	459 Total Spaces	467 Total Spaces*
Maximum number of compact Spaces 30 % x 459 Spaces = 137.7 Compact Spaces	138 Compact Spaces	105 Compact Spaces
Minimum Number of Handicap Accessible Spaces 401-500 Range	9 Accessible Spaces Incl. 1 Van Access Space	10 Accessible Spaces Incl. 2 Van Access Spaces

\*The Applicant should confirm the parking count as it appears that 459 spaces are proposed on the plans.

**6. Sign Standards:** The Applicant is proposing the following signs:

Items	Required	Provided
<b>Façade/ Wall Mounted Signs:</b>		
Maximum number of signs Road Fronting Building Façade	2 Signs	2 Signs
Maximum Building Mounted Sign Area Southwestern façade: Non-Illuminated sign	205 SF (1)	120 SF (2) 50 SF (2)
<b>Freestanding Signs:</b>		
Maximum Number of signs	1 Sign/ BLDG	1 Sign (3)
Maximum Freestanding Sign Area	40 SF	< 40 SF (3)

(1) Maximum sign Area = 1 SF / LF Building Façade x 205 LF = 205 SF

(2) Per Architect

(3) Existing Freestanding, Site Identification Sign to remain

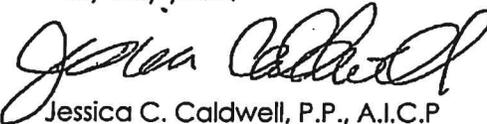
**7. Lighting & Landscaping:** I defer the Lighting and Landscaping review to the Board Engineer.

**8. Facilities Impact Report:** This report evaluates the impact of the proposed facility on water, sewer and traffic. I note the following findings that I believe are positive from a planning perspective:

- i. The proposal will abandon an existing elevated sewer main that runs through the wetlands on the site in favor of an underground force main along Brooks Drive.
- ii. Employee trips to the site will generally be occurring during off-peak hours due to split shifts that start prior to the morning peak hour and end after the evening peak hour.
- iii. The projected increase of truck traffic is low (20%) or 18 trips per day.

9. **Environmental Impact Statement:** This report finds that environmental impacts from site development are either short-term or can be mitigated through site development techniques.
  
10. **Sussex Branch Rail Trail:** The Town's rail trail appears to cross over from adjacent Block 22.04, Lot 3 onto the site driveway for this project before crossing Diller Avenue. Signage, crosswalks and other details of this connection should be provided to the Board.
  
11. **Architectural Plans:** The building design appears to be in keeping with the Thorlabs buildings proposed for the Diller Avenue Redevelopment Area. The Applicant should discuss exterior finishes of the subject building as a courtesy; however, it is unlikely to be visible from off-site.
  
12. **Criteria for Granting "C" Variances:** The Applicant requires bulk variances for the proposal. Variances can be granted by the Board, pursuant to N.J.S.A. 40:55D-70c where two provisions exist:
  - a. The first provision for granting a "c" variance is under N.J.S.A. 40:55D-70c(1) where the Board must find whether there has been a showing of peculiar exception practical difficulties or exceptional undue hardship arising out of the exceptional narrowness, shallowness, or shape of a piece of property, or by reason of an extraordinary and exceptional situation uniquely affecting this specific piece of property or the structures uniquely affecting this specific piece of property or the structures lawfully existing thereon. The two-part negative criteria must also be addressed.
  
  - b. The second provision for a granting a "c" variance is under N.J.S.A. 40:55D-70c(2) where the Board must find that the application related to a unique situation on a specific piece of property, that the purposes of the MLUL would be advanced by the requested deviation, that the variance can be granted without substantial detriment to the public good, that the benefits of granting the variance outweigh any detriments and that the variance will not substantially impair the zone plan or ordinance. Under c(2), the Applicant should show that the proposal is a better zoning alternative to what which is permitted by the ordinance and provides benefits to the community as a whole, not just the Applicant. The two-part negative criteria must also be addressed.

Very truly yours,



Jessica C. Caldwell, P.P., A.I.C.P.  
**J. Caldwell & Associates, LLC**  
Newton Planning Board Planner

cc: *Via Email Only*

Kathy Citterbart, Board Secretary

Ursula Leo, Esq., Board Attorney

David B. Simmons, Jr., P.E., P.P., C.M.E., P.L.S., Board Engineer

EXHBIT B TO DEVELOPER'S AGREEMENT

**RESOLUTION**

**Town of Newton**

**Planning Board**

**In the Matter of Punctuated Equilibrium, LLC (Thorlabs-Quantum Realm)**

**Application Number PB-1-2023**

**Decided on January 18, 2023**

**Memorialized on March 15, 2023**

**Amended Final Site Plan Approval**

**WHEREAS**, Punctuated Equilibrium, LLC (Thorlabs-Quantum Realm) (hereinafter the “Applicant”) has made application to the Newton Planning Board for amended final site plan approval for property known as Block 20.01, Lot 1, Block 22.04, Lots 3 & 6, as shown on the Tax Map of the Town of Newton, located at 1 Quantum Realm f/k/a Brooks Plaza, in the SD-4 Industrial Manufacturing Zone (hereinafter the “Subject Property”); and,

**WHEREAS**, the Board determined it had adequate and appropriate jurisdiction as required under not only the Municipal Land Use Law but specific directives of the New Jersey Department of Community Affairs Bureau of Local Government Services allowing for virtual meetings to be held and/or in person meetings to be conducted; and,

**WHEREAS**, the Board determined that it would conduct a hybrid meeting with the public being able to participate either in person or through virtual means; and,

**WHEREAS**, a public hearing was held on January 18, 2023, after the Board determined it had jurisdiction; and,

**WHEREAS**, the Applicant was represented by Peter T. Donnelly, Esq.

**NOW THEREFORE**, the Planning Board makes the following findings of fact, based on evidence presented at its public hearing at which a record was made.

The application before the Board is a request for amended final site plan approval to allow the shifting of the Phase I building 58+/- feet to the west due to wetlands issues affecting the site

along with changes to the size of the Phase I and the Phase II buildings, some de minimis parking alterations and changes to the loading area on the Subject Property.

Thomas Graham, P.E. of Dykstra Walker Design Group appeared and testified on behalf of the Applicant. Mr. Graham indicated that the changes were as a direct result of NJDEP requirements. This led to the Applicant needing to create a different layout. He noted that at the same time the Applicant has provided EV charging stations which changed the parking available on site (including the previously banked parking) therein reducing it from 467 spaces to 462 spaces whereas 457 spaces are specifically required. However, it was also stated that as a result of providing EV charging stations, even less parking is technically required on the parcel: specifically, it was indicated that 443 spaces were now actually required. Next, it was noted that while the building had shifted, the first floor is still 35 feet at one corner with a 38 foot parapet and the height inside is 50 feet. Mr. Graham further testified that as a result of the shifts of the building to the west by 58 feet, less impervious coverage resulted and the structure is located outside the riparian area. He testified that these changes resulted in a .85 acre reduction in impervious coverage. It was his opinion that pursuant to the Municipal Land Use Law, the changes being made did not create any need to amend the preliminary site plan but rather that amended final site plan approval pursuant to N.J.S.A. 40:55D-50 provided the relief necessary for this application.

A report from the Board Engineer, David B. Simmons, Jr., P.E., L.S., C.M.E., dated January 10, 2023 was reviewed at the time of the hearing. Mr. Simmons indicated that based upon his review of the amended documents and the testimony adduced at the hearing, the Applicant had already met the vast majority of comments contained in his January 10, 2023 report. Those items still outstanding included the need to receive a signoff from Jersey Central Power and Light setting forth the limits of their Easements which was to be confirmed in writing with the utility company.

He further noted that ADA ramps should be provided for both sides of the crosswalk at the intersection of Diller Avenue and the access drive. Mr. Simmons next recommended the plans show proposed concrete sidewalk along the access drive being extended to the south along Diller Avenue in order to connect to the existing sidewalk and also depict the required depressed curbs and AD ramps. It was also recommended additional lighting be provided along the walkway and the main entrance drive be made consistent with development in this section of Newton. Finally, it was suggested light poles be changed for consistency. All of these issues were agreed to by the Applicant.

A report was also received from the Board Planner. Jessica C. Caldwell, P.P., A.I.C.P., dated January 13, 2023. Ms. Caldwell indicated the Applicant had responded to issues raised by her and specifically noted that the variances were consistent with what was approved and the plan currently pending before the Board was an improvement since it added 20 electric vehicle charging stations.

The meeting was opened up to members of the public and there were no other members of the public present expressing an interest in this application.

**NOW THEREFORE,** the Planning Board makes the following conclusions of law, based on the foregoing findings of fact.

The application before the Board is a request for amended final site plan approval to permit the shifting of the Phase I building 58+/- feet to the west, changing the size of the Phase I and the Phase II buildings, numerous parking lot changes, changes to the loading area and a number of other de minimis site plan improvements as outlined above on the Subject Property.

In reviewing the application, plans and testimony, the Board concludes the Applicant met the minimum requirements of the Municipal Land Use Law, Case Law and Town Ordinances to a

sufficient degree so as to enable the Board to grant the relief being requested. The Applicant shall be required to adhere to the specific conditions called out in this Resolution. The Board believes it appropriate to grant relief at this time.

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Board that the application of Punctuated Equilibrium, LLC for Block 20.01, Lot 1, Block 22.04, Lots 3 & 6, as shown on the Tax Map of the Town of Newton, located at 1 Quantum Realm f/k/a Brooks Plaza, in the SD-4 Industrial Manufacturing Zone, requesting amended final site plan approval be and is hereby granted pursuant to N.J.S.A. 40:55D-50, subject to the following terms and conditions:

1. The development of this parcel shall be implemented in accordance with the plans submitted and approved said plans entitled “Preliminary Site Plan Thorlabs-Quantum Realm Block 20.01, Lot 1 & Block 22.04, Lots 3 & 6 #1 Brooks Plaza Town of Newton Sussex County-New Jersey” prepared by Dykstra Walker Design Group P.A., dated 12/1/20 with a latest revision date of 12/7/22, consisting of 23 sheets and “Proposed Warehouse, Manufacturing, Distribution Facility for Thorlabs, Newton, NJ” with a latest revision date of January 6, 2022, prepared by Rotwein + Blake Architectural Associates, LLC consisting of two (2) sheets.
2. Applicant shall obtain a signoff from Jersey Central Power and Light for Easements existing with that utility company for proposed parking, retaining walls, fencing and access drive which are adjacent to or in the power company’s Easement.
3. ADA ramps shall be provided for both sides of the crosswalk at the intersection of Diller Avenue and the access drive and installed in accordance with existing code.
4. Additionally lighting along the walkway shall be installed subject to review and approval of the Board Engineer.

5. The entrance drive shall be consistent with development in the area subject to review and approval of the Board Engineer.
6. Light poles shall be changed to be consistent with those along Diller Avenue and additional lighting provided on the access drive areas.
7. The proposed retaining walls on the site shall be designed by a licensed New Jersey Professional Engineer and complete structural calculations submitted to the Town Construction Official.
8. A Maintenance Manual prepared in accordance with Chapter 8 of NJDEP Best Practice Manual shall be submitted.
9. Newton Construction Official approval.
10. Newton Fire Subcode Official approval.
11. Applicant shall provide an as-built plan prepared by a New Jersey licensed land surveyor.
12. The Newton Fire Department shall be provided a tour of the proposed compound so they can be prepared for any emergency situation that may arise.
13. Payment of all fees, costs, escrows due or to become due. Any monies are to be paid within twenty (20) days of said request by the Board's Secretary.
14. Certificate that taxes are paid to date of approval.
15. Sussex County Planning Board approval, if necessary.
16. The Applicant shall be bound to comply with the representations made before this Board by the Applicant at the public hearing and the same are incorporated herein and are representations upon which this Board has relied in granting the approval set

forth herein and shall be enforceable as if those representations were made conditions of this approval.

17. Subject to all other applicable rules, regulations, ordinances and statutes of the Town of Newton, County of Sussex, State of New Jersey, or any other jurisdiction.

The undersigned secretary certifies the within resolution was adopted by this Board on January 18, 2023, and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on March 15, 2023.

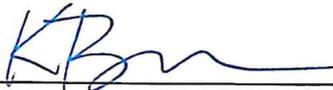
**The vote on the Resolution was as follows:**

FOR: Flaherty, Ragsdale, Russo, Mayor Teets, Wink, G. Le Frois

AGAINST: None

ABSTAIN: Vrahnos

I certify that the above Resolution is a true copy of a Resolution adopted by the Planning Board on March 15, 2023.



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**Kerry Brown, Secretary**

EXHIBIT C TO DEVELOPER'S AGREEMENT

PUNCTUATED EQUILIBRIUM – QUANTUM REALM  
BROOKS PLAZA  
TOWN OF NEWTON

Water & Sanitary Sewer Fees

February 10, 2021

Based on Newton Utility Advisory Board Meeting – 02/16/2021

Revised June 9, 2023 to Two (2) Phases

Revised June 15, 2023 to 100 Employees

Given:

A. Residential Units – None

B. Commercial Space

Total New Building Area – 154,300 Sq.Ft. – 1 Story

Phase I – 103,800 Sq.Ft. (67%)

Phase II - 50,500 Sq.Ft. (33%)

Office Space –6,500 Sq.Ft.

Factory/Warehouse – 100 employees

*NOTE: Above data is from Lindsey Dwyer of Thor Labs, email dated June 15, 2023*

C. Basement Level - None

D. Water Connection Fees

Section 100-19A(1) – Residential: \$3,759 Per Dwelling Unit

Section 100-19A(2) – Commercial: \$25.75 Per GPD, Minimum \$3,759, plus labor & materials

E. Sanitary Sewer Connection Fees

Section 100-19J(1) – Residential: \$6,011 Per Dwelling Unit

Section 100-19J(2) – Commercial: \$41.45 Per GPD, Minimum \$6,011

Section 10-19I – Sewer Tap Charge: \$600

## Water Calculations

A. Residential Units

Water Connection Fee: \$3,759 Per Residential Unit

\$3,759 Per Residential Unit x 00 Residential Units = \$0

B. Commercial Area

Office Space

(0.125) GPD/Sq. Ft. x 6,500 Sq. Ft. = 813 GPD

813 GPD x (\$25.75)/Gal. = \$20,934.75, plus labor & materials

Phase I Building - \$20,934.75 x 67% = \$14,026.28

Phase II Building - \$20,934.75 x 33% = \$ 6,908.47

Industrial Space

(25) GPD/Employee x 100 Employees = 2,500 GPD

2,500 GPD x (\$25.75)/Gal. = \$64,375.00, plus labor & materials

Phase I Building - \$64,375.00 x 67% = \$43,131.25

Phase II Building - \$64,375.00 x 33% = \$21,243.75

Total: \$20,934.75 + \$64,375.00 = \$85,309.75

Phase I Building - \$14,026.28 + \$43,131.25 = \$57,157.53

Phase II Building - \$6,908.47 + \$21,243.75 = \$28,152.22

Minimum Water Connection is \$3,759

\$3759 < \$85,309.75

Commercial Water = \$85,309.75, plus labor & materials

Phase I - \$57,157.53

Phase II - \$28,152.22

## Sewer Calculations

A. Residential Units

Sewer Connection Fee: \$6,011 Per Residential Unit

\$6,011 Per Residential Unit x 00 Residential Units = \$0

B. Commercial Area

Office Space

(0.100) GPD/Sq. Ft. x 6,500 Sq. Ft. = 650 GPD

650 GPD x (\$41.45)/Gal. = \$26,942.50, plus labor & materials

Phase I Building - \$26,942.50 x 67% = \$18,051.48

Phase II Building - \$26,942.50 x 33% = \$ 8,891.02

Industrial Space

(25) GPD/Employee x 100 Employees = 2,500 GPD

2,500 GPD x (\$41.45)/Gal. = \$103,625.00, plus labor & materials

Phase I Building - \$103,625.00 x 67% = \$69,428.75

Phase II Building - \$103,625.00 x 33% = \$34,196.25

Total: \$26,942.50 + \$103,625.00 = \$130,567.50

Phase I Building - \$18,051.48 + \$69,428.75 = \$ 87,480.23

Phase II Building - \$ 8,891.02 + \$34,196.25 = \$ 43,087.27

Minimum Sanitary Sewer Connection is \$6,011

\$6,011 < \$130,567.50

Commercial Sanitary Sewer = \$130,567.50, plus labor & materials

Phase I = \$87,480.23

Phase II = \$43,087.27

## Credits

A. Credit for Brooks Plaza Building – 1 Brooks Plaza (To Be Razed)

Per Town of Newton Water Meter Records:

Total Gallons from 2018 to 2020

Account #18745 – 695,824 gallons

Account #18738 – 45,006 gallons

Total: 740,830 gallons

740,830 Gal/3 years/365 days/year = 677 Gal/Day Average

### Water Charge

677 Gal/Day x \$25.75 per Gal. = \$17,432.75

\$17,432.75 > \$3759 minimum charge

### Sewer Charge

677 Gal/Day x \$41.45 per Gal. = \$28,061.65

\$28,061.65 > \$6011 minimum charge

Total Credit for Water & Sewer

\$17,432.75 + \$28,061.65 = \$45,494.40

## Summary

### Phase I Building

Residential Units:	\$	0.00
Commercial Area:		144,637.76, plus labor & materials
Basement for Storage:		0.00
Sewer Tap Fee:		<u>600.00</u>
Subtotal:		\$145,237.76, plus labor & materials

### Credits:

Brooks Plaza	(	<u>45,494.40</u> )
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**Balance Due:           \$ 99,743.36**

### Phase II Building

Residential Units:	\$	0.00
Commercial Area:		71,239.49, plus labor & materials
Basement for Storage:		0.00
Sewer Tap Fee:		<u>0.00</u>
Subtotal:		\$ 71,239.49, plus labor & materials

### Credits:

Brooks Plaza	(	<u>0.00</u> )	(Previously applied to Phase I Building)
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**Balance Due:           \$ 71,239.49**

### Notes:

1. The volume of water used daily is less than 6,000 gpd. Therefore, a watermain extension permit will not have to be obtained from the NJDEP Bureau of Water System Engineering by the applicant.
2. The above data regarding residential, commercial, and industrial/warehouse uses provided by Lindsey Dwyer of Thor Labs, by email dated June 15, 2023.

### Attachments

1. Town of Newton Ordinance #100-19-Utilities. (Amended 11/26/18 by Ordinance No. 2018-20)
2. Lindsey Dwyer of Thor Labs email dated June 15, 2023
3. Water Usage Records – Punctuated Equilibrium Acc. #18745, for 2018 to 2020
4. Water Usage Records – Punctuated Equilibrium Acc. #18738, for 2018 to 2020

## EXHIBIT D TO DEVELOPER'S AGREEMENT

Harold E. Pellow & Associates, Inc.

6/5/2023

### Proposed Public Improvements for Quantum Realm

Town of Newton, Sussex County, NJ

HPA Project #23-031

#### Engineer's Cost Estimate

STD. ITEM NO.	ESTIMATE OF QUANTITIES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
	<b><u>Site Improvements</u></b>				
1	Granite Block Curb (Full height and depressed)	105	LIN.Ft.	\$60.00	\$6,300.00
2	Bituminous Concrete Surface Course Mix I-5	23	TON	\$85.00	\$1,955.00
3	Bituminous Stabilized Base Course Mix I-2	34	TON	\$80.00	\$2,720.00
4	Dense Graded Aggregate (subbase for roads, walkways & driveways)	45	TON	\$40.00	\$1,800.00
5	Concrete Sidewalks, Driveway Aprons & Pads	410	SQ.FT.	\$16.00	\$6,560.00
6	Pavement Markings	1	LS	\$450.00	\$450.00
7	Topsoil, Seed and Mulch Disturbed Areas	1	LS	\$2,500.00	\$2,500.00
	<b>Subtotal</b>				<b>\$22,285.00</b>

	<b><u>Sanitary Sewer</u></b>				
8	Doghouse Manhole connection to Existing System	1	LS	\$5,000.00	\$5,000.00
9	8" PVC Sewer Main	40	LIN. FT.	\$90.00	\$3,600.00
	<b>Subtotal</b>				<b>\$8,600.00</b>

	<b><u>Demolition</u></b>				
10	6" Pavement Removal, Curb Removal, Concrete Walks and Pads Removal	1	LS	\$5,000.00	\$5,000.00
	<b>Subtotal</b>				<b>\$5,000.00</b>

<b>TOTAL ESTIMATED COST OF CONSTRUCTION:</b>					<b>\$35,885.00</b>
<b>TOTAL ESTIMATED COST OF CONSTRUCTION x 120%</b>					<b>\$ 43,062.00</b>





## TOWN OF NEWTON

### RESOLUTION #190-2023

June 26, 2023

### "Authorizing Award of the Bid for Drainage Improvements at Babe Ruth Field at Memory Park to Paving Materials and Contracting, LLC"

**WHEREAS**, a need exists for the bidding of a project known as "Drainage Improvements at Babe Ruth Field at Memory Park" within the Town of Newton; and

**WHEREAS**, the Town advertised said bid above and twelve (12) prospective contractors received said bid documents; and

**WHEREAS**, the Town advertised and received bids in a fair and open manner consistent with N.J.S.A. 40A:11-1 et. seq. including, but not limited to, N.J.S.A. 40A:11-23 and other applicable State law; and

**WHEREAS**, the Town received one (1) bid on June 21, 2023, at 11:00 A.M. to wit:

<b>NAME OF BIDDER</b>	<b>Paving Materials and Contracting, LLC</b>
<b>LUMP SUM</b>	\$742,743.00

; and

**WHEREAS**, Paving Materials and Contracting, LLC, 150 River Rd., Suite H4, Montville, New Jersey 07045-8922, was determined to be the lowest responsible bidder in accordance with N.J.S.A. 40A:11-4 et. seq., with a bid of \$742,743.00; and

**WHEREAS**, the Chief Financial Officer certifies funding in the amount of \$742,743.00 is available from:

Ordinance 2020-10	#3091978 (Line Item)	\$440,000.00
Ordinance 2022-21, and 2023-2	#3092207 (Line Item)	\$302,743.00

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

1. The Town Council of the Town of Newton hereby awards the "Drainage Improvements at Babe Ruth Field at Memory Park" project to Paving Materials and Contracting, LLC, 150 River Rd., Suite H4, Montville, New Jersey 07045-8922, in the amount of \$742,743.00.
2. The Mayor and Town Manager are here by authorized to execute all necessary contracts with Paving Materials and Contracting, LLC., consistent with all the tenets as contained within the "Drainage Improvements at Babe Ruth Field at Memory Park" bid.

#### **CERTIFICATION**

**THIS IS TO CERTIFY** 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, June 26, 2023.

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Teresa A. Oswin, RMC  
Municipal Clerk



## TOWN OF NEWTON

### RESOLUTION #191-2023

June 26, 2023

“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 2022 and 2023 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** 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, June 26, 2023.

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Teresa A. Oswin, RMC  
Municipal Clerk

**List of Bills - CLEARING/CLAIMS**

Meeting Date: 06/26/2023 For bills from 06/06/2023 to 06/23/2023

Check#	Vendor	Description	Payment	Check Total
8579	84 - ABCODE SECURITY INC.	PO 63214 B: ALARM SERVICES / Lawnwood Avenue Lice	210.00	210.00
8580	1846 - ADVANCE AUTO PARTS	PO 63705 B: Auto Spls/Rprs cust #11108160	34.22	34.22
8581	2141 - AIRMATIC COMPRESSOR SYSTEMS, INC.	PO 62448 Svc Contract Morris Lk 10/18/2022 - 9/3	5,144.42	5,144.42
8582	4676 - ALBRECHT, JIM	PO 63280 7/8/2023 BAND SUMMER CONCERT SERIES	1,400.00	1,400.00
8583	3897 - AMAZON CAPITAL SERVICES	PO 63774 Newton ACO Folders	24.79	
		PO 63801 Screen cleaner	6.38	
		PO 63801 Screen cleaner	9.56	
		PO 63813 SUPPLIES FOR FAIR DISPLAY - 2023	91.41	132.14
8584	3079 - AMERICAN SOCIETY OF COMPOSERS,	PO 63763 2023/2024 ASCAP LICENSE	432.50	432.50
8585	2757 - ATLANTIC TACTICAL INC.	PO 63476 BODY ARMOR VESTS MARTIN/WAGNER/SIEK/POST	3,472.00	
		PO 63476 BODY ARMOR VESTS MARTIN/WAGNER/SIEK/POST	806.40	4,278.40
8586	4026 - AUTOZONE INC.	PO 62966 B: Auto Spls/Rprs cust #11108160	11.49	11.49
8587	514 - BEN SHAFFER & RECREATION INC.	PO 63353 PLAYGROUND MULCH/ Memory & Pine	3,255.00	3,255.00
8588	2429 - BLACK LAGOON INC.	PO 63082 2023 POND Cleaning Summit Pond/Maint Agr	2,000.00	2,000.00
8589	1132 - BOONTON TIRE SUPPLY INC.	PO 63744 B: PD VEHICLE REPAIR	42.84	42.84
8590	300 - BRIGHTSPEED	PO 62839 B: WOODSIDE AVE PS A/C #3010395888 @ \$42	41.34	41.34
8591	300 - BRIGHTSPEED	PO 62840 B: LOCAL PHONE SVC A/C #310115975	1,229.41	
		PO 62840 B: LOCAL PHONE SVC A/C #310115975	2,044.37	3,273.78
8592	300 - BRIGHTSPEED	PO 62841 B: LONG DISTANCE #499697313 (SPLIT INTO	57.25	57.25
8593	300 - BRIGHTSPEED	PO 62842 B: LONG DISTANCE A/C #320421349 (SPLIT	56.99	56.99
8594	2124 - BUCKMAN'S INC.	PO 63769 B: Pool Chemicals 2023 Season ACCT #NEW	1,694.05	1,694.05
8595	4706 - CARLUCCI, MICHAEL	PO 63755 B: MUNICIPAL JUDGE COVERAGE	2,727.75	2,727.75
8596	4549 - CHALLENGER FENCE INC	PO 61869 Install Fence Morris Lake - WTP	19,431.00	19,431.00
8597	3770 - CINTAS	PO 62969 B: FIRST AID SUPPLIES DPW/WS/TH Jan - De	541.13	
		PO 63797 B: Water Filtration/Cooler/Cleaning (Jun	45.00	
		PO 63797 B: Water Filtration/Cooler/Cleaning (Jun	135.00	721.13
8598	2551 - CLOUSE RONALD	PO 63623 MEDICARE PART B REIMB	1,978.80	1,978.80
8599	4702 - CROSSLEY, KAREN	PO 63762 Fingerprinting reimbursement	24.50	24.50
8600	4500 - CRYSTAL MOUNTAIN SPRINGS	PO 62781 B: WATER DELV	245.98	245.98
8601	106 - ELIZABETHTOWN GAS	PO 62808 B: NATURAL GAS	667.01	
		PO 62808 B: NATURAL GAS	2,670.47	3,337.48
8602	4385 - ERIC M. BERNSTEIN & ASSOCIATES, LLC.	PO 62813 B: LEGAL ATTORNEY (\$130/HR NOT TO EXCEE	2,054.00	
		PO 62813 B: LEGAL ATTORNEY (\$130/HR NOT TO EXCEE	3,546.18	
		PO 63777 Q-06 BRIDGE -MAY #1021	78.00	
		PO 63778 HISTORIC PRESERVATION & REDEVELOPMENT -M	962.00	6,640.18
8603	4039 - FARMSIDE LANDSCAPE & DESIGN INC	PO 63077 B: FIELD MAIN/SPORTS FIELDS - Softball &	890.00	890.00
8604	225 - FEDERAL EXPRESS	PO 63785 B: EXPRESS MAILINGS	24.42	24.42
8605	2640 - FERGUSON ENTERPRISES LLC #3326	PO 63695 Repair spigot/ rpl hydrant key/ Pool Dec	1,312.80	1,312.80
8606	2525 - FIREFIGHTER ONE, LLC.	PO 63628 BATTERIES (4)	20,130.00	20,130.00
8607	3318 - FREDON ANIMAL HOSPITAL	PO 63766 "Boss" Vicious Abandoned Dog 4/17/23	388.22	388.22
8608	4536 - GATEHOUSE MEDIA NEW YORK HOLDINGS , INC.	PO 63782 ADVERTISING -MAY ACCT #704136	115.05	
		PO 63782 ADVERTISING -MAY ACCT #704136	324.28	
		PO 63782 ADVERTISING -MAY ACCT #704136	42.02	481.35
8609	4384 - GIBBONS P.C.	PO 63776 CAPITAL PROJECTS BOND ORD'S	1,532.15	
		PO 63776 CAPITAL PROJECTS BOND ORD'S	2,042.85	3,575.00
8610	4506 - GLENN C KIENZ	PO 62789 B: 2023 PLANNING BOARD ATTORNEY (800/MNT	800.00	800.00
8611	4194 - GYLES-ZITO, DANIELLE	PO 63760 Little Miss and Little Mister Newton goo	98.70	98.70
8612	70 - HACH COMPANY	PO 63727 LAB SUPP'S	582.00	
		PO 63727 LAB SUPP'S	616.05	1,198.05
8613	3804 - HAYDEE BALLESTER	PO 62778 B: COURT TRANSLATION	140.00	140.00
8614	230 - HAYEK'S MARKET INC.	PO 63754 Working lunch - 6/9/23	16.74	
		PO 63754 Working lunch - 6/9/23	25.11	
		PO 63765 Intern working lunch - 6/12/23	22.91	
		PO 63765 Intern working lunch - 6/12/23	34.37	99.13
8615	4337 - HFE SERVICES LLC	PO 62981 B:Cloud Backup for Server	276.00	
		PO 63791 WTP/Repair Cameras/Installed new dvr/ in	895.00	1,171.00
8616	1866 - HOME DEPOT, INC.	PO 63795 Feb Sppl's	797.81	
		PO 63795 Feb Sppl's	281.10	1,078.91
8617	113 - JCP&L	PO 62857 B: ELECTRIC	4,246.92	
		PO 62857 B: ELECTRIC	2,024.27	6,271.19
8618	3778 - JP MONZO MUNIC CONSULTING, LLC	PO 63761 ETHICS WEBINAR 6/27	50.00	50.00

**List of Bills - CLEARING/CLAIMS**

Meeting Date: 06/26/2023 For bills from 06/06/2023 to 06/23/2023

Check#	Vendor	Description	Payment	Check Total
8619	2767 - KILDUFF JAMES	PO 63516 MEDICARE PART B REIMB	989.40	989.40
8620	2365 - KRAVE CAFE	PO 63758 Cookies for Miss Newton	80.00	80.00
8621	4227 - LAW OFFICE OF DANIEL P. AGATINO, LLC.	PO 62780 B: 2023 PUBLIC DEFENDER	1,333.33	1,333.33
8622	4658 - LAW OFFICE OF ORLANDO R RODRIGUEZ, LLC.	PO 63756 B: ALTERNATE PUBLIC DEFENDER @ \$150/SESS	300.00	300.00
8623	2863 - MACK, HARRY	PO 63665 MEDICARE PART B REIMB	989.40	989.40
8624	1566 - MAIN POOL & CHEMICAL COMPANY, INC.	PO 62881 B: Liq Sodium Hypochlorite (\$30,000 @ \$3	2,145.00	2,145.00
8625	62 - MGL FORMS - SYSTEMS, LLC.	PO 63346 TAX AND W/S STICKERS	137.00	137.00
8626	2865 - MILLS STEVE	PO 63519 MEDICARE PART B REIMB	989.40	989.40
8627	409 - MINISINK PRESS INC	PO 63772 Business cards for J. Roberts	68.00	68.00
8628	170 - NEWTON BOARD OF EDUCATION	PO 62779 SCHOOL TAX (JAN-JUNE) 2023-	1,110,506.49	1,110,506.49
8629	4154 - NEWTON HIGH SCHOOL	PO 63753 Reimbursement for Peer Leadership Traini	1,000.00	1,000.00
8630	336 - NEWTON TROPHY	PO 63807 Shade Tree Recognition - 25 years	220.00	220.00
8631	1742 - NJ MUNICIPALITIES	PO 63764 RENEW SUBSCRIPTION NJSML MAG ID :22M-906	175.00	175.00
8632	1762 - NJSACOP	PO 63545 FRONT LINE SUPERVISION PROGRAM	600.00	
		PO 63750 TRAINING CONFERENCE	870.00	1,470.00
8633	3047 - PANDISCIA MICHAEL	PO 63598 MEDICARE PART B REIMB	1,978.80	1,978.80
8634	4656 - PAULUS, SOKOLOWSKI & SARTOR LLC	PO 63779 MERRIAM AVE CONSOLIDATION & POWER STUDY	7,285.74	7,285.74
8635	64 - FELLOW, HAROLD & ASSO, INC.	PO 62288 Oct 2022 - Fire Museum	207.00	
		PO 63193 B: WATER ENGINEER (not to exceed \$47,000	1,863.00	
		PO 63784 ENGINEERING -APR	1,778.00	
		PO 63784 ENGINEERING -APR	4,200.33	8,048.33
8636	2788 - PENTELEDATA	PO 62812 B: INTERNET -DPW & STP	159.95	
		PO 62812 B: INTERNET -DPW & STP	159.95	319.90
8637	4204 - PLANET NETWORKS INC.	PO 62933 Internet Access Jan - Dec 23- Water & Se	1,219.80	
		PO 62934 Internet Access Jan - Dec 23- DPW Garage	199.95	1,419.75
8638	57 - PRINTING CENTER, INC	PO 63752 June 6, 2023 Primary Election Costs Inv.	2,682.98	2,682.98
8639	4273 - QUADIANT INC.	PO 63773 INK CART POSTAGE MACH IX3-5-7 Series A	140.60	140.60
8640	39 - QUILL CORPORATION	PO 62852 B: NPD OFFICE SUPPLIES	153.04	153.04
8641	3660 - SCHENCK, PRICE, SMITH, & KING, LLP	PO 62803 B: TAX APPEAL ATTORNEY (\$160/HR NOT TO	2,916.90	2,916.90
8642	126 - SCMUA	PO 62819 B: TRASH/BRUSH/STREET SWEEPINGS REMOVAL	331.20	
		PO 62819 B: TRASH/BRUSH/STREET SWEEPINGS REMOVAL	1,350.57	1,681.77
8643	2145 - SEELY BROTHERS, INC.	PO 63789 Replacement Flags at Fire Museum	117.00	117.00
8644	4644 - SIEGEL, STEVEN M.	PO 62792 B: PROSECUTOR (\$31,000 TWN/\$3,500 GR	2,874.99	2,874.99
8645	3993 - SLOAN, JAMES P.	PO 62775 B: 2023 JUDGE (\$38,644/12=\$3,220.334) (G	909.25	909.25
8646	3674 - SPARTA TOWNSHIP	PO 63808 Permits for WTP/Morris Lake Chemical Sto	701.00	701.00
8647	2257 - STAPLES	PO 62853 : NPD OFFICE SUPPLIES	22.58	
		PO 63793 Machine Repair/Maintenance Spls ACCT #428	124.18	146.76
8648	43 - STAPLES CREDIT PLAN	PO 63594 Thumb drives	79.98	
		PO 63626 ENGINEERING PRINTS COPIES FOR OPRA #126	15.96	
		PO 63656 Office Supplies	15.07	
		PO 63783 SHIPPING PATCHES-Police	12.50	
		PO 63792 Office Supplies/Store Purchase	113.89	
		PO 63804 OFFICE SUPP'S CODE & TAX COLECTOR	114.98	352.38
8649	4144 - SUBURBAN CONSULTING ENGINEERS, INC.	PO 63811 MEMORY PARK BABE RUTH -MAY	4,054.00	
		PO 63812 MOORE'S BROOK DREDGING -MAY	23,496.92	27,550.92
8650	2056 - SUBURBAN PROPANE, LP.	PO 63796 PROPANE ACCT #2232-574789	3,831.15	3,831.15
8651	102 - SUSSEX CAR WASH INC	PO 62870 B: CAR WASHES	336.00	336.00
8652	4705 - TAMA TECHNOLOGIES CORP	PO 63751 REFUND ESCROW BALANCE	822.00	822.00
8653	3851 - THE CANNING GROUP, LLC.	PO 62776 B: 2023 QPA ANN \$6,500	541.66	541.66
8654	4508 - TORRES, JUDY A	PO 63767 EXPENSE REIMBURSEMENT FOR ATTENDANCE AT	70.00	70.00
8655	2880 - TRACTOR SUPPLY	PO 63781 Kitten food and litter for abandoned kit	102.95	102.95
8656	2781 - TRIMBOLI & PRUSINOWSKI, LLC.	PO 62801 B: LABOR ATTORNEY (\$170/HR NOT TO EXCE	7,429.00	7,429.00
8657	4305 - UGI ENERGY SERVICES LLC	PO 62807 B: NATURAL GAS	215.82	
		PO 62807 B: NATURAL GAS	1,094.78	1,310.60
8658	1280 - VERIZON WIRELESS, INC.	PO 62850 B: CELL PHONE ACCT #882571077-0001	1,576.43	
		PO 62850 B: CELL PHONE ACCT #882571077-0001	133.62	1,710.05
8659	1500 - WALMART	PO 63759 Water/table clothes/for Miss Newton page	42.49	
		PO 63790 Supplies	421.94	464.43
8660	633 - WEIS MARKETS, INC.	PO 63085 B: Refreshments	88.07	88.07
8661	2713 - WILLIAM GRENNILLE, LLC.	PO 63802 COVERAGE FOR J CARR (6/30-7/11/23)	4,370.00	4,370.00
8662	3726 - WITMER PUBLIC SAFTEY GROUP, iINC.	PO 63742 NPD WEAPON SUPPLIES QUO102652	123.56	
		PO 63743 NPD WEAPONS AMMO QUO102654	643.82	767.38

**List of Bills - CLEARING/CLAIMS**

Meeting Date: 06/26/2023 For bills from 06/06/2023 to 06/23/2023

Check#	Vendor	Description	Payment	Check Total	
TOTAL				1,296,406.43	
<b>Summary By Account</b>					
ACCOUNT	DESCRIPTION	CURRENT YR	APPROP. YEAR	NON-BUDGETARY	CREDIT
100137	INTERFUND RECEIVABLE - PARK AUTHORITY			38.01	
101265	DUE NEWTON BOE - SCHOOL TAX PAYABLE			1,110,506.49	
101299	Due to Clearing			0.00	1,194,114.54
1050200	TOWN MANAGER'S OFFICE - OTHER EXPENSES	482.05			
1051200	TOWN CLERK'S OFFICE - OTHER EXPENSES	275.04			
1051500	ELECTIONS - OTHER EXPENSES	2,682.98			
1052200	TOWN COUNCIL - OTHER EXPENSES	234.48			
1054200	FINANCE ADMINISTRATION - OTHER EXPENSES	50.00			
1056200	COLLECTION OF TAXES - OTHER EXPENSES	226.99			
1058200	LEGAL SERVICES - OTHER EXPENSES	17,600.41			
1059200	MUNICIPAL COURT - OTHER EXPENSES	140.00			
1060200	ENGINEERING - OTHER EXPENSES	726.00			
1061200	BUILDINGS & GROUNDS - OTHER EXPENSES	1,148.67			
1062200	PLANNING BOARD - OTHER EXPENSES	1,125.99			
1063200	HISTORIC COMMISSION - OTHER EXPENSES	312.00			
1064200	COMMUNITY DEVELOPMENT - OTHER EXPENSES	15.96			
1066200	EMPLOYEE GROUP INSURANCE - OTHER EXPENSE	6,925.80			
1070200	FIRE DEPARTMENT - OTHER EXPENSES	90.00			
1074200	POLICE DEPARTMENT - OTHER EXPENSES	3,326.24			
1074300	COMMUNICATIONS CENTER - OTHER EXPENSES	98.65			
1077500	CODE ENFORCEMENT - OTHER EXPENSES	24.99			
1080200	ROAD REPAIR & MAINT - OTHER EXPENSES	467.07			
1081200	SNOW REMOVAL - OTHER EXPENSES	88.07			
1082200	STORMWATER/FLOOD CONTROL - OTHER EXPENSE	1,052.00			
1083200	RECYCLING/SANITATION - OTHER EXPENSES	1,334.76			
1083300	VEHICLE MAINTENANCE - OTHER EXPENSES	424.55			
1085200	OCCUPATIONAL HEALTH - OTHER EXPENSES	541.13			
10852200	ANIMAL CONTROL - OE	515.96			
1087200	RECREATION - OTHER EXPENSES	337.10			
1089200	UTILITY EXP/BULK PURCH - OTHER EXPENSES	11,066.25			
1090200	SWIMMING POOL - OTHER EXPENSES	3,006.85			
1091200	PARKS & PLAYGROUNDS - OTHER EXPENSES	4,603.25			
1094550	RECYCLING TAX (PL2007 c.311)O/S CAP	15.81			
1094798	INTERLOCAL - GREEN TWP COURT	4,136.99			
1095200	CAPITAL IMPROVEMENTS - OTHER EXPENSES	20,494.00			
<b>TOTALS FOR</b>	<b>CURRENT FUND</b>	<b>83,570.04</b>	<b>0.00</b>	<b>1,110,544.50</b>	<b>1,194,114.54</b>
111200	APPRO RES PUBLIC/PRIVATE GRANTS			4,472.00	
111299	Due to Clearing			0.00	4,472.00
<b>TOTALS FOR</b>	<b>FEDERAL/STATE GRANTS</b>	<b>0.00</b>	<b>0.00</b>	<b>4,472.00</b>	<b>4,472.00</b>
301299	Due to Clearing			0.00	33,814.68
3091807	ORD 2018-7 VAR-2Veh/StSign/Rd-Chrch \$220	890.00			
3091978	ORD 2020-10 MEMORY PARK (BABE R FIELD)	1,429.18			
3092101	ORD 2021-7 VARIOUS IMP	943.03			
3092202	ORD 2022-13 SIDEWALKS RT 206/WATER ST	570.06			
3092203	ORD 2022-14 VAR CAP IMP.	36.00			
3092206	ORD 2022-19 FIRE MUSEUM RENOVATION	207.00			
3092207	ORD 22-21 amendORD 20-10 MEM PK ORD 23-2	26,121.74			
3092305	ORD 2023-5 SWIMMING POOL RENOVATIONS FF	112.00			

ACCOUNT	DESCRIPTION	CURRENT YR	APPROP. YEAR	NON-BUDGETARY	CREDIT
3092307	ORD 2023-7 VAR CAP IMP.	3,482.27			
3092310	ORD 2023-10 PINE ST PARK ADA	23.40			
<b>TOTALS FOR</b>	<b>CAPITAL</b>	<b>33,814.68</b>	<b>0.00</b>	<b>0.00</b>	<b>33,814.68</b>
601299	DUE TO CLEARING			0.00	32,645.62
6051200	W&S OPERATING - TOTAL OTHER EXPENSES	27,501.20			
6051200A	(2022) W&S OPERATING - TOTAL OTHER EXPENSES		5,144.42		
<b>TOTALS FOR</b>	<b>WATER/SEWER UTILITY</b>	<b>27,501.20</b>	<b>5,144.42</b>	<b>0.00</b>	<b>32,645.62</b>
611299	DUE TO CLEARING			0.00	28,837.59
6192203	ORD 2022-12 WS IMP. FULLY FUNDED	19,509.00			
6192308	ORD 2023-8 WATER IMP NJIB	510.72			
6192311	ORD 2023-11 SEWER IMP. NJIB	670.71			
6192312	ORD 2023-12 ELECTRICAL POWER STUDY WWTFF	7,636.45			
6192314	ORD 2023-14 W&S MAIN IMP. NEW HAMPS.ST FF	510.71			
<b>TOTALS FOR</b>	<b>WATER/SEWER CAPITAL</b>	<b>28,837.59</b>	<b>0.00</b>	<b>0.00</b>	<b>28,837.59</b>
711208	RES RECREATION (ALL)			1,400.00	
711218	RESERVE FOR MUNIC PUBLIC DEFENDER			300.00	
711220	RESERVE O/S EMPLOYMENT OFF-DUTY POLICE *			822.00	
711299	DUE TO CLEARING			0.00	2,522.00
<b>TOTALS FOR</b>	<b>TRUST</b>	<b>0.00</b>	<b>0.00</b>	<b>2,522.00</b>	<b>2,522.00</b>

Total to be paid from Fund 10 CURRENT FUND	1,194,114.54
Total to be paid from Fund 11 FEDERAL/STATE GRANTS	4,472.00
Total to be paid from Fund 30 CAPITAL	33,814.68
Total to be paid from Fund 60 WATER/SEWER UTILITY	32,645.62
Total to be paid from Fund 61 WATER/SEWER CAPITAL	28,837.59
Total to be paid from Fund 71 TRUST	2,522.00
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	1,296,406.43

**Checks Previously Disbursed**

2492	TREASURER, STATE OF NEW JERSEY	PO# 63786	PERMIT SPARTA AVE PUMP STATION	1,250.00	6/16/2023	
7468	GIBBONS P.C.		Due to Clearing	-1,075.00	6/14/2023	*MANUA
8578	STAPLES	Multiple:		979.51	6/14/2023	
42768	CORNWELL CLOCKS	PO# 63757	Clock repair	57.00	6/13/2023	
231046	ELAVON, INC.	PO# 63003	B: COURT MERCHANT FEE	80.51	6/16/2023	
231047	PAYROLL ACCOUNT		6/22 CURRENT PAYROLL	225,958.39	6/22/2023	
231125	PAYROLL ACCOUNT		6/22 GRANT PAY	1,738.94	6/22/2023	
236026	PAYROLL ACCOUNT		6/22 W/S PAYROLL	46,875.99	6/22/2023	
237120	PAYROLL ACCOUNT		6/22 TRUST PAYROLL	11,001.38	6/22/2023	
238146	POLICE & FIRE RETIREMENT SYSTEM		May's PFRS to state	18,000.00	6/13/2023	
238147	PUBLIC EMPLOYEE RETIRE SYSTEM		May's PERS to state	18,000.00	6/13/2023	
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				323,941.72		
				-1,075.00		*VOIDED
				-----		
				322,866.72		

Totals by fund	Previous Checks/Voids	Current Payments	Total
Fund 10 CURRENT FUND	227,075.41	1,194,114.54	1,421,189.95
Fund 11 FEDERAL/STATE GRANTS	1,738.94	4,472.00	6,210.94
Fund 30 CAPITAL	-1,075.00	33,814.68	32,739.68

ACCOUNT	DESCRIPTION	CURRENT YR	APPROP. YEAR	NON-BUDGETARY	CREI
Fund 60	WATER/SEWER UTILITY	46,875.99	32,645.62	79,521.61	
Fund 61	WATER/SEWER CAPITAL	1,250.00	28,837.59	30,087.59	
Fund 71	TRUST	11,001.38	2,522.00	13,523.38	
Fund 81	PAYROLL	36,000.00		36,000.00	
BILLS LIST TOTALS		322,866.72	1,296,406.43	1,619,273.15	