



**AGENDA**  
**NEWTON TOWN COUNCIL**  
**FEBRUARY 14, 2011**  
**7:00 P.M.**

**I. PLEDGE OF ALLEGIANCE**

**II. ROLL CALL**

**III. OPEN PUBLIC MEETINGS ACT STATEMENT**

**IV. APPROVAL OF MINUTES**

JANUARY 24, 2011 REGULAR MEETING

**V. OPEN TO THE PUBLIC**

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

**VI. COUNCIL & MANAGER REPORTS**

**VII. ORDINANCES**

**a. 2<sup>ND</sup> READING AND PUBLIC HEARING**

ORDINANCE 2011-1

ORDINANCE REAPPROPRIATING \$98,809.59 PROCEEDS OF OBLIGATIONS AND UNSPENT DOWN PAYMENT FUNDS NOT NEEDED FOR THE ORIGINAL PURPOSE IN ORDER TO PROVIDE FOR SIDEWALK REPLACEMENT ON SPRING STREET AND UNDERGROUND STORAGE TANK REMOVAL AT THE DEPARTMENT OF PUBLIC WORKS SITE IN AND BY THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX, NEW JERSEY

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

**b. INTRODUCTION**

ORDINANCE 2011-2

AN ORDINANCE TO EXCEED THE 2011 MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK (N.J.S.A. 40A: 4-45.14)

ORDINANCE 2011-3

AN ORDINANCE TO AMEND CHAPTER 10 "TRAFFIC" OF NEWTON'S REVISED GENERAL ORDINANCES

**VIII. OLD BUSINESS**

**a. MAIN STREET NEWTON BID – NO UPDATE**

## 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 #21-2011\* RESOLUTION DECLARING MARCH 2, 2011 AS READ ACROSS AMERICA DAY
- b. RESOLUTION #22-2011\* APPROVE TAX APPEAL SETTLEMENT AND AUTHORIZE REFUND OF OVERPAYMENT FOR BLOCK 201, LOT 1.20
- c. RESOLUTION #23-2011\* RESOLUTION AUTHORIZING DISPOSAL OF SURPLUS PROPERTY
- d. RESOLUTION #24-2011\* AUTHORIZE THE EXECUTION OF AN AGREEMENT WITH VDA LLC FOR VERTICAL TRANSPORTATION CONSULTING SERVICES
- e. RESOLUTION #25-2011\* APPROVE CHANGE ORDER NO. 2 FOR THE NORTH PARK DRIVE SUBPROJECT OF THE PAVING OF VARIOUS STREETS PROJECT
- f. RESOLUTION #26-2011\* AUTHORIZE AN AGREEMENT WITH HOLZHAUER & HOLENSTEIN, LLC FOR APPRAISAL SERVICES FOR DEFENSE OF STATE LEVEL TAX APPEALS
- g. RESOLUTION #27-2011\* AUTHORIZE CREDITS DUE WATER AND SEWER UTILITY ACCOUNTS
- h. RESOLUTION #28-2011\* TAKE YOUR DAUGHTERS AND SONS TO WORK DAY – APRIL 28, 2011
- i. RESOLUTION #29-2011\* APPROVE 2010 APPROPRIATION RESERVE TRANSFERS
- j. RESOLUTION #30-2011\* APPROVE BILLS AND VOUCHERS FOR PAYMENT
- k. APPLICATION\* APPLICATION FOR AN OFF-PREMISE RAFFLE FROM ST. JOSEPH SCHOOL, 20 JEFFERSON STREET, NEWTON TO BE HELD ON MAY 25, 2011 AT 8:00PM AT 20 JEFFERSON STREET, NEWTON

## X. INTERMISSION

**XI. DISCUSSION**

- a.** UTILITY BOARD APPEAL
- b.** COUNTY BUS STOP
- c.** CIRCULATION PLAN
- d.** DILLER AVENUE
- e.** RAILROAD RIGHT-OF-WAY
- f.** HEALTH PLAN WAIVERS

**XII. OPEN TO THE PUBLIC**

**XIII. COUNCIL & MANAGER COMMENTS**

**XIV. ADJOURNMENT**

**ORDINANCE 2011-1**

ORDINANCE REAPPROPRIATING \$98,809.59 PROCEEDS OF OBLIGATIONS AND UNSPENT DOWN PAYMENT FUNDS NOT NEEDED FOR THE ORIGINAL PURPOSE IN ORDER TO PROVIDE FOR SIDEWALK REPLACEMENT ON SPRING STREET AND UNDERGROUND STORAGE TANK REMOVAL AT THE DEPARTMENT OF PUBLIC WORKS SITE IN AND BY THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX, NEW JERSEY.

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

Section 1. Pursuant to N.J.S.A. 40A:2-39, it is hereby determined that \$98,809.59 of the proceeds of obligations and unspent down payment funds originally made available pursuant to Section 3(g) of bond ordinance #2008-7 of the Town of Newton, in the County of Sussex, New Jersey (the "Town") finally adopted April 28, 2008 is no longer necessary for the purpose of Central Business District alleyway improvements including paving and lighting for which the obligations and other funds previously were authorized.

Section 2. The \$98,809.59 described in Section 1 and made available pursuant to N.J.S.A. 40A:2-39 is hereby reappropriated to provide for the following improvements of purposes:

<u>Improvement or Purpose</u>	<u>Amount</u>
Sidewalk replacement on Spring Street	\$33,000.00
Underground storage tank removal at the Department of Public Works site	\$65,809.59

Section 3. The Town hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Town is hereby amended to conform with the provisions of this ordinance to the extent of any

inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 4. This ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

**NOTICE**

**TAKE NOTICE** that the above Ordinance was introduced at a regular meeting of the Town Council of the Town of Newton conducted on Monday, January 24, 2011. It was adopted, after final reading and public hearing thereon, at a meeting of the Town Council of the Town of Newton conducted at 7:00pm on Monday, February 14, 2011 in the Council Chambers at the Newton Municipal Building, 39 Trinity Street, Newton, New Jersey, and shall take effect according to law.

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Lorraine A. Read, RMC  
Municipal Clerk

**TOWN OF NEWTON**

**ORDINANCE # 2011-2**

**AN ORDINANCE TO EXCEED THE 2011 MUNICIPAL BUDGET  
APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK  
(N.J.S.A. 40A: 4-45.14)**

**WHEREAS**, the Local Government Cap Law, N.J.S.A. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget up to 2.0% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and

**WHEREAS**, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and

**WHEREAS**, the Town Council of the Town of Newton in the County of Sussex finds it advisable and necessary to increase its CY 2011 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and

**WHEREAS**, the Newton Town Council hereby determines that a 3.5% increase in the budget for said year, amounting to \$255,054.02 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and

**WHEREAS**, the Newton Town Council hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years;

**NOW, THEREFORE BE IT ORDAINED**, by the Town Council of the Town of Newton, in the County of Sussex, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2011 budget year, the final appropriations of the Town of Newton shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.5%, amounting to \$255,054.02, and that the CY 2011 municipal budget for the Town of Newton be approved and adopted in accordance with this ordinance; and

**BE IT FURTHER ORDAINED**, that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to the final appropriation in either of the next two succeeding years, and

**BE IT FURTHER ORDAINED**, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and

**BE IT FURTHER ORDAINED**, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.

Recorded vote:

Introduction:

	Aye	Nay	Abstain	Absent
Becker	_____	_____	_____	_____
Le Frois	_____	_____	_____	_____
Diglio	_____	_____	_____	_____
Ricciardo	_____	_____	_____	_____
Elvidge	_____	_____	_____	_____

**TAKE NOTICE** that the above Ordinance was introduced at a regular meeting of the Town Council of the Town of Newton conducted on Monday, February 14, 2011. It will be considered for adoption, after final reading and public hearing thereon, at a regular meeting of the Newton Governing Body to be conducted at 7:00pm on Monday, February 28, 2011 in the Council Chambers at the Newton Municipal Building, 39 Trinity Street, Newton, New Jersey, and shall take effect according to law.

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Lorraine A. Read, RMC  
Municipal Clerk

**TOWN OF NEWTON**

**ORDINANCE #2011-3**

**AN ORDINANCE TO AMEND CHAPTER 10 "TRAFFIC" OF NEWTON'S REVISED GENERAL ORDINANCES**

**NOW, THEREFORE BE IT ORDAINED**, by the Town Council of the Town of Newton, in the County of Sussex and State of New Jersey, that Chapter 10, entitled Traffic of the Revised General Ordinances of the Town of Newton be amended as follows:

**SCHEDULE III**

**PARKING TIME LIMITED ON CERTAIN STREETS**

<u>Name of Street</u>	<u>Sides</u>	<u>Time Limit</u>	<u>Hours</u>	<u>Location</u>
Spring Street	North-easterly	1 hour	8:00am to 6:00pm Monday-Saturday	Beginning at a point in the northeasterly curb line of Spring Street, 83 feet north of where the same intersects with the northerly side line of Union Place, thence northerly along the northeasterly curb line of Spring St. in all appropriately marked parking spaces, other than those reserved for handicapped persons as listed in Schedule XVII, to a point 119 feet north of Moran St's. westerly curb line intersection with Spring Street

**SCHEDULE XIX**

**LOCAL SUPPLEMENTAL VIOLATIONS BUREAU SCHEDULE**

<u>Ordinance Section</u>	<u>Short Description</u>	<u>Payable Amount</u>
5-14.2A	Public parks/ride or drive except at posted speeds	\$55
5-14.2B	Public parks/park in other than an established or designated parking area	\$55
5-14.2C	Public parks/leave vehicle standing or parked at night in established parking areas	\$55

<u>Ordinance Section</u>	<u>Short Description</u>	<u>Payable Amount</u>
5-14.2G	Public parks/use or ride any motorcycle, mini bikes or any motorized vehicle, except in those areas designated by the Advisory Recreation Commission	\$55
5-4.1	Removal of snow and ice from sidewalks	\$50
10-3.2	Prohibited Parking During an Emergency	\$55
10-3.3	Parking Prohibited, All Times, Certain Streets	\$55
10-3.4	Parking Prohibited During Certain Hours	\$25
10-3.5	Parking Time Limited – Certain Street	\$20
10-3.6	Stopping or Standing Prohibited During Certain on Streets	\$55
10-3.8	Overtime Parking Western Plaza Lot	\$25
10-4	Limit Use of Streets to Certain Vehicles	\$25
10-9	Loading Zones	\$85
10-11.1	No Parking – Certain Times on School Grounds	\$25
10-11.1B	Parking Permitted Only in Specific Area	\$25
10-11.2	One-Way Traffic/Newton High School	\$45
10-11.3(a)	Parking School Buses Only/Merriam Ave. School	\$55
10-11.3(b)	One-Way Traffic/Merriam Ave. School	\$45
10-11.4	One-WayTraffic/Halsted Street School	\$45
10-12.4	Overtime Parking	\$20
10-12.5a	Overtime Parking	\$20
10-12.5b	Not Parking in Designated Area/Streets	\$20
10-13A(1)	Overnight Parking Prohibition/Park & Ride Between 10:00pm to 5:00am	\$25
10-13B.2a	No Parking in the Municipal Lots between 4:00am and 6:00am	\$25
10-13.B.2b	Eastern Plaza parking over two hour limit	\$25
10-14.2	Parking in the Municipal Lots without paying the proper fee	\$20
10-14.3	No Parking 4:00am to 6:00am	\$25
10-14.5c	Not Parking in Designated Area/Municipal Lots	\$20
10-16	No Parking During Snow Removal	\$50
13-28.16	Parking in a Fire Zone	\$50

1. Where the statutory or Ordinance penalty does not exceed \$50.00 for each offense, including where the minimum statutory or Ordinance penalty does not exceed \$50.00 for each offense, the defendant at any time before the hearing date, upon presentation of the signed plea of guilty and waiver of trial endorsed on the summons, may pay the penalty and in addition, court costs of \$24.00 in the Violations Bureau, subject to the limitations prescribed in R.7:7, including the limitation when the summons is marked to indicate that a court appearance is required.
2. Where the statute or Ordinance provides simply for a maximum penalty not in excess of \$50.00, it may be disposed of by payment through the Violations Bureau of one-half the maximum penalty plus \$24.00 court costs.

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Lorraine A. Read, RMC  
Municipal Clerk



## TOWN OF NEWTON

### RESOLUTION #21-2011

February 14, 2011

**“Resolution Declaring March 2, 2011 as  
Read Across America Day”**

**WHEREAS**, the citizens of the Town of Newton stand firmly committed to promoting reading as the catalyst for our students' future academic success, their preparation for America's jobs of the future, and their ability to compete in a global economy; and

**WHEREAS**, the Town of Newton has provided significant leadership in the area of community involvement in the education of our youth, grounded in the principal that educational investment is the key to the community's well-being and long-term quality of life; and

**WHEREAS**, *NEA's Read Across America*, a national celebration of reading, will be conducted on March 2, 2011, which would have been the 107<sup>th</sup> birthday of Theodor Seuss Geisel, better known as Dr. Seuss; and

**WHEREAS**, *Read Across America – NJ* is being conducted statewide by the New Jersey Education Association, in partnership with the New Jersey State League of Municipalities, and the New Jersey Library Association, and their local affiliates across the state to promote reading and adult involvement in the education of our community's students;

**NOW, THEREFORE BE IT RESOLVED**, that the Town Council of the Town of Newton calls on the citizens of Newton to assure that every child is in a safe place reading together with a caring adult on March 2, 2011; and

**BE IT FURTHER RESOLVED**, that this Governing Body enthusiastically endorses **NEA'S Read Across America and Read Across America – NJ**, and recommits our community to engage in programs and activities to make America's children the best readers in the world.

### CERTIFICATION

**THIS IS TO CERTIFY** that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, February 14, 2011.

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Lorraine A. Read, RMC  
Municipal Clerk



## TOWN OF NEWTON

### RESOLUTION #22-2011

February 14, 2011

**“Approve Tax Appeal Settlement and Authorize Refund of Overpayment for Block 201, Lot 1.20”**

**WHEREAS**, Newton West, Ltd., the owner of property identified as Block 201, Lot 1.20, on the official Tax Map for the Town of Newton, located at 100 Swartswood Road in the Town of Newton (a.k.a. Landmark West Apartments), filed State Tax Court appeals of the assessment on said block and lot for tax years 2008, 2009, and 2010; and

**WHEREAS**, negotiations took place between Michael Holenstein of Holzhauer & Holenstein, LLC, the Town of Newton's valuation expert, and Newton West, Ltd.'s professionals; and

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

2008: \$300,000 reduction (against \$9,300,000) resulting in a refund liability of \$7,278.  
2009: \$600,000 reduction (against \$9,300,000) resulting in a refund liability of \$15,342.  
2010: \$900,000 reduction (against \$9,300,000) resulting in a refund liability of \$24,381.

**WHEREAS**, all assessment adjustments are made against the base assessment for the years as appealed and are not cumulative, with the total refund of property taxes for all three years being \$47,001; and

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

**NOW, THEREFORE, BE IT RESOLVED**, by the Town Council of the Town of Newton that the settlement negotiated by its professionals for a reduction of the tax assessment for Block 201, Lot 1.20, for tax years 2008 through 2010 as aforesaid is approved, and that the issuance of a payment to the property owner, Newton West, Ltd., in the amount of \$47,001 to refund property taxes per the settlement is authorized.

### CERTIFICATION

**THIS IS TO CERTIFY** that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, February 14, 2011.

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Lorraine A. Read, RMC  
Municipal Clerk



## TOWN OF NEWTON

### RESOLUTION #23-2011

#### February 14, 2011 "Resolution Authorizing Disposal of Surplus Property"

**WHEREAS**, the Town of Newton is the owner of certain surplus property which is no longer needed for public use; and

**WHEREAS**, the Town Council is desirous of selling said surplus property in an "as is" condition without express or implied warranties;

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

- 1) The sale of surplus property shall be conducted through GovDeals pursuant to NJ State Contract A-70967/T2581 in accordance with the terms and conditions of the State Contract. The terms and conditions of the agreement entered into with GovDeals are available online at govdeals.com and also available in the Clerk's Office of the Town of Newton.
- 2) The sale will be conducted online and the address of the auction site is govdeals.com.
- 3) The sale is being conducted pursuant to Local Finance Notice 2008-9.
- 4) A list of the surplus property to be sold is as follows:
  1. Executive Leather Chairs  
Condition: Good  
Quantity: 7
  2. 1994 Ford E350 Ambulance  
Vin#: 1FDHE30M0PHB35100  
Odometer Reading: 40,000 MILES  
Condition: Poor
- 5) The surplus property as identified shall be sold in an "as-is" condition without express or implied warranties with the successful bidder required to execute a Hold Harmless and Indemnification Agreement concerning use of said surplus property.
- 6) The Town of Newton reserves the right to accept or reject any bids submitted.

#### CERTIFICATION

**THIS IS TO CERTIFY** that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, February 14, 2011.

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Lorraine A. Read, RMC  
Municipal Clerk



## TOWN OF NEWTON

### RESOLUTION #24-2011

February 14, 2011

### “Authorize the Execution of an Agreement with VDA LLC for Vertical Transportation Consulting Services”

**WHEREAS**, the Town of Newton requires the services of a qualified Vertical Transportation Consulting Company for the replacement of the existing Town of Newton elevator; and

**WHEREAS**, VDA LLC, submitted a proposal dated February 3, 2011 outlining the services to be provided for \$14,500.00, which is less than the threshold established by the Local Public Contracts Law; and

**WHEREAS**, after review, the Governing Body has determined that VDA LLC, is qualified for the project; and

**WHEREAS**, the Chief Financial Officer of the Town of Newton has certified that funds are available to support this contractual services agreement;

**NOW THEREFORE BE IT RESOLVED** that the Town Council of the Town of Newton hereby authorizes the Mayor and Clerk to execute an agreement VDA LLC for the replacement of the existing Town of Newton elevator as proposed; and

**BE IT FURTHER RESOLVED** that a certified copy of this resolution be forwarded to VDA LLC, and that a notice of this agreement be published in the newspaper of record for the Town in accordance with the Local Public Contracts Law.

### CERTIFICATION

**THIS IS TO CERTIFY** that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, February 14, 2011.

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Lorraine A. Read, RMC  
Municipal Clerk



TOWN OF NEWTON

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

THIS IS TO CERTIFY THAT FUNDS ARE AVAILABLE AS FOLLOWS:

RESOLUTION #: 24-2011

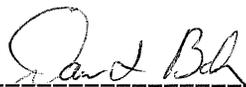
APPROVING: VDA LLC

FOR THE PURPOSE OF: CONSULTANT FOR REPLACEMENT OF  
EXISTING ELEVATOR

IN THE AMOUNT OF: \$14,500.00

APPROPRIATED BY: GENERAL CAPITAL FUND - ORD.#2010-7  
#30910791 IMPROVEMENTS TO MUNICIPAL BUILDING

DATED THIS 14TH DAY OF FEBRUARY, 2011

BY  \_\_\_\_\_

DAWN L. BABCOCK  
CHIEF FINANCIAL OFFICER



February 3, 2011 (Revised)  
January 20, 2011

Mr. Tom Russo, Jr.  
The Town Hall of Newton, NJ  
39 Trinity Street  
Newton, NJ 07860

Email [trusso@newtontownhall.com](mailto:trusso@newtontownhall.com)

Re: "Town Hall of Newton NJ" 39 Trinity Street, Newton, NJ – Vertical Transportation Consultation Services

Dear Mr. Russo,

Based on our discussions, the following represents the agreement by and between VDA LLC, hereinafter referred to as "Consultant," and Town Hall of Newton, NJ hereinafter referred to as the "Client."

## I PURPOSE OF AGREEMENT

- A. The purpose of this Agreement is to state the terms and conditions under which Consultant will provide consulting services for the vertical transportation system(s) in the referenced building, hereinafter referred to as the "Project."

## II SCOPE OF WORK

- A. Provide elevator consulting services in connection with the evaluation and modernization of one (1) elevator at the Town Hall of Newton NJ.

## III SERVICES TO BE PERFORMED

### PHASE I - PRELIMINARY EVALUATION (COMPLETED)

- A. Meet with Client to review project intent and determine survey requirements for systems improvements.
- B. Establish the design criteria for modernization of the vertical transportation systems.
- C. Survey the referenced unit(s) to provide:
  - 1. An overview audit of existing systems
  - 2. An identification of the major equipment and/or system components
  - 3. An audit of the general maintained conditions of the systems

4. An ADA overview survey to evaluate general conditions related to handicap compliance
  5. A review of prevailing conditions applicable to contractor proposals submitted prior to the survey analysis.
  6. A recommended scope of work for remedial improvements.
  7. Major equipment and/or system modernization upgrades
- D. Prepare a letter report with the findings of our preliminary evaluation. Attach details relevant to the evaluation intent.
1. An Equipment Evaluation
  2. A Life Cycle Analysis Matrix
  3. A Maintained Condition Overview
  4. Remedial Improvement Options including Equipment Renewals
  5. Modernization/Upgrading Alternatives
  6. An ADA Handicapped Accessibility Overview Audit.
  7. A Review of Contractor Proposal Submitted Prior to the Field Survey
  8. A Complete Existing Systems Profile
  9. Outline Specification for Modernizations Recommended
  10. Budget Estimates for Remedial Improvements and/or Recommended Modernization Alternatives
  11. General Schedule Information for Project Planning and Implementation

#### PHASE II - DOCUMENT PREPARATION

- A. Prepare documents for:
1. Upgrading / modernization of systems and maintenance services.
  2. Remedial improvements and maintenance services

- B. Confirm our original recommendations for systems improvements with supplemental applicable information.
- C. Provide assistance to the Client with the design and finish of the elevator cabs, entrances and special operating fixtures.
- D. Based upon the data gathered and Client instructions, prepare draft specifications for:
  - 1. Remedial repairs and upgrades
  - 2. Maintenance Service Coverage
  - 3. Equipment repairs and direct replacements
  - 4. Component upgrades and modernizations
  - 5. Safety code and/or local law improvements
  - 6. Mandated alterations and equipment upgrades
- E. In a separate section of the project specifications, provide detailed terms and conditions governing the manner in which all work must be performed. Included in this section, along with warranty information, insurance requirements, and applicable code listing, shall be procedures for:
  - 1. Material handling and storage
  - 2. Disposal of old equipment
  - 3. Erecting barricades / property protection
  - 4. Obtaining approval of submittal drawings
  - 5. Submitting progress payment requests
  - 6. Obtaining permits and/or approvals
  - 7. Conducting code and acceptance inspections
  - 8. Resolving disputes over interpretation of the specifications
  - 9. Guaranteeing materials and workmanship
  - 10. Turning over wiring diagrams, instruction manuals and diagnostic tools

11. Training personnel on new control and safety features
  12. Obtaining final acceptance of completed work
  13. Project execution requirements / personnel
- F. Provide a form of agreement and specifications for Full Protective Elevator/Escalator Maintenance Services. This agreement shall be written to require the contractor to:
1. Provide a comprehensive scope of preventive maintenance services
  2. Work a minimum number of hours each month dedicated solely to routine maintenance
  3. Respond to call-back service requests within a specified time
  4. Provide a monthly summary of equipment malfunctions and call-backs
  5. Conduct periodic inspections and testing as required by code / local laws
  6. Maintain specific levels of operational performance
  7. Periodically re-paint machinery and storage parts
  8. Provide insurance requirements, price adjustments, cancellations and renewals
- G. Provide new or revised budget estimates as required
- H. Assist in pre-qualifying contractors with the expertise and logistical support necessary to successfully complete the specified work.
- I. Issue the following bid documents to pre-qualified contractors:
1. General terms and conditions governing the technical specifications
  2. Technical specifications for the work authorized
  3. Specifications and contract for preventive maintenance services
  4. A bid proposal form
  5. Contractor qualification form / references

PHASE III - BIDDING

- A. Respond to bidder inquiries regarding the specifications and issue addenda when necessary.
- B. Provide spreadsheet analysis of bid proposals.
- C. Attend up to one (1) meeting in Newton NJ with the Client to interview bidders whose proposals are viable and competitive.
- D. Issue a written recommendation for contract award based upon bid proposal review and contractor interviews.

PHASE IV - CONTRACT (CONSTRUCTION) ADMINISTRATION

- A. Review vertical transportation and elevator cab shop drawings for compliance with the project specifications as well as applicable codes.
- B. Conduct or attend a maximum of two (2) job site visits or meetings during construction to evaluate work in progress by the Contractor. Subsequent to each such visit, issue a written letter/report on our findings. Progress payment application approval, if required, shall be made during these site visits only.
- C. Upon completion of the work, conduct a thorough examination to compile a deficiency punch list. Monitor systems operation and record pertinent operating performance data for comparison purposes. Upon completion of this audit, issue a list of items, which require corrective action by the contractor.
- D. Perform up to one (1) follow-up survey to verify that all punch list items are addressed by the contractor in a satisfactory manner.
- E. Upon the satisfactory removal of all punch list deficiencies by the contractor, issue a letter recommending final acceptance of the completed project along with payment of retained money.

IV INDEMNIFICATION

- A. The Consultant shall be responsible for the work performed directly by his employees or those persons retained by the Consultant to perform work in conjunction with this project and shall defend, indemnify and hold harmless the Client against claims arising out of such performance.
- B. The Consultant shall not be responsible for the act or omissions of the Client or any of the Client's other consultants, contractor(s), sub-consultant(s), their agents or employees, or other persons performing any of the work.

- C. The Consultant shall not be responsible for delays beyond his control.
- D. The Client shall be responsible for the payment of sales and use taxes which may be imposed or assessed by the State of New York or any other state or local jurisdiction in connection with the services provided by the Consultant. The Client shall indemnify and hold harmless the Consultant and its agents and employees against any such sales and use taxes, claims or liabilities.

## V TERMINATION OF AGREEMENT

- A. This agreement may be terminated under the following circumstances:
  - by either party upon seven (7) days written notice thereof to the other party.
  - if terminated by Client, Consultant will be compensated for all service rendered prior to such termination.

## VI MISCELLANEOUS PROVISIONS

- A. FTP or Document Management (Buzzsaw, ProjectPoint, etc.) Web Sites:
  - VDA requires separate folders consisting of "From VDA" and "To VDA." All drawings posted by the Architect to the "To VDA" folder will include only the architectural plans, sections and details related to elevators, escalators and elevator cab enclosures. VDA will post its drawings and documents into the "From VDA" file for use by the Design Team. For each posting, the architect will provide a clear path to the posted documents for VDA to gain easy access.
- B. This Agreement is binding upon the original parties and their respective heirs, assigns, administrators, executors or legal representatives (as permitted by this Agreement).
- C. Should one or more provisions within the Agreement be held invalid, illegal or unenforceable, the Agreement will be construed to survive such a holding and the invalid, illegal or unenforceable provisions will not affect any other provisions of the Agreement.
- D. This writing constitutes the sole intention of the parties. Any and all prior oral and/or written agreements or understandings between the parties are hereby suspended with respect to the subject matter hereof.
- E. If the equipment is to be installed in a new or extended hoistway in an existing structure, unforeseen field conditions may result in re-design work and/or additional services that will be considered beyond the Scope of Services previously outlined. The additional work, when authorized by the Client, will be invoiced monthly on a time card basis.
- F. This proposal is valid for sixty (60) days from date of issuance.

- G. This proposal covers the use of VDA drawings and specifications for this project only. These contract documents may not be used for any other project without written permission and additional compensation.
- H. On certain projects, VDA may require more than a ten (10) working day review period if multiple shop drawing packages are submitted simultaneously.
- I. This proposal is based on the design of rectangular elevators in solid enclosures. If, subsequent to this proposal, specially configured units are required or they are in glass or open hoistways, we will require an additional fee for the special design work.
- J. VDA reserves the right to re-visit our fee upon completion of the Preliminary Evaluation Phase.
- K. Value Engineering (VE) items approved by the GC/Owner during the bid phase that requires VDA contract documents to be modified will be considered over and above the Scope of Work and will be billed on a time card basis using our current rates.
- L. The proposal does not include the review of substituted designs (by various elevator manufacturers) submitted during the overall design phase of the project. If requested to perform such analysis, a supplementary proposal will be issued.

VII FEE

- A. The fee will be the lump sum of \$13,300 broken down by the following phases:
  - 1. The Phase II fee will be the lump sum of \$4,800 payable in installments
  - 2. The Phase III fee will be the lump sum of \$1,800 payable upon issuance of the bid comparison analysis
  - 3. The Phase IV fee will be the lump sum of \$6,700 payable in installments. Invoices will be issued monthly as services are provided.
- B. Provide a retainer of \$3,000 payable upon the acceptance of this proposal.
- C. The following reimbursable expenses will be billed at cost with our normal invoices:
  - 1. Living and traveling expenses for any travel outside the New York Metropolitan area.
  - 2. Bulk document reproduction and CAD plotting.
  - 3. Long distance telephone and facsimile charges
  - 4. Any courier and express delivery services such as FedEx

- D. Any additional consulting requested by the Client that is over and above the Scope of Work will be billed on a time card basis using our current rates.
- E. Any sales and use taxes which may be charged or imposed in connection with Consultant's services shall be paid by Client as a separate charge in addition to the fee specified in this Agreement.
- F. It is expected that invoices will be paid within thirty (30) days of rendering. One percent (1%) per month interest will be charged on any invoice that is outstanding for over ninety (90) days.
- G. Any property managed, owned, supplemented or financed by a Government Agency that mandates documents be sealed (i.e., stamped) by a Professional Engineer, Architectural Engineer or Registered Architect shall be subject to the extra fee charged or imposed in connections with the services specified in this Agreement.

EXECUTED this day and year first above written

CLIENT

CONSULTANT

The Town of Newton NJ

VDA LLC



By: \_\_\_\_\_

By: \_\_\_\_\_

Robert Corcoran

Title: \_\_\_\_\_

Title: Senior Associate

Address: 39 Trinity Street  
Newton, NJ 07860

Address: 7 Penn Plaza, Suite 404  
New York, NY 10001

**ALL FAXED SIGNATURES ARE RECOGNIZED AS ORIGINALS**

**EXECUTION OF THIS SIGNATURE PAGE REPRESENTS THE ACCEPTANCE OF THE ENTIRE PROPOSAL**

/sg



TOWN OF NEWTON

RESOLUTION #25-2011

February 14, 2011

“Approve Change Order No. 2 for the North Park Drive Subproject of the Paving of Various Streets Project”

WHEREAS, the Town Council of the Town of Newton awarded a contract for the Paving of Various Streets Project to Top Line Construction Corp., in the amount of \$441,283.76 by Resolution #141-2010, which was adopted on August 23, 2010; and

WHEREAS, within the project was a subproject for the Paving of North Park Drive which is a State Aid Project from the New Jersey Department of Transportation; and

WHEREAS, the Town Council approved Change Order No. 1 for the project by the adoption of Resolution #189-2010 at their meeting on October 25, 2010, adjusting the overall contract amount of to \$442,729.67 with the North Park Drive portion of the project totaling \$131,120.23; and

WHEREAS, Harold Pellow & Associates, Inc. has prepared Change Order No. 2 for the North Park Drive portion, and recommends approval of the following:

<u>Change Order No. 2 – Subproject (North Park Drive)</u>	<u>Amount</u>
Traffic Stripes, Long Life, Epoxy Resin;	\$280.90
GORE Striping, 12" Wide, Long Life, Thermoplastic;	\$469.20
Traffic Stripes, 8" Wide, Long Life Epoxy Resin	\$136.24
<b>Total</b>	<b>\$886.34 Increase</b>

WHEREAS, the adjusted contract amount will be increased by \$886.34 by Change Order No. 2 to the new North Park Drive subproject contract total of \$132,006.57;

WHEREAS, the Chief Financial Officer has certified the availability of funds to support the above change order;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that it hereby approves both Change Order No. 2 for the North Park Drive subproject based on the recommendation of the Town Engineer, and that the Mayor is authorized to execute Change Order No. 2 resulting in a new subcontract total of \$132,006.57; and

BE IT FURTHER RESOLVED that a copy of the Engineer's certification detailing the change order be attached and made part of this resolution.

CERTIFICATION

THIS IS TO CERTIFY that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, February 14, 2011.

\_\_\_\_\_  
Lorraine A. Read, RMC  
Municipal Clerk



TOWN OF NEWTON

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

THIS IS TO CERTIFY THAT FUNDS ARE AVAILABLE AS FOLLOWS:

RESOLUTION #: 25 -2011

APPROVING: TOP LINE CONSTRUCTION CORP.

FOR THE PURPOSE OF: CO#2 RESURFACING N.PARK Dr.

IN THE AMOUNT OF: \$886.34

APPROPRIATED BY: CAPITAL - ORD.#2010-7  
#3091071 ROAD IMPR.-NORTH PARK DRIVE \$ 886.34

DATED THIS 14TH DAY OF FEBRUARY , 2011

BY 

DAWN L. BABCOCK  
CHIEF FINANCIAL OFFICER



## TOWN OF NEWTON

### RESOLUTION #26-2011

February 14, 2011

### **“Authorize an Agreement with Holzhauer & Holenstein, LLC for Appraisal Services for Defense of State Level Tax Appeals”**

**WHEREAS**, various tax appeals have been filed with the State of New Jersey related to several real properties within the Town of Newton; and

**WHEREAS**, Michael Holenstein of Holzhauer & Holenstein, LLC has submitted a proposal for his continued appraisal services to defend such tax appeals, which is acceptable to the Newton Governing Body; and

**WHEREAS**, appraisal service is a professional service as defined by the Local Public Contracts Law and is, therefore, exempt from public bidding requirements in accordance with N.J.A.C. 40A:11-5(1)(a)(i); and

**WHEREAS**, the Chief Financial Officer has certified that funds are available to support an agreement with Holzhauer & Holenstein, LLC, for appraisal services in an amount not exceed \$17,500;

**NOW, THEREFORE BE IT RESOLVED**, that the Town Council of the Town of Newton hereby authorizes the execution of an agreement with Holzhauer & Holenstein, LLC, for appraisal services as outlined in Mr. Holenstein's proposal dated February 7, 2011; and

**BE IT FURTHER RESOLVED**, that a certified copy of this resolution be forwarded to Holzhauer & Holenstein, LLC and that a notice of this agreement be in the newspaper of record published in accordance with the Local Public Contracts Law.

### **CERTIFICATION**

**THIS IS TO CERTIFY** that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, February 14, 2011.

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Lorraine A. Read, RMC  
Municipal Clerk



TOWN OF NEWTON

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

THIS IS TO CERTIFY THAT FUNDS ARE AVAILABLE AS FOLLOWS:

RESOLUTION #: 26-2011

APPROVING: HOLZHAUER & HOLENSTEIN, LLC

FOR THE PURPOSE OF: APPRAISAL SERVICES FOR DEFENSE OF STATE  
TAX APPEALS

IN THE AMOUNT OF: NOT TO EXCEED \$17,500.00

APPROPRIATED BY:

CURRENT APPROPRIATION RESERVES - TAX ASSESSOR, OTHER EXPENSES - CONTRACTUAL SERVICES #1055216A	\$4,320.96
CURRENT APPROPRIATIONS - TAX ASSESSOR, OTHER EXPENSES - CONTRACTUAL SERVICES #1055216	\$10,000.00
CURRENT RESERVE FOR REVALUATION #101240	\$ 3,179.04

DATED THIS 14TH DAY OF FEBRUARY, 2011

BY 

DAWN L. BABCOCK  
CHIEF FINANCIAL OFFICER



## TOWN OF NEWTON

### RESOLUTION #27-2011

February 14, 2011

### “Authorize Credits Due Water and Sewer Utility Accounts”

**WHEREAS**, the Water and Sewer Collector has determined that the following Water and Sewer Utility Accounts are due credits for the reasons stated;

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that the Water and Sewer Collector is hereby authorized to credit the following accounts for amounts billed incorrectly due to the reason(s) stated:

#### **Account overestimated 4<sup>th</sup> Quarter:**

<u>Account</u>	<u>Address</u>	<u>Amount</u>
593	234 Spring Street	\$88.80

#### **Utility Board recommends credit of minimum charges paid while meter was stuck:**

<u>Account</u>	<u>Address</u>	<u>Amount</u>
10312	15 Ridgewood Avenue	\$150.00

#### **Credit penalty due to bill being mailed to incorrect address:**

<u>Account</u>	<u>Address</u>	<u>Amount</u>
22808	4 Country Club Lane	\$3.72

#### **CERTIFICATION**

**THIS IS TO CERTIFY** that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, February 14, 2011.

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Lorraine A. Read, RMC  
Municipal Clerk



## TOWN OF NEWTON

### RESOLUTION #28-2011

February 14, 2011

**“Take Our Daughters and Sons to Work® Day –  
April 28, 2011”**

**WHEREAS,** the Take Our Daughters and Sons to Work® Foundation operates the Take Our Daughters and Sons to Work® Day to help our nation's daughters and sons reach their full potential in school, in family life, in the community, and in their future work lives; and

**WHEREAS,** take Our Daughters and Sons to Work® Day is making a positive difference in the lives of our youth through creating a wide range of experiences to instill the confidence necessary to acquire the skills and attitudes to enter and compete in today's workplace; and

**WHEREAS,** this program for 18 years has designed and promoted activities that encourage girls and boys to think about how their dreams for the future – both for their work and family lives – can be realized; and

**WHEREAS,** through this educational experience, girls and boys begin to see the connection between studied subjects like math, English and science and how they are applied to the “real” world. As a result, girls and boys are given an opportunity to explore the workplace and apply the experience to their everyday studies; and

**WHEREAS,** this program is a public education campaign that amplifies the voices of girls and boys, shares the vision of our nation's daughters and sons for a better future, and works through the program to help girls and boys make their vision of today their reality of tomorrow;

**NOW, THEREFORE,** We, the Mayor and Town Council of the Town of Newton do hereby extend greetings and best wishes to all observing April 28, 2011 as **“Take Our Daughters and Sons to Work® Day”** in the Town of Newton, and we urge all business and organizations to join the Town of Newton in supporting this program and its participants, enabling students to realize their full potential and reach their dreams.

### CERTIFICATION

**THIS IS TO CERTIFY** that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, February 14, 2011.

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Lorraine A. Read, RMC  
Municipal Clerk



## TOWN OF NEWTON

### RESOLUTION #29-2011

February 14, 2011 "Approve 2010 Appropriation Reserve Transfers"

**BE IT RESOLVED**, by the Town Council of the Town of Newton that the following 2010 appropriation reserve transfers be approved effective this date:

<u>From</u>	<u>To</u>	<u>Amount</u>
<b><u>CURRENT</u></b>		
Liquidation of TTL OE 1057200A	Police SW 1074113A	\$800.00
Finance OE 1054268A	Assessment of Taxes OE 1055216A	\$900.00
Legal OE 1058201A	Assessment of Taxes OE 1055216A	\$1,000.00
Utilities OE 1089245A	Assessment of Taxes OE 1055216A	\$2,300.00
<b>TOTAL CURRENT TRANSFERS</b>		<b><u>\$5,000.00</u></b>

### CERTIFICATION

**THIS IS TO CERTIFY** that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, February 14, 2011.

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Lorraine A. Read, RMC  
Municipal Clerk



## TOWN OF NEWTON

### RESOLUTION #30-2011

February 14, 2011

**“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 2010 and 2011 Budgets adopted by this local Governing Body, including any emergency appropriations, and where unexpended balances exist in said appropriation accounts for the payment of such vouchers.

#### CERTIFICATION

**THIS IS TO CERTIFY** that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, February 14, 2011.

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Lorraine A. Read, RMC  
Municipal Clerk