



**AGENDA
NEWTON TOWN COUNCIL**

FEBRUARY 28, 2011

7:00 P.M.

I. PLEDGE OF ALLEGIANCE

II. ROLL CALL

III. OPEN PUBLIC MEETINGS ACT STATEMENT

IV. APPROVAL OF MINUTES

FEBRUARY 3, 2011 BUDGET HEARING
FEBRUARY 5, 2011 BUDGET HEARING
FEBRUARY 14, 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. 2ND READING AND PUBLIC HEARING

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)

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

ORDINANCE 2011-3

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

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

VIII. OLD BUSINESS

a. MAIN STREET NEWTON BID – NO UPDATE

b. RAILROAD AVENUE RIGHT-OF-WAY

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 #31-2011* AUTHORIZE AN AGREEMENT WITH EACH OF THE OWNERS OF PROPERTIES LOCATED AT 93-95 SPRING STREET, 1 SPRING STREET AND 163-165 SPRING STREET FOR THE PLACEMENT OF OUTDOOR SURVEILLANCE CAMERAS

- b. RESOLUTION #32-2011* AUTHORIZE THE EXECUTION OF AN AGREEMENT WITH VDA LLC FOR VERTICAL TRANSPORTATION CONSULTING SERVICES

- c. RESOLUTION #33-2011* ACCEPTANCE OF THE NORTH PARK DRIVE SUBPROJECT OF THE PAVING OF VARIOUS STREETS PROJECT AS COMPLETE

- d. RESOLUTION #34-2011* AMENDMENT TO 2011 TEMPORARY OPERATING BUDGET

- e. RESOLUTION #35-2011* AUTHORIZE REFUND OF REDEMPTION MONIES TO OUTSIDE LIENHOLDER FOR TAX SALE CERTIFICATE #1270 FOR BLOCK 1108, LOT 23

- f. RESOLUTION #36-2011* AUTHORIZING THE AWARD OF A CONTRACT TO DONNELLY ENERGY SOLUTIONS – INSTALLATION OF ENERGY IMPROVEMENTS IN TOWN FACILITIES AND AUTHORIZING THE FILING OF AN APPLICATION WITH THE NJ STATE CLEAN ENERGY PROGRAM

- g. RESOLUTION #37-2011* APPROVE BILLS AND VOUCHERS FOR PAYMENT

- h. RESOLUTION #38-2011* MODIFICATION TO THE CALCULATION OF THE TAX COLLECTION RATE BY ALLOWING FULL DEDUCTION OF THE IMPACT OF TAX APPEAL JUDGMENTS ON THE LEVY (THEREFOR AFFECTING THE RESERVE FOR UNCOLLECTED TAXES)

- i. APPLICATIONS* TRANSFER APPLICATION TO THE NEWTON FIRE DEPARTMENT FROM JENNIFER COLE, 1 OLD SWARTSWOOD ROAD, NEWTON.

APPLICATION FOR A SPECIAL PERMIT FOR A SOCIAL AFFAIR FROM THE SUSSEX COUNTY ARTS AND HERITAGE COUNCIL, 133 SPRING STREET, NEWTON TO BE HELD ON SATURDAY, APRIL 16, 2011 FROM 4:00 PM TO 7:00 PM AT 133 SPRING STREET, NEWTON.

X. INTRODUCTION OF 2011 BUDGET

- a. TOWN OF NEWTON MUNICIPAL AND WATER & SEWER UTILITY BUDGET

XI. INTERMISSION

XII. DISCUSSION

- a. UTILITY BOARD APPEAL – 108-110 SPRING STREET
- b. DRAFT TELEPHONE AUDIT PROPOSAL
- c. DRAFT RESOLUTION ON REAFFIRMATION OF RETIREE BENEFITS
- d. DRAFT FKA AGREEMENT FOR TOWN HALL WALL REPAIR PROJECT
- e. DRAFT TAX MAP FEE ORDINANCE

XIII. OPEN TO THE PUBLIC

XIV. COUNCIL & MANAGER COMMENTS

XV. ADJOURNMENT

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 was adopted, after final reading and public hearing thereon, at a regular meeting of the Newton Governing Body 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.

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
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.

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 was adopted, after final reading and public hearing thereon, at a regular meeting of the Newton Governing Body 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.

Lorraine A. Read, RMC
Municipal Clerk



TOWN OF NEWTON

RESOLUTION #31-2011

February 28, 2011

“Authorize an Agreement with Each of the Owners of Properties Located at 93-95 Spring Street, 1 Spring Street, and 163-165 Spring Street for the Placement of Outdoor Surveillance Cameras”

WHEREAS, the Town of Newton is in need of and desires to locate and operate outdoor video surveillance cameras on the exterior portions of the buildings located at 93-95 Spring Street, 1 Spring Street, and 163-165 Spring Street in the interest of public safety; and

WHEREAS, an agreement with each of the owners of the three above listed properties has been negotiated for the placement and operation of said cameras, copies of which are annexed hereto;

NOW, THEREFORE BE IT RESOLVED, that the Town Council of the Town of Newton hereby authorizes the Mayor and Clerk to execute the three agreements for the aforesaid purposes in the form annexed to 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 28, 2011.

Lorraine A. Read, RMC
Municipal Clerk

AGREEMENT

THIS AGREEMENT, made this ____ day of February, 2011, by and between **STARBOARD ENTERPRISES, LLC**, having an address of 83 Spring Street, Newton, New Jersey 07860 (hereinafter referred to as "Owner"), and the **TOWN OF NEWTON**, a municipal corporation of the State of New Jersey, having an address of 39 Trinity Street, Newton, New Jersey 07860 (hereinafter referred to as "Town").

WITNESSETH:

WHEREAS, both the Owner and the Town are in need and desire to locate an outdoor video camera on the exterior portion of the Owner's building located at 93-95 Spring Street, Newton, New Jersey, identified as Block 716, Lot 17 on the Newton tax map; and

WHEREAS, the Owner and the Town have determined the location to install an outdoor video camera on the exterior portion of said building more particularly shown and described on a **Diagram** attached hereto as **Schedule A**.

NOW, THEREFORE, IN CONSIDERATION OF the mutual covenants, promises and considerations recited herein, the parties agree as follows:

1. The Town agrees to pay, as they are incurred, all costs and expenses related to the location, installation, administration and maintenance of an outdoor video camera as shown on **Schedule A** attached hereto, and shall pay, as they are incurred, all reasonable costs associated with, if necessary, the preparation of specifications, bidding process costs, as well as any other reasonable soft costs or incidentals that the Town determines are needed for the camera to be located and installed as shown on **Schedule A**.

2. The Owner shall maintain a 110v electrical outlet to be available for the use by the Town on a 24 hour per day, 7 day per week basis for the camera at no cost to the Town. The Town shall reimburse the Owner's electrical costs incurred by the Town's use in the event and in the amount that said cost for said electricity increases during the life of this Agreement, in an amount higher than the anticipated sum of \$100.00 per year.

3. The Owner shall provide to the Town unencumbered free access to the camera and electrical outlet 24 hours per day, 7 days per week.

4. The Town shall be fully responsible for the maintenance and upkeep of the camera equipment.

5. The Town shall indemnify and save harmless the Owner, its officers, employees, agents and each and every one of them, and the Owner shall indemnify and save harmless the Town, its officers, employees, agents and each and every one of them against and from all claims, suits, costs, expenses, fees (including legal fees), and from all damages of every kind and description by reason of the injury or death of any person or persons or by reason of property damage to any property which arises from, or in any manner grows out of, the negligent acts, errors or omissions of the respective parties or its subcontractors or the officers, agents or employees of either relating to the performance of this Agreement.

Each party shall furnish the other with a Certificate of Insurance which shall name the other party as an additional insured and shall clearly show that the policies with the following limits of liability will be in effect for the duration of this Agreement.

General Environmental/Automobile Liability: \$500,000 per occurrence, combined single limit for bodily injury and property damage with no aggregate.

Worker's Compensation: Statutory coverage including employee's liability limits of \$500,000.

Umbrella: \$1,000,000.

6. This Agreement shall be for a period of twenty (20) years, which period shall commence upon receipt by both parties of a fully-executed copy of this Agreement. The parties hereby agree that this Agreement shall automatically be renewed and extended annually for additional one-year periods unless terminated as herein set forth.

7. The parties agree that they each have the right, five (5) years after the date of this Agreement, to terminate this Agreement upon three hundred sixty-five (365) days prior written notice to the other at the address listed above in this Agreement. In the event this Agreement is terminated, the Town shall remove the camera prior to the Termination Date.

IN WITNESS WHEREOF, the parties have caused these presents to be signed by their proper officers and have caused their proper seals to be affixed hereto on the day first written above.

ATTEST:

**STARBOARD ENTERPRISES, LLC,
Owner**

By: _____

Print Name: _____

Print Name: _____

Title: _____

TOWN OF NEWTON, Town

Lorraine A. Read, R.M.C.
Municipal Clerk, Town of Newton

By: _____
Kristen S. Becker
Mayor

SCHEDULE A



Camera Location
93 Spring Street
Newton, NJ

AGREEMENT

THIS AGREEMENT, made this ____ day of February, 2011, by and between the **COUNTY OF SUSSEX**, having an address of P.O. Box 709, Newton, New Jersey 07860 (hereinafter referred to as "Owner"), and the **TOWN OF NEWTON**, a municipal corporation of the State of New Jersey, having an address of 39 Trinity Street, Newton, New Jersey 07860 (hereinafter referred to as "Town").

WITNESSETH:

WHEREAS, both the Owner and the Town are in need and desire to locate an outdoor video camera on the exterior portion of the Owner's building located at 1 Spring Street, Newton, New Jersey, identified as Block 716, Lot 2 on the Newton tax map; and

WHEREAS, the Owner and the Town have determined the location to install an outdoor video camera on the exterior portion of said building more particularly shown and described on a **Diagram** attached hereto as **Schedule A**.

NOW, THEREFORE, IN CONSIDERATION OF the mutual covenants, promises and considerations recited herein, the parties agree as follows:

1. The Town agrees to pay, as they are incurred, all costs and expenses related to the location, installation, administration and maintenance of an outdoor video camera as shown on **Schedule A** attached hereto, and shall pay, as they are incurred, all reasonable costs associated with, if necessary, the preparation of specifications, bidding process costs, as well as any other reasonable soft costs or incidentals that the Town determines are needed for the camera to be located and installed as shown on **Schedule A**.

2. The Owner shall maintain a 110v electrical outlet to be available for the use by the Town on a 24 hour per day, 7 day per week basis for the camera at no cost to the Town. The Town shall reimburse the Owner's electrical costs incurred by the Town's use in the event and in the amount that said cost for said electricity increases during the life of this Agreement, in an amount higher than the anticipated sum of \$100.00 per year.

3. The Owner shall provide to the Town unencumbered free access to the camera and electrical outlet 24 hours per day, 7 days per week.

4. The Town shall be fully responsible for the maintenance and upkeep of the camera equipment.

5. The Town shall indemnify and save harmless the Owner, its officers, employees, agents and each and every one of them, and the Owner shall indemnify and save harmless the Town, its officers, employees, agents and each and every one of them against and from all claims, suits, costs, expenses, fees (including legal fees), and from all damages of every kind and description by reason of the injury or death of any person or persons or by reason of property damage to any property which arises from, or in any manner grows out of, the negligent acts, errors or omissions of the respective parties or its subcontractors or the officers, agents or employees of either relating to the performance of this Agreement.

Each party shall furnish the other with a Certificate of Insurance which shall name the other party as an additional insured and shall clearly show that the policies with the following limits of liability will be in effect for the duration of this Agreement.

General Environmental/Automobile Liability: \$500,000 per occurrence, combined single limit for bodily injury and property damage with no aggregate.

Worker's Compensation: Statutory coverage including employee's liability limits of \$500,000.

Umbrella: \$1,000,000.

6. This Agreement shall be for a period of twenty (20) years, which period shall commence upon receipt by both parties of a fully-executed copy of this Agreement. The parties hereby agree that this Agreement shall automatically be renewed and extended annually for additional one-year periods unless terminated as herein set forth.

7. The parties agree that they each have the right, five (5) years after the date of this Agreement, to terminate this Agreement upon three hundred sixty-five (365) days prior written notice to the other at the address listed above in this Agreement. In the event this Agreement is terminated, the Town shall remove the camera prior to the Termination Date.

IN WITNESS WHEREOF, the parties have caused these presents to be signed by their proper officers and have caused their proper seals to be affixed hereto on the day first written above.

ATTEST:

COUNTY OF SUSSEX, Owner

By: _____

Print Name: _____

Print Name: _____

Title: _____

TOWN OF NEWTON, Town

Lorraine A. Read, R.M.C.
Municipal Clerk, Town of Newton

By: _____
Kristen S. Becker
Mayor

SCHEDULE A



Camera Location
1 Spring Street
Newton, NJ

AGREEMENT

THIS AGREEMENT, made this _____ day of February, 2011, by and between **EDDE HOLDING, LLC**, having an address of P.O. Box 3178, Newton, New Jersey 07860 (hereinafter referred to as "Owner"), and the **TOWN OF NEWTON**, a municipal corporation of the State of New Jersey, having an address of 39 Trinity Street, Newton, New Jersey 07860 (hereinafter referred to as "Town").

WITNESSETH:

WHEREAS, both the Owner and the Town are in need and desire to locate an outdoor video camera on the exterior portion of the Owner's building located at 163-165 Spring Street, Newton, New Jersey, identified as Block 717, Lot 6.01 on the Newton tax map; and

WHEREAS, the Owner and the Town have determined the location to install an outdoor video camera on the exterior portion of said building more particularly shown and described on a **Diagram** attached hereto as **Schedule A**.

NOW, THEREFORE, IN CONSIDERATION OF the mutual covenants, promises and considerations recited herein, the parties agree as follows:

1. The Town agrees to pay, as they are incurred, all costs and expenses related to the location, installation, administration and maintenance of an outdoor video camera as shown on **Schedule A** attached hereto, and shall pay, as they are incurred, all reasonable costs associated with, if necessary, the preparation of specifications, bidding process costs, as well as any other reasonable soft costs or incidentals that the Town determines are needed for the camera to be located and installed as shown on **Schedule A**.

2. The Owner shall maintain a 110v electrical outlet to be available for the use by the Town on a 24 hour per day, 7 day per week basis for the camera at no cost to the Town. The Town shall reimburse the Owner's electrical costs incurred by the Town's use in the event and in the amount that said cost for said electricity increases during the life of this Agreement, in an amount higher than the anticipated sum of \$100.00 per year.

3. The Owner shall provide to the Town unencumbered free access to the camera and electrical outlet 24 hours per day, 7 days per week.

4. The Town shall be fully responsible for the maintenance and upkeep of the camera equipment.

5. The Town shall indemnify and save harmless the Owner, its officers, employees, agents and each and every one of them, and the Owner shall indemnify and save harmless the Town, its officers, employees, agents and each and every one of them against and from all claims, suits, costs, expenses, fees (including legal fees), and from all damages of every kind and description by reason of the injury or death of any person or persons or by reason of property damage to any property which arises from, or in any manner grows out of, the negligent acts, errors or omissions of the respective parties or its subcontractors or the officers, agents or employees of either relating to the performance of this Agreement.

Each party shall furnish the other with a Certificate of Insurance which shall name the other party as an additional insured and shall clearly show that the policies with the following limits of liability will be in effect for the duration of this Agreement.

General Environmental/Automobile Liability: \$500,000 per occurrence, combined single limit for bodily injury and property damage with no aggregate.

Worker's Compensation: Statutory coverage including employee's liability limits of \$500,000.

Umbrella: \$1,000,000.

6. This Agreement shall be for a period of twenty (20) years, which period shall commence upon receipt by both parties of a fully-executed copy of this Agreement. The parties hereby agree that this Agreement shall automatically be renewed and extended annually for additional one-year periods unless terminated as herein set forth.

7. The parties agree that they each have the right, five (5) years after the date of this Agreement, to terminate this Agreement upon three hundred sixty-five (365) days prior written notice to the other at the address listed above in this Agreement. In the event this Agreement is terminated, the Town shall remove the camera prior to the Termination Date.

IN WITNESS WHEREOF, the parties have caused these presents to be signed by their proper officers and have caused their proper seals to be affixed hereto on the day first written above.

ATTEST:

EDDE HOLDING, LLC,
Owner

By: _____

Print Name: _____

Print Name: _____

Title: _____

TOWN OF NEWTON, Town

Lorraine A. Read, R.M.C.
Municipal Clerk, Town of Newton

By: _____
Kristen S. Becker
Mayor

SCHEDULE A



Camera Location
163-165 Spring Street
Newton, NJ



TOWN OF NEWTON

RESOLUTION #32-2011

February 28, 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 revised proposal dated February 22, 2011 outlining the services to be provided for \$13,300.00, 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 28, 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 #: 32-2011

APPROVING: VDA LLC

FOR THE PURPOSE OF: CONSULTANT FOR REPLACEMENT OF
EXISTING ELEVATOR

IN THE AMOUNT OF: \$13,300.00

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

DATED THIS 28TH DAY OF FEBRUARY, 2011

BY 
DAWN L. BABCOCK
CHIEF FINANCIAL OFFICER



February 22, 2011 (Revised)
February 16, 2011 (Revised)
February 3, 2011 (Revised)
January 20, 2011

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

Email trusso@newtownhall.com

Re: 39 Trinity Street, Newton, NJ – Vertical Transportation Consultation Services

Dear Mr. Russo,

Attached is a revised proposal for the vertical transportation services at the Town Hall of Newton, NJ.

The total original fee was \$14,500. The proposal was separated into four parts (Phase 1- Phase 4). Phase I has been completed. The fee for Phase I was \$1,200. The balance of Phases 2 through 4 is \$13,300.

Please issue a purchase order for \$13,300, and we will complete the specifications for this project. The billing would be in stages per the completion of each phase.

We look forward to finalizing the specifications and working with you on this project. If you have any questions, please feel free to call me at 973-830-0284.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Robert Corcoran', written over a horizontal line.

Robert Corcoran
Senior Associate

BC/kj
Enclosures

f:/39 Newton Street-LLC-ppp



February 22, 2011 (Revised)
February 16, 2011 (Revised)
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@newtownhall.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 Jersey 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. This proposal is valid for sixty (60) days from date of issuance.
- F. 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. VDA will provide a (PDF) type file for the town of Newton.

- G. On this project, VDA will require more only a fourteen (14) working day review period.
- H. 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.

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. 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 receipt by the Town of Newton.
- 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.

Town Hall of Newton NJ
39 Trinity Street
Newton, NJ 07860
02/22/11

8

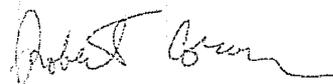
EXECUTED this day and year first above written

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

/kj

VDA
Hourly Rates by Discipline – 2011*

PRINCIPAL / DIRECTOR	\$250.00
OFFICER / DEPARTMENT VP	\$200.00
AREA MANAGER	\$180.00
PROJECT MANAGER	\$175.00
FIELD EXAMINER	\$175.00
SENIOR ASSOCIATE	\$170.00
ASSOCIATE	\$165.00
SENIOR DESIGN ENGINEER	\$155.00
DESIGN ENGINEER	\$150.00
TECHNICAL ADMINISTRATOR	\$100.00
CAD OPERATOR	\$100.00

*Rates are reviewed on an annual basis.



TOWN OF NEWTON

RESOLUTION #33-2011

February 28, 2011

**“Acceptance of North Park Drive
Subproject of the Paving of Various Streets
Project as Complete”**

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 to \$442,729.67 with the North Park Drive portion of the project totaling \$131,120.23; and

WHEREAS, the Town Council approved Change Order No. 2 for the North Park Drive portion of the project by the adoption of Resolution #25-2011 at their meeting on February 14, 2011 adjusting the North Park Drive subproject contract total to \$132,006.57; and

WHEREAS, Harold E. Pellow & Associates, Inc., the Project Engineer, has recommended the North Park Drive portion of the project be accepted as complete by the Town Council so the one (1) year Maintenance Bond may be secured by the contractor and the final papers can be prepared so that final reimbursement from the NJDOT can be obtained;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that it hereby accepts the North Park Drive subproject as complete based on the recommendation of the Town Engineer, so that the final paperwork can be started and the one (1) year Maintenance Bond be secured by the Contractor, Top Line Construction Corp., and final papers can be prepared so that the final reimbursement from the NJDOT can be obtained.

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 28, 2011.

Lorraine A. Read, RMC
Municipal Clerk



TOWN OF NEWTON

RESOLUTION #34-2011

February 28, 2011

“Amendment to 2011 Temporary Operating Budget”

WHEREAS, the Town Council of the Town of Newton adopted the 2011 Temporary Operating Budget and Temporary Water and Sewer Utility Budget by Resolution #261-2010 dated December 29, 2010; and

WHEREAS, N.J.S.A. 40A:4-20 provides that the governing body, by resolution adopted by a 2/3 vote of the full membership, may make amendments to temporary budgets in an amount not to exceed one-twelfth (1/12) of the preceding year's Budget (2010 Budget \$8,846,987 x 1/12 = \$737,248) and that a copy of this resolution be filed with the Director of Local Government Services;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that the 2011 Temporary Operating Budget be hereby amended as follows:

**TOWN OF NEWTON
2011 TEMPORARY BUDGET AMENDMENT**

<u>Current Account</u>	<u>Account No.</u>	<u>Amt of Amendment</u>
Group Insurance OE	1066200	\$45,000
Snow Removal SW	1081102	15,000
Snow Removal OE	1081239	15,000
911 Misc SW	1094770	5,000
Assessment of Taxes OE	1055216	<u>10,000</u>
Subtotal Current Temp Amendment		90,000
CIF – Acquisition of Street Signs	1095303	5,000
Contribution to PERS	1098296	63,544
Contribution to PFRS	1092897	<u>578,704</u>
Total Current Temp Amendment		\$737,248
 <u>Water Sewer Utility Account</u>		
Contribution to PERS	6093296	<u>13,060</u>
Total Water/Sewer Temp Amendment		\$13,060

2010 TOWN OF NEWTON BUDGET

<u>CURRENT</u>		<u>WATER/SEWER</u>
\$10,831,370	Total 2010 General Appropriations	\$4,015,000
1,270,090	Less: Debt Service	599,095
291,000	Capital Improvements	829,000
<u>423,293</u>	Reserve for Uncollected Taxes	<u>0</u>
\$8,846,987	Total Amount to calculate upon	\$2,586,905
<u>x 1/12</u>		<u>x 1/12</u>
\$737,248	Allowable 2011 Temporary Budget Amend.	\$215,575

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 28, 2011.

Lorraine A. Read, RMC
Municipal Clerk



TOWN OF NEWTON

RESOLUTION #35-2011

February 28, 2011

“Authorize Refund of Redemption Monies to Outside Lienholder for Tax Sale Certificate #1270 for Block 1108, Lot 23”

WHEREAS, at the Municipal Tax Sale held on October 29, 2008, a lien was sold on Block 1108, Lot 23, also known as 21 Kelsey Avenue, for 2007 delinquent Real Estate Taxes and delinquent Water and Sewer charges; and

WHEREAS, this lien, known as Tax Sale Certificate #1270, was sold to Park Finance, LLC for a 0% redemption fee with a \$8,600.00 premium; and

WHEREAS, Leonard P. Pasculli, Esq., representing the owner of said property, has effected redemption of Certificate #1270 in the amount of \$32,630.64;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that this Governing Body acknowledges that Park Finance, LLC is entitled to a refund in the amount of \$32,630.64 as well as a refund of the premium in the amount of \$8,600.00; and

BE IT FURTHER RESOLVED, that the Tax Collector be authorized to issue a check in the amount of \$32,630.64 for the redemption of Certificate #1270 and a check for the refund of the premium in the amount of \$8,600.00, payable to Park Finance, LLC, PO Box 109, Cedar Knolls, NJ 07927.

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 28, 2011.

Lorraine A. Read, RMC
Municipal Clerk



TOWN OF NEWTON

RESOLUTION #36-2011

February 28, 2011

“Authorizing the Award of a Contract to Donnelly Energy Solutions – Installation of Energy Improvements in Town Facilities and Authorizing the Filing of an Application with NJ State Clean Energy Program”

WHEREAS, the Town of Newton wishes to install various energy improvements in Town facilities; and

WHEREAS, said energy improvements can be installed by Donnelly Energy Solutions through the New Jersey Clean Energy Program and State Contract T2334; and

WHEREAS, public bids are not required when the purchase is made under a State Contract in accordance with N.J.S.A. 40A:11-12 of the Local Public Contracts Law; and

WHEREAS, TRC Energy Services Inc, 900 Route 9 North, Site 104, Woodbridge, NJ 07095, has been selected as the New Jersey Program manager and has selected Donnelly Energy Solutions, Wayne, NJ, as the contractor for the Town of Newton as said selection was approved by letter from the Acting Director of the Division of Local Government Services dated April 21, 2010; and

WHEREAS, Donnelly has provided an estimate for eligible work dated January 17, 2011;

WHEREAS, said costs will be borne by grant funding including a \$20,000 grant through the New Jersey Smart Start Buildings and through the Federal ARRA program and other NJ Funding;

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

1. A contract is hereby awarded to Donnelly Energy Solutions for the installation of various energy improvements in Town of Newton facilities in amount not to exceed \$36,591.50.
2. The contract is awarded in accordance with the unit pricing, terms and conditions contained in New Jersey State Contract T2334.
3. Any and all municipal officials are hereby authorized to take whatever actions may be necessary to implement the terms of this Resolution.
4. The Town Manager is to complete and file necessary grant applications.
5. All necessary UCC permits and inspections must be obtained.
6. Any change orders must be approved in writing by the Town Manager and approved by the Town Council.
7. The Municipal Clerk is hereby authorized and directed to provide a copy of the Resolution to the Chief Financial Officer and Donnelly Energy Solutions, 557 Route 23 South, Wayne, NJ 07470, Attention: Michael Jacobus.

8. Donnelly Energy Solutions shall not conduct any work until they have been notified by the Town that the grant has been approved and the Town Manager issues a notice to proceed.
9. The Town hereby assigns the \$20,000 ARRA grant to Donnelly Energy Solutions to provide for payment for the work described.

Name	Introduced	Seconded	Aye	Nay	Abstain	Absent
Becker						
Le Frois						
Elvidge						
Ricciardo						
Diglio						

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 28, 2011.

Lorraine A. Read, RMC
Municipal Clerk



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
101 SOUTH BROAD STREET
PO Box 803
TRENTON, NJ 08625-0803

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

LORI GRIFFA
Acting Commissioner

April 21, 2010

Mr. Roger Kliemisch, Associate Vice President
Commercial & Industrial Programs Market Manager
TRC Energy Services, Inc.
900 Route 9 North, Suite 104
Woodbridge, NJ 07095

Re: NJBPU Direct Install Program Participation for Governmental Entity Projects

Dear Mr. Kliemisch:

I have completed my review of the bidding and contractor selection process TRC Energy Services, Inc. followed to award contracts to Participating Contractors ("PCs") performing work in connection with the Direct Install program ("Program"). It is my determination that said process fully satisfies State of New Jersey bidding requirements for public works projects undertaken by local government and public school entities. Therefore, such entities are able to participate in the Program, including having work performed by PCs, precluding any need to competitively bid projects to consider other contractors.

Further, Participating Contractors should have a current Division of Property Management and Construction (DPMC) Classification. DPMC Classification clears them to perform any public contracting work in the State, without the need to obtain other registrations. Public Works Contractor Registration is satisfied as it is required to obtain DPMC classification.

Sincerely,

Marc H. Pfeiffer, Acting Director
Division of Local Government Services

c: Michael Winka, NJ Office of Clean Energy



Donnelly Energy Solutions

GO GREEN. SAVE MONEY.

557 Route 23 South • Wayne, New Jersey 07470 • Telephone (973) 672-1800 • Fax (973) 677-1824

DIRECT INSTALL CONTRACTOR AGREEMENT

THIS AGREEMENT made this _____ of _____, 2011 by and between
Donnelly Energy Solutions, hereinafter called the Contractor and
_____, hereinafter called the Owner.

Street address: _____
City/State/Zip: _____

Witnesseth, that the Contractor and the Owner for the consideration names as follows:

Article 1. Scope of the Work

The Owner understands that the Contractor shall supply and install the Energy Efficiency Measures as specified in the Scope of Work Attachment (SOWA) to the Direct Install Program Participation Agreement (Program) to be executed by the parties. Please refer to the attached SOWA for the list of proposed measures.

Article 2. Extra Work and Work Outside the SOWA.

The Owner understands that conditions discovered during installation may require that some measures identified in the energy assessment cannot be installed; some areas may require additional measures/quantities to be installed; and/or apparent or hidden safety issues or code violations may arise which will result in additional work and costs which do not qualify for any incentive monies under the Program. In addition, there could also be additional costs resulting from the following: Owner's request for additional work, township requirements, upgrades to code violations, asbestos removal, unforeseen circumstances, overtime labor (including night and weekend work), engineering fees, etc. Contractor agrees to provide the Owner with notice as to the extra work required and additional charges in connection therewith. Owner shall have the right to cancel the Agreement within ten (10) days after receipt of such notice, should the Owner find the charges unacceptable. Owner expressly acknowledges and understands that these costs fall outside the parameters of the NJ Clean Energy Smart Start Direct Install Program, and such work does not qualify for any program incentive monies and thus the Owner is 100% responsible for and shall pay Contractor 100% of these costs. Contractor reserves the right to cancel the project should the Owner withhold payment for any and all work arising under this Article (Extra Work).

Article 3. The Contract Price

The Owner agrees to pay the Contractor the sum of 00/100 _____ Dollars (\$00) representing the remaining balance of costs listed on the SOWA (CUSTOMER PORTION) subject to the provisions regarding Extra Work as set forth in Article 2.

Article 4. Payment

Owner agrees to pay CUSTOMER PORTION and any and all Extra Work costs to the Contractor before work shall commence. The balance of the SOW shall be paid by the NJ Clean Energy program directly to the Contractor upon project close-out. Owner also agrees to pay for any and all additional Extra Work that arises during installation upon completion of the project.

Article 5. Customer Responsibilities (check all that apply)

1. (X) Installation area is accessible and clear of all debris.
2. (X) Customer must provide access to the site for all phases of (pre)construction.
3. (X) Customer will notify the Contractor of any known asbestos and/or environmental issues.
4. (X) Customer must provide sufficient area for Crane, dumpster, and other related construction equipment / materials (if required).



Article 6. General Provisions

Any alteration or deviation from the above specifications, including but not limited to any such alterations or deviation involving additional material and/or labor costs, will be executed only upon written order for same, signed by Owner and Contractor, and if there is any charge for such alteration or deviation, the additional charges or credits will be added or subtracted to the Contract Price of this contract.

If payment is not made when due, Contractor may suspend work on the job until such time as all payments due have been made. A failure to make payments for a period in excess of **ten (10)** days from the due date of the payment shall be deemed a material breach of this contract. If Customer has multiple projects contracted with Contractor through the NJ Clean Energy Smart Start Direct Install program, Contractor reserves the right to suspend installation on all projects until payment is made.

In addition, the following general provisions apply:

1. All work shall be completed in a workman-like manner and in compliance with all building codes and other applicable laws.
2. Customer shall provide a safe, accessible work space.
3. To the extent required by law all work shall be performed by individuals duly licensed and authorized by law to perform said work.
4. Contractor may at its discretion engage sub-contractors to perform work hereunder, provided Contractor shall pay said sub-contractor and in all instances remain responsible for the proper completion of this Contract.
5. All change orders shall be in writing and signed both by Owner and Contractor, and shall be incorporated in, and become part of the contract.
6. Contractor shall aid owners in obtaining all permits necessary for the work to be performed.
7. In the event the Owner shall fail to fulfill any Customer Responsibilities as stated in Article 5, Contractor may cease work without breach pending resolution of any dispute.
8. Contractor shall not be liable for any delay due to circumstances beyond its control including strikes, casualty, weather conditions or general unavailability of materials.
9. Contractor warrants all labor and material for a period of **one (1) year** following project completion.
10. All manufacturer warranties apply.
11. Contractor has full discretion to supply and install any equipment that meets the program requirements.
12. Customer understands and agrees to all NJ Clean Energy Smart Start Direct Install Program requirements as stated in the attached PARTICIPATION AGREEMENT AND SCOPE OF WORK documents. If any of these requirements are not met by the Owner, the incentive monies will not be paid by the NJ Clean Energy program and the Owner will be responsible to pay the entire project amount.
13. Customer shall not make any alterations to the building and the installed Energy Efficiency Measures prior to inspection and approval by the NJ Clean Energy program.
14. The pricing and program parameters have been established by the NJ Clean Energy program and are subject to change (ie. prevailing wage, approved measure, CUSTOMER PORTION, etc). This contract shall be considered VOID upon any program changes and a new PARTICIPATION AGREEMENT, SOWA, and Donnelly contract will be issued.
15. Customer agrees to Contractor construction schedule which shall be provided in advance of construction.
16. Owner shall have the right to terminate this Agreement for any reason upon fifteen (15) days of notice to the Contractor. Should termination occur, the project ceases to be a Direct Install project and the Owner agrees to be responsible to pay to the Contractor the full cost of any work performed under this Agreement prior to the date of termination.
17. DES agrees to abide by the NJ Prevailing Wage Act and Davis-Bacon Act. However, a Collective Bargaining Agreement is not required for compliance with the NJ Clean Energy Smart Start Direct Install Program.

Signed this _____ day of , _____ 2010.

By: _____ Signature

By: _____ Signature

Name of Owner (Print)

Name of Contractor (Print)
Donnelly Energy Solutions
557 Route 23 South
Wayne, NJ 07470
T: (973) 672-1800 F: (973) 677-1824





TOWN OF NEWTON

RESOLUTION #37-2011

February 28, 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 28, 2011.

Lorraine A. Read, RMC
Municipal Clerk



TOWN OF NEWTON

RESOLUTION #38-2011

February 28, 2011

“Modification to the Calculation of the Tax Collection Rate by Allowing Full Deduction of the Impact of Tax Appeal Judgments on the Levy (therefore affecting the Reserve for Uncollected Taxes)”

WHEREAS, Chapter 56 of P.L. 2010 made a modification to the calculation of the tax collection rate (and therefore affecting the reserve amount) by allowing full deduction of the impact of tax appeal judgments on the levy; and

WHEREAS, according to NJSA 40A:4-41 (c)...(2) If tax appeal judgments of the county tax board pursuant to R.S.54:3-21 et seq., or the State tax court pursuant to R.S.54:48-1 et seq., result in tax reductions for the previous fiscal year, the governing body of the municipality may elect to calculate the current year reserve for uncollected taxes by reducing the certified tax levy of the prior year by the amount of the tax levy adjustments resulting from those judgments. Election of this choice shall be made by resolution, approved by a majority vote of the full membership of the governing body prior to the introduction of the annual budget pursuant to NJSA 40A:4-5; and

WHEREAS, attached to this resolution is a copy of sheet 22 of the 2010 Annual Financial Statement “Current Taxes – 2010 Levy” to support the amounts used to determine the modified tax collection rate as follows:

\$22,231,885.53	2010 Levy
<u><115,265.21></u>	County Appeals
\$22,116,620.32	2010 Certified levy reduced by county appeals
\$21,692,894.81	Cash collected
22,116,620.32	divided by reduced 2010 levy
98.08	% of cash collections to ‘reduced’ 2010 levy

WHEREAS, for comparative information, the tax collection rate was 98.05% for the calendar year 2009, and 97.57% for the calendar year 2010; and

WHEREAS, based on the above calculation, the Town of Newton could use the modified tax collection rate of 98.08%, however the Town intends to use a more conservative rate of 97.8%.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Newton, approved by a majority vote of the full membership, that it utilize a tax collection rate of 97.8% (which is less than the 98.08% allowable rate) when calculating the line item appropriation Reserve for Uncollected Taxes in its calendar year 2011 Municipal Budget.

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 28, 2011.

Lorraine A. Read, RMC
Municipal Clerk