

B. Penn Yan – RESTORE III – Downtown Revitalization (W854)

November 18, 2010

Amendment to the General Project Plan and Authorization to Fund Grant Balance

Grantee: Village of Penn Yan (the “Village”)

Beneficiary: Chris Iversen (building owner)

ESD Investment Balance: A grant of up to \$2,250,000 to be used for a portion of the cost of building renovations.

Prior ESD Investment: \$250,000 – Approved on February 19, 2010

Additional Project Location: 120-130 Water Street, Village of Penn Yan, Yates County

Updated Project Completion: September 2011

Beneficiary Contact: Chris Iversen
Chrisantha Inc.
4661 Dewey Avenue
Gorham, NY 14461
Phone: (585) 526-6355 Fax: (585) 526-6305

Updated Project Description:

Background

This Amended General Project Plan incorporates the materials previously presented to and approved by the ESD Directors on February 19, 2010.

In October 2009, the Village of Penn Yan was awarded \$2,500,000 for its RESTORE III project. As a part of the Village’s plans to redevelop its underutilized downtown waterfront, the Village embarked on the renovation of several structures for mixed use. In order to move this project forward, on February 19, 2010, ESD approved \$250,000 of the \$2,500,000 RESTORE III award that was allocated to the former Garret Winery Building (see materials attached). This portion of the project is now underway. The balance of the RESTORE III funds will be used to renovate the Water Street Warehouses.

The Project

The balance of the project includes the former Water Street Warehouses at 120-124 Water Street. These are two separate buildings, formerly part of Birkett Mills, located within the Penn Yan Historic District, which is listed on the New York State and National Registers of

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Historic Places. These two buildings will be renovated to house a medical facility, offices and 13 apartments/condominiums. Due to the need to complete the environmental and historic preservation reviews, this project component was delayed. The project is now ready to begin, and is expected to be completed by September 2011.

Project Budget for Grant Balance

Financing Uses	Amount	Financing Sources	Amount	Percent
Building Renovations	\$4,113,000	ESD Grant	\$2,225,000	41%
Infrastructure/Site Preparation	516,000	Village Equity*	3,190,000	59%
Soft Costs	786,000			
Total Project Costs	\$5,415,000	Total Project Financing	\$5,415,000	100%

*Sources of equity are funds from the buildings' owner.

Financial Terms and Conditions:

1. At the time of disbursement, the Village will reimburse ESD for all out-of-pocket expenses incurred in connection with the project.
2. The Village will be obligated to advise ESD of a materially adverse change in its financial condition prior to disbursement.
3. The Village will ensure the contribution of at least a 10% match of the grant amount to the Project.
4. Up to \$2,225,000 will be disbursed to Grantee as reimbursement for eligible costs during the course of the project no more frequently than quarterly, in proportion to ESD's funding share, and in compliance with ESD's Design and Construction requirements, assuming all project approvals have been completed and funds are available. The final disbursement, which shall be at least 10% of the grant amount, shall be made to the Grantee upon completion of the project. Payments assume that all project approvals have been completed and funds are available, and will be made upon presentation to ESD of an invoice and such other documentation as ESD may reasonably require. Expenses must be incurred on or after May 4, 2009 to be considered reimbursable project costs. Previously expended funds may be applied toward match requirements retroactive to June 23, 2006, when the Restore New York Legislation was enacted.
5. ESD may reallocate the project funds to another form of assistance, at an amount no greater than \$250,000 for this project if ESD determines that the reallocation of the assistance would better serve the needs of the Village and the State of New York. In no

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event shall the total amount of any assistance to be so reallocated exceed the total amount of assistance approved by the Directors.

6. If the Grantee is not the owner of the Project, then the Grantee shall prohibit, for five years from the date of the initial disbursement of Grant funds, any transfer of the Project in whole or in part, by sale, lease, or conveyance of any interest in or with respect to the Project except (a) transfers of minor interests in the Project site, such as utility easements and limited rights-of-way, and (b)(i) the arms-length basis sale or lease of individual condominium units in the ordinary course of business for a condominium development and (ii) the arms-length basis residential or commercial lease in the ordinary course of business for a commercial, residential, or mixed-use rental development. In the event that such a prohibited transfer occurs within such five-year period, the Grantee shall pay to ESD, promptly upon ESD's written demand therefore, the applicable amount indicated below.

The Recapture Amount is based on the time that has lapsed between when the Grant funds were disbursed and when the transfer occurred. The Recapture Amount shall be calculated by aggregating the Recapture Amount for each disbursement of the Grant, which in each instance shall be equal to:

- (i) 100% of the disbursed amount if the transfer occurred in the calendar year that the disbursement was made, or in the first full calendar year after the disbursement was made;
- (ii) 80% of the disbursed amount if the transfer occurred in the second full calendar year after the disbursement was made;
- (iii) 60% of the disbursed amount if the transfer occurred in the third full calendar year after the disbursement was made;
- (iv) 40% of the disbursed amount if the transfer occurred in the fourth full calendar year after the disbursement was made;
- (v) 20% of the disbursed amount if the transfer occurred in the fifth full calendar year after the disbursement was made.

Design and Construction:

Design & Construction ("D&C") staff will review project plans, scope, budget and schedule. D&C will visit the site at its option, review requisitions and recommend payment when its requirements have been met.

Environmental Review:

The Village of Penn Yan Planning Board, as lead agency, has completed an environmental review of the proposed project, pursuant to the requirements of the State Environmental Quality Review Act ("SEQRA") and the implementing regulations of the New York State Department of Environmental Conservation. This review found the project to be an Unlisted Action, which would not have a significant effect on the environment. The lead agency issued a Negative Declaration on March 2, 2010. ESD staff reviewed the Negative Declaration and supporting

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materials and concurs. It is recommended that the Directors make a Determination of No Significant Effect on the Environment.

Due to the building's historic significance as a contributing feature of the Penn Yan Historic District, which is listed on the New York State and National Registers of Historic Places, ESD has confirmed that the project sponsor consulted with the New York State Office of Parks, Recreation and Historic Preservation (“OPRHP”) pursuant to Section 14.09 of the New York State Parks, Recreation and Historic Preservation Law. No further consultation is required, subject to a Letter of Understanding.

Affirmative Action:

ESD’s Non-discrimination and Affirmative Action policy will apply. The Village is encouraged to use its best efforts to achieve a Minority Business Enterprise participation goal of 7% and a Women Business Enterprise participation goal of 3% of the total dollar value of work performed pursuant to contracts or purchase orders entered into in connection with the construction work related to the project, and to include minorities and women in any job opportunities created by the project.

Statutory Basis – Restore NY Communities:

Land Use Improvement Project Findings

1. The area in which the project is to be located is a substandard or insanitary area, or is in danger of becoming a substandard or insanitary area and tends to impair or arrest sound growth and development of the municipality.

The project involves the rehabilitation of vacant, abandoned, surplus, or condemned commercial buildings, which have been deemed by the Village to arrest sound growth and development in the area.

2. The project consists of a plan or undertaking for the clearance, replanning, reconstruction and rehabilitation of such area and for recreational and other facilities incidental or appurtenant thereto.

The project involves the rehabilitation of sites that the Village has included in its development plans, namely the Village’s *Comprehensive Master Plan* (2000) and the *Village of Penn Yan Waterfront Revitalization Program Plan* (2008).

3. The plan or undertaking affords maximum opportunity for participation by private enterprise, consistent with the sound needs of the municipality as a whole.

The Village published a property assessment list and held a public hearing on the project at the time of application. The Village will ensure compliance with all applicable local laws and regulations.

4. The requirements of Section 10(g) of the Act are satisfied.

There are no families or individuals displaced from the Project area.

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Attachments: Resolution
General Project Plan (February 19, 2010)

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Penn Yan (Yates County) – Penn Yan – RESTORE III – Downtown Revitalization –
Restore NY Communities 08-09 – Determination of No Significant Effect on the
Environment

RESOLVED, that based on the material submitted to the Directors with respect to the Penn Yan –
RESTORE III – Downtown Revitalization Capital Project, the Corporation hereby determines that
the proposed action will not have a significant effect on the environment.

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