

VILLAGE OF PORT DICKINSON
Village Board Meeting Agenda
March 13, 2012
6:00 pm
Port Dickinson Elementary School

APPROVAL OF MINUTES: February 14, 2012

PUBLIC PARTICIPATION:

TREASURER'S REPORT:

AUDIT & PAYMENT OF CLAIMS:

1. No. through No. as listed on the Abstract of Unaudited vouchers for the General Fund for \$
2. No. through No. as listed on the Abstract of Unaudited vouchers for the Water Fund for \$
3. No. as listed on the Abstract of Unaudited vouchers for the Sewer Fund for \$

COMMUNICATIONS:

- Request from CV Schools to use the baseball and softball fields at the Village Park from 3/12/12-6/1/12, M-F 3:30-6:00 PM and Sat 8:00 AM-1:00PM. Certificate of Insurance and Hold Harmless agreement attached.
- Certificate of Insurance received for Thoma Ltd, Thoma Development

COMMITTEE REPORTS:

Administration/Code Enforcement/Community Association – James L. DeGennaro, Trustee
Parks/Water/Sewer – Robert J. Aagre, Trustee
Planning Board – none
Public Safety – Richard T. Felo, Trustee
Public Works – Michael Cashman, Trustee
Zoning Board of Appeals – none

OLD BUSINESS:

- Resolution, as follows, vs. Ronda Chapman

RESOLUTIONS FOR APPROVAL:

- Resolution scheduling a Public Hearing for 4/10/12 at 6:00PM at Village Hall on Local Law 3-2012 amending various codes of the Village of Port Dickinson.
- Resolution authorizing publication of an RFQ for Professional Engineers/Architects to provide services for the Village of Port Dickinson's Municipal Building Accessibility Project.
- Resolution authorizing the Mayor to sign an agreement with Thoma Development for administration of the Community Development Block Grant for the Village of Port Dickinson's Municipal Building Accessibility Project.

NEW BUSINESS:

ADJOURNMENT

Resolution authorizing Mayor, pursuant to section 45-5 of the Village Code (Penalties for offenses relating to Property Maintenance) at the request of the Building Inspector, to maintain an injunction abatement action in the name of the Village in the Supreme Court to compel Ronda Chapman, owner of property at 11 Gregory Avenue in the Village (the "Premises"), to comply with the order to remedy violation issued to her on October 2, 2011 regarding the storage of numerous piles of debris/garbage, automobile parts, and tires piled on the side porch, front yard and rear yard of said Premises most which garbage bags have been removed from the side porch but overflowing bags of garbage remain near that porch and numerous items (including a microwave oven) remain on the porch, an ironing board remains on the lawn and several small garbage bags remain strewn about the entire lawn area.

PUBLIC NOTICE TO ENGINEERS/ARCHITECTS
“VILLAGE OF PORT DICKINSON – MUNICIPAL BUILDING ACCESSIBILITY PROJECT”

The Village of Port Dickinson is seeking statements of qualifications from professional engineers/architects or engineering/architectural firms to provide services for the Village of Port Dickinson’s Municipal Building Accessibility Project.

Formal written qualifications shall be submitted to Susan Fox, Village Clerk, on or before April 6, 2012 at 12:00 Noon. One original of the qualifications statement shall be submitted and clearly marked “RFQ – Municipal Building Accessibility Project”. The Village Office is located at 786 Chenango Street, Port Dickinson, NY 13901, (607) 771-8233. If the qualifications statement is to be delivered by mail, provide adequate time for delivery.

Copies of the RFQ may be obtained either by writing to Village Clerk Susan Fox at the above address or by emailing Ms. Fox at pdclerk@stny.rr.com or by writing to Linda Armstrong, Program Manager, Thoma Development Consultants, 34 Tompkins Street, Cortland, New York, 13045, by emailing Ms. Armstrong at linda@thomadevelopment.com, or by calling (607) 753-1433.

The Village of Port Dickinson is an equal opportunity employer. Women and Minority Business Enterprises and Section 3 Business Enterprises are particularly encouraged to submit qualifications statements. A Section 3 business is business located in the Village of Port Dickinson or Broome County, 51% of which is owned by a Section 3 resident(s) or which employs at least 30% of Section 3 residents. A Section 3 resident is (1) a resident of public housing or (2) a low or very-low income person residing in the Village of Port Dickinson or secondarily in Broome County

By order of the Board of Trustees of the Village of Port Dickinson

Dated: March 13, 2012

SUSAN FOX, Village Clerk

**AGREEMENT BETWEEN THE VILLAGE OF PORT DICKINSON
AND THOMA DEVELOPMENT CONSULTANTS**

For good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, Bernard Thoma, d/b/a Thoma Development Consultants (the "Consultant") (with offices at 34 Tompkins Street, Cortland, NY 13045) party of the first part, and THE VILLAGE OF PORT DICKINSON (hereinafter referred to as the "Village") (mailing address: C/O Village Clerk, 786 Chenango Street, Binghamton, NY 13901), party of the second part, hereby agree as follows:

The Village was awarded a Community Development Block Grant ("Grant" OR "CDBG") pursuant to Title I of the Housing and Community Development Act of 1974, as amended ("Act"); and has entered into an Agreement ("Grant Agreement"), which governs the administration of the Grant, with the New York State Housing Trust Fund Corporation. The Village in furtherance of the community development activities ("Project") described in its Grant application, requires the assistance of the Consultant as detailed below.

I. **Scope of Service:**

The Consultant will serve under the direction of the Village and shall be responsible for administrative and program delivery services which are necessary for the implementation of the Village of Port Dickinson Fiscal Year 2011 Community Development Block Grant (CDBG). The Grant Number is 936PF142-11. The duties of the Consultant shall include the following:

A. **Accessibility Improvements:**

1. Prepare a Request for Qualifications to assist the Village in selecting and contracting an engineer to provide the necessary services;
2. Work with engineer to assure compliance with all CDBG requirements;
3. Act as a liaison between the New York State Office of Community Renewal ("OCR"), the Village, and Engineer;
4. Work with the contractor(s) to assure compliance with Davis Bacon wage requirements.

B. **General Administration:**

1. Oversee the preparation of all necessary contract and payment documentation;
2. Develop and maintain a separate grant accounting system;
3. Prepare and submit necessary financial reports to OCR;
4. Prepare and submit status of fund reports and other reports to Village as directed;
5. Work with Village to assure all accounting is properly included in Village accounting system.

C. **Miscellaneous:**

1. Attend Village board meetings, as necessary;
2. Advise Village Board in all matters relating to grant and NYS regulations;

3. Prepare amendments to the Village's grant application and/or project and budget modifications, as necessary;
4. Prepare Environmental Review Record and related documents pursuant to NEPA and SEQRA guidelines with the assistance of the engineer;
5. Prepare and submit all reports as required by OCR;
6. Prepare all closeout documentation required by OCR;

II. **Time of Performance:**

- A. All services of the Consultant shall commence as of the date of acceptance of this Agreement by OCR and shall be in force until final close-out approval are given by OCR;
- B. The Village's Representative for the purpose of this Agreement shall be the Mayor, and the Consultant shall be directly responsible to him.

III. **Compensation:**

As compensation in full for program delivery and administrative services provided by the Consultant as outlined in the above scope of services, the Village agrees to pay the Consultant a total of \$22,000 from funds received from the CDBG. The Village will pay the Consultant \$5,000 for program delivery services and \$17,000 for administrative services. The \$22,000 fee will be due to the Consultant based on meeting certain program delivery and administrative milestones as noted below and in the amounts noted below for each milestone:

Program Delivery: (\$5,000 total as follows)

Project Advertised For Bid:	\$ 2,000
Award Construction Contract:	\$ 1,500
Monitoring for Davis Bacon Begins	\$ 1,500

Administration: (\$17,000 as follows)

Complete Environmental Review:	\$ 3,500
Funds Expended:	\$13,500 as follows:

20% funds expended	\$2,700
40% funds expended	\$2,700
60% funds expended	\$2,700
80% funds expended	\$2,700
100% funds expended	\$2,700

Reimbursable expenses including postage, photographs, copying, office supplies, etc. incurred by the Consultant will be charged to the Village at cost and will be detailed on all billings.

All funds due the Consultant as noted above will be paid upon approval by OCR after completion of the milestones noted above.

IV. **Method of Billing and Payment:**

All bills will be submitted to the Village for audit and approval using the standard form voucher for the Village. On or before the second Tuesday of the following month, the Village will cause said voucher to be audited, and if approved, make payment to the Consultant by the 30th day of that month. All bills will be paid from the CDBG grant.

- A. It is expressly agreed and understood that the fee provided for herein and the payment to be made is compensation for services actually performed and the payment becomes due the Consultant only upon virtue of completion of those services performed;
- B. Upon termination of this Agreement prior to its expiration date, compensation will be due only until termination as provided in section V following;
- C. Bills will clearly detail all charges for services and reimbursables. If the Village desires further cost justification, Consultant's timesheets will be made available.

V. **Termination:**

In the event that the Consultant refuses or fails to provide services hereunder with due diligence, or is guilty of a substantial violation of any provision of this Agreement, the Village shall send Consultant written notice that the Consultant has thirty (30) days to cure said default; and, if at the end of said thirty (30) day period Consultant has not cured said default to the satisfaction of the Village, this Agreement may be terminated.

Upon termination prior to completion of this Agreement, the Village will be responsible for payment to Consultant for all hours of services rendered at the hourly rates set forth on Consultant's proposal from the payment of the previous milestone until the Consultant receives such written termination.

VI. **Equal Employment Opportunity:**

The Consultant will comply with Executive Order 11246, entitled "Equal Employment Opportunity", as amended by Executive Order 11375, and as supplement in the Department of Law regulations (41 CFR Part 60).

VII. **Anti-Kickback Act:**

The Consultant will comply with the Copeland "Anti-Kickback" Act (18 USC 874) as supplemented in Department of Labor Regulations (29 CFR, Part 3), which provides that the Consultant shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled.

VIII. **Access to Records:**

The Village of Port Dickinson, NYS Office of Community Renewal, the U.S. Department of Housing and Urban Development, the U.S. Comptroller General, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Consultant which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcriptions. Such records will be

maintained for a minimum of three years after final grant payments and all other pending matters are closed.

IX. Other Contract Conditions:

- A. The Consultant shall be bound by, and comply with, all applicable federal, State and local laws and regulations which pertain to the Grant, including, but not limited to, 24 CFR parts 85 and 570.
- B. To the fullest extent permitted by law, the Consultant shall defend, indemnify and hold harmless the New York State Housing Trust Fund Corporation and the Village, their agents, officers, and employees (collectively "Indemnified Party"), from and against any and all claims, actions, damages, losses, expenses and costs of every nature and kind, including reasonable attorneys' fees, incurred by or asserted or imposed against the Indemnified Party, arising out of the Third Party's negligent performance of work in connection with the Project. All money expended by the Indemnified Party as a result of such claims, actions, damages, losses, expenses and costs, together with interest at a rate not to exceed the maximum interest rate permitted by law, shall be immediately and without notice due and payable by the Consultant to the Indemnified Party.
- C. The Consultant shall be bound by, and comply with Section 3 (12 USC1701 (u)) of The Housing and Community Development Act of 1968, amended. The work to be performed under this contract is subject to the requirement of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. The purpose of Section 3 is to ensure the employment and other economic opportunities generated by projects assisted under the CDBG Program shall, to the greatest extent possible, be directed to low and very low income persons,
- D. If the Consultant breaches or violates any of the terms of this Agreement, the parties will agree to request the assistance in negotiating a settlement that is acceptable to all parties, including the Village and New York State Housing Trust Fund Corporation. If all parties cannot agree upon an acceptable settlement or arrangement, then this Agreement shall terminate and Consultant shall be paid on an hourly basis for all services rendered prior to said termination as provided in section V of this Agreement.

X. Agent Status of Consultant:

Consultant and the Village agree that in the performance of Consultant's services hereunder, Consultant is acting as an agent of Village in the capacity as an independent contractor and shall not be deemed to be an employee of Village for any purpose whatsoever. Consultant, in accordance with his status as an independent contractor, covenants and agrees that he will conduct himself consistent with such status. He will neither hold himself out as, nor claim to be, an officer or employee of the Village by reason hereof, make any claim, demand application to or for any right or privilege applicable to an office or employee of the Village, including, but not limited to: workers' compensation coverage, unemployment insurance benefits, Social Security coverage, or retirement membership or credit.

XI. No Assignment:

In accordance with provisions of section 109 of the General Municipal Law, the Consultant is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of his right, title or interest in this Agreement, or his power to execute this Agreement, to any other person or corporation without the previous consent in writing of the Village.

XII. **Required Provisions of Law:**

Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to have been inserted herein. If any such provision is not inserted through mistake or otherwise, then upon application of either party, this Agreement shall be physically amended forthwith to make such insertion.

XIII. **Insurance:**

Consultant shall not commence work under this Agreement until he has obtained all insurance required under this paragraph and such insurance has been approved by the Village.

General Liability Insurance – Consultant shall take out and maintain during the life of this Agreement such commercial general liability insurance as shall protect him from claims and damages for personal injury including accidental death, as well as from claims for property damage which may arise from operations under this Agreement. The amounts for such insurance shall be as follows:

(a) Commercial General Liability Insurance on an occurrence coverage form with a combined single limit in an amount not less than \$1,000,000 for injuries including wrongful death to any one person and property damage on account of any one occurrence.

(b) Medical expenses - \$10,000 for any one person

(c) Products and completed operations insurance in an amount not less than \$2,000,000 aggregate.

(d) General aggregate insurance in an amount not less than \$1,000,000

(e) Consultant shall furnish the Village with satisfactory proof of carriage of the insurance required, also naming the Village as an additional named insured in each said policy.

XIV. **Waiver:**

No waiver of any breach or any condition of the Agreement shall be binding unless in writing and signed by the party waiving such breach. No such waiver shall in any way affect any other term or condition of this Agreement or constitute a cause or excuse for repetition of such or any other breach unless the waiver shall include the same.

XV. **Authority for Execution on Behalf of the Village:**

The Mayor has executed this Agreement pursuant to a Resolution adopted by the Board of Trustees of the Village of Port Dickinson, at a meeting thereof held on March 13, 2012. Kevin Burke, the Mayor, whose signature appears hereafter, is duly authorized and empowered to execute this instrument and enter into such an agreement on behalf of the Village.

XVI. **Counterparts:**

This instrument shall be executed in duplicate. At least one copy shall be permanently filed, after execution thereof, in the office of the Village Clerk.

XVII. **Notices:**

Any and all notices, invoices, and payments required hereunder shall be addressed to the parties at their respective addresses set forth in page 1 hereof, or to such other address as may hereafter be designated in writing by either party hereto.

XVIII. **Construction of Agreement:**

This Agreement shall be construed and interpreted in accordance with the Laws of the state of New York.

XIX. **Complete Agreement/Modification:**

There are no terms, conditions or obligations other than those contained herein, and there are no written or verbal statements or representations, warranties or agreements with respect to this Agreement that have not been embodied herein.

This Agreement constitutes the complete understanding of the parties with respect to the subject matter hereof. No modification or amendment of any provisions of this Agreement shall be valid unless in writing and signed by both parties.

IN WITNESS WHEREOF, the Village of Port Dickinson has caused its corporate seal to be affixed hereto and these presents to be signed by Kevin Burke, its Mayor, duly authorized to do so, and to be attested by Susan Fox, Village Clerk, and the Said Bernard Thoma has hereto set his hand and seal as of the day and year first above written.

VILLAGE OF PORT DICKINSON:

By: _____
Kevin M. Burke, Mayor

Date: _____

THOMA DEVELOPMENT CONSULTANTS:

By: _____
Bernard Thoma, Senior Consultant

Date: _____