

**SANITARY SEWER
CONSTRUCTION PARTICIPATION AGREEMENT**

THIS AGREEMENT made this 30th day of JUNE, 1993, by and between Stonebridge Townhouse, Joint Venture, located at c/o Colonial Realty Development Corporation, 4 Second Avenue, P.O. Box 1060, Denville, New Jersey 07834, (hereinafter referred to as "STONEBRIDGE"), and Dorotockey Run Development Corporation, located at c/o Joseph Rosen, 900 Sylvan Avenue, Englewood Cliffs, New Jersey 07632, (hereinafter referred to as "DOROTOCKEY").

WHEREAS, STONEBRIDGE is the developer of a certain property located at Lot 8, Block 303, Lot 9, Block 602, and Lots 1 & 2, Block 603, in the Borough of Old Tappan, Bergen County, New Jersey; and

WHEREAS, DOROTOCKEY is the owner of an adjoining property located at Lot 5, Block 602, also in the Borough of Old Tappan, Bergen County, New Jersey; and

WHEREAS, both properties propose the construction and development of said properties with multiple family housing projects; and

WHEREAS, DOROTOCKEY has previously obtained a Site Plan Approval from the Planning Board of the Borough of Old Tappan, based upon Site Plans approved by said Planning Board dated March 16, 1990; and

WHEREAS, STONEBRIDGE currently has an Application for Site Plan Approval pending before the Planning Board of the Borough of Old Tappan for similar development of the said property; and

WHEREAS, both properties contemplate the construction and installation of sanitary sewer facilities to service both projects; and

WHEREAS, the parties have further determined that it is in the best interest of both parties to jointly share certain common sanitary sewer facilities, which common facilities are set forth and described on a Plan entitled, "Off-Site Sanitary Sewer Connection, Woods Edge at Old Tappan, Borough of Old Tappan, Bergen

County, N.J.", prepared by Harper & Palmieri, Consulting Engineers and Land Surveyors, P.A., 20 Union Street, Rockaway, New Jersey 07866, Drawing No. 759, and consisting of Sheet No. 19 of 21, which Plan is attached hereto and made a part of this Agreement; and

WHEREAS, the parties hereto have mutually agreed upon a cooperative venture for the construction and installation of sanitary sewer facilities necessary to serve both the DOROTOCKEY and the STONEBRIDGE projects in common.

NOW, THEREFORE, IT IS AGREED between the parties hereto as follows:

1. The sanitary sewer facilities to be constructed, which shall mutually serve both the STONEBRIDGE and the DOROTOCKEY developments, include those sanitary sewerage improvements set forth and described on the DOROTOCKEY approved Site Plan dated March 16, 1990, and as further described on Exhibit "A" attached hereto, including said facilities which connect the sanitary sewer from DeWolf Road to manhole number 19 as set forth on the detailed sewerage plans approved as part of the DOROTOCKEY project. Said improvements also shall include any pump station or stations as may be required to accommodate the interconnection of said sewer line from the STONEBRIDGE and the DOROTOCKEY projects to the sewer line to be installed in DeWolf Road, and finally, said improvements shall include the actual interconnection of sewer piping between the two projects, as specifically set forth in paragraph 4(e) herein.
2. At the time of the execution of this Agreement, it has not been determined which development shall first proceed. Therefore, the parties have agreed, as set forth in this Agreement, upon the terms, conditions and provisions under which either party may proceed to install the sanitary sewer improvements required by said approved Plans and, thereafter, seek participating reimbursement from the other party to this Agreement.

3. The parties acknowledge that STONEBRIDGE may be the first project to be developed. Therefore, DOROTOCKEY shall grant an easement and/or right-of-way to STONEBRIDGE, permitting STONEBRIDGE to enter upon the property of DOROTOCKEY for the purpose of installing the sanitary sewer improvements as contemplated by this Agreement. Said easement or right-of-way agreement shall specifically grant to STONEBRIDGE, its successors or assigns, the right to enter upon the property of DOROTOCKEY for the purpose of installing said sewer improvements and completing the sanitary sewer improvement work as contemplated by said approved Plans, subject to all permitting and applicable regulatory requirements, including wetland regulations, and provided that STONEBRIDGE shall be responsible for restoring any disturbed areas to their pre-construction condition. In addition, DOROTOCKEY shall grant to STONEBRIDGE, a permanent easement across and under the lands of DOROTOCKEY so as to permit the installation of an interconnection pipe between the property owned by STONEBRIDGE and the property owned by DOROTOCKEY in order that the sewerage flow from the STONEBRIDGE property may flow to the improvements installed in the DOROTOCKEY property. The parties hereto specifically agree to execute such additional documents as may be necessary to implement and record the easements set forth and described in this paragraph.
4. Which ever party to this Agreement shall require the installation of the sanitary sewer improvements set forth on Exhibit "A" shall be permitted to install the improvements as required. The installing party shall be solely responsible for the financial funding of the cost of said improvements, except as further provided below. The installation of said improvements shall be governed by the following agreed upon regulations:
- (a) For purposes of determining the amount of costs subject to reimbursement per paragraph 5 below, competitive bids shall be solicited and approved by the other party prior

to the commencement of the installation of the sanitary sewer improvements. The installing party shall be allowed to award the work as he sees fit without regard to the bids, but the amount of his reimbursement shall be based upon the approved bid, or some otherwise agreed upon amount.

- (b) In the event of changes to the scope of work specified in the approved bid, due to unforeseen conditions, the parties agree to be bound for reimbursement purposes for the additional costs at standard sub-contractor rates.
- (c) In the event STONEBRIDGE shall be the contractor performing the sanitary sewer construction on the DOROTOCKEY property, upon completion of said construction, it shall be the responsibility of STONEBRIDGE to restore to their pre-construction condition all areas of construction disturbed by the installation of the sanitary sewer facilities on the DOROTOCKEY property. During construction, it shall further be the responsibility of STONEBRIDGE to conform to all requirements for the installation of the sanitary sewer improvements as set forth and described on the approved Site Plans for the DOROTOCKEY project, and as prescribed by all applicable permits obtained for said work. STONEBRIDGE shall also indemnify and hold DOROTOCKEY harmless from any claims arising from any injuries resulting from said construction work. STONEBRIDGE or its contractor shall also furnish DOROTOCKEY with evidence of public liability insurance in the minimal amounts of \$1,000,000/\$3,000,000 for each occurrence. STONEBRIDGE shall also furnish DOROTOCKEY a bank irrevocable letter of credit in an amount equal to 50% of the agreed upon reimbursement cost of the proposed work, which letter of credit will be returned to STONEBRIDGE upon completion of all the proposed work described within, but which alternatively may be drawn upon by DOROTOCKEY in the event construction is abandoned

for a period of more than 90 days without good reason, prior to completion. In the event the letter of credit were paid to DOROTOCKEY, then STONEBRIDGE concurrently, automatically relinquishes its right to reimbursement for any costs put in place as of that date.

- (d) In the event DOROTOCKEY shall be the party installing the sanitary sewer improvements, DOROTOCKEY shall be required to install a stub in manhole number 19 for the ultimate connection to said manhole of the sanitary sewer line from the STONEBRIDGE development. Further, if requested by STONEBRIDGE, DOROTOCKEY shall continue the interconnection sewer main from manhole number 19 to the point of the common property line between the STONEBRIDGE property and the DOROTOCKEY property. However, in the event said sewer main is extended to the property line, it shall be the sole responsibility of STONEBRIDGE to pay for any cost of said extension.
5. The total cost for the installation of the sanitary sewer improvements described in this Agreement shall be divided between the parties to this Agreement on a proportionate basis, based upon the number of units approved for each project. The parties acknowledge that the DOROTOCKEY project has been previously approved for 75 units. The parties further acknowledge that the Plan currently pending before the Borough of Old Tappan Planning Board calls for the construction of 146 units on the STONEBRIDGE property.
6. The cost of the improvements for the sanitary sewer installation shall be reimbursed to the party to this Agreement that installed said improvements by the other party prior to the other party obtaining its first certificate of occupancy from the Borough of Old Tappan for any dwelling unit located within the other party's project. In no event, shall a certificate of occupancy be obtained by said party until such time as the proportionate share of the sanitary sewer improvements as described in this Agreement, have been paid for in full.

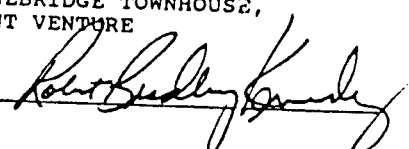
7. Both parties hereto acknowledge that a separate charge will be imposed upon both parties and both projects for the cost of installing the sewer main from Harrington Park to a point in DeWolf Road in front of the DOROTOCKEY project. It shall be the sole and separate responsibility of each party to negotiate the amount to be paid to Rivervale Realty for the cost of the installation of said improvements. Further, each party to this Agreement shall be solely and separately responsible for the payment of such charges.
8. The performance of this Agreement by the parties hereto is specifically contingent upon the occurrence of all of the following conditions and contingencies:
 - (a) The installation of a sanitary sewer main from Harrington Park to a point in front of the DOROTOCKEY project in DeWolf Road in order that the sanitary sewer improvements to be installed and as contemplated by this Agreement shall be readily capable of accepting sanitary sewer discharge from both the STONEBRIDGE site and the DOROTOCKEY site. In the event that any connection fee must be paid to Rivervale Realty and/or the Borough of Old Tappan in order to extend the sanitary sewer main in front of the DOROTOCKEY project, then in such event, STONEBRIDGE shall pay its pro-rata share or otherwise DOROTOCKEY shall have the right to terminate this agreement and declare same null and void.
 - (b) The receipt by STONEBRIDGE of Preliminary Site Plan Approval by the Borough of Old Tappan, which Application is currently pending before the Planning Board of the Borough of Old Tappan and which Plan includes the installation of sanitary sewer facilities requiring an interconnection between the STONEBRIDGE property and the DOROTOCKEY property as described on Exhibit "A".
9. Upon installation of the sanitary sewer facilities on the DOROTOCKEY property as contemplated by this Agreement, and upon payment of the proportionate/pro-rata share by the other

party, the terms, provisions, and Conditions of this Agreement shall be deemed completed and satisfied and all rights and obligations between the parties hereto shall be terminated, except that, DOROTOCKEY shall grant to STONEBRIDGE the following:

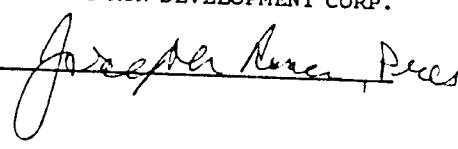
- (a) The easement for the sewer line for the interconnecting sewer main between the STONEBRIDGE property and the DOROTOCKEY property as previously described in this Agreement; and
 - (b) The right to allow sanitary sewer effluent to flow through the sanitary sewer improvements installed on the DOROTOCKEY property as contemplated by the terms of this Agreement.
10. This Agreement shall be binding upon the parties hereto, any parties in interest in the properties which are the subject of each of the developments contemplated by this Agreement, as well as the successors and assigns of the parties hereto.
11. This Agreement as written represents the complete agreement and understanding between the parties. In the event the parties determine to modify or otherwise change any of the terms, provisions, or conditions of this Agreement, said modification shall be in writing and shall be executed by both parties hereto, their successors or assigns.
12. The interpretation and performance of this Agreement shall be governed solely by the laws of the State of New Jersey.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

STONEBRIDGE TOWNHOUSE,
JOINT VENTURE

By: 

DOROTOCKEY RUN DEVELOPMENT CORP.

By:  Rues

DE WOLF ROAD

