

AGREEMENT

THIS AGREEMENT made this 28th day of November, 1994, by and between the **BOROUGH OF OLD TAPPAN**, a New Jersey public body corporate with municipal offices located at 227 Old Tappan Road, Old Tappan, New Jersey, hereinafter referred to as "the Borough," **THE VILLAGE, INC.**, a New Jersey corporation with principal offices located at 4 Second Avenue, Denville, New Jersey, hereinafter referred to as "Village," and **UNITED PROPERTIES GROUP, INC.**, formerly known as Rivervale Realty Company, Inc., a New Jersey corporation with principal offices located at 30 Two Bridges Road, Fairfield, New Jersey, hereinafter referred to as "United Properties."

WHEREAS, the Borough has a public interest in the construction of the sewer improvements discussed herein; and

WHEREAS, United Properties is obligated to construct certain sewer improvements in accordance with an Indemnification Agreement between the same parties dated September 20, 1993; and

WHEREAS, Village is a developer with a project known as "Woods Edge" fronting along Phase IIB of said sewer improvement, which property is otherwise known as Block 602, Lot 9, Block 603, Lots 1 and 1, and Block 303, Lot 8, on the Tax Map of the Borough of Old Tappan. The developer is obligated to pay sewer connection charges to the Borough in accordance with Ordinance Nos. 409-89 and 514-94; and

WHEREAS, United Properties is desirous of being assured that the funds from payment of said sewer connection charges by Village will be available to the Borough for cost reimbursement to them pursuant to the aforesaid Agreements; and

WHEREAS, Village is desirous of being assured of the timely start of Phase IIB of the sewer improvements by March 18, 1995, and the timely completion of Phase IIB to the "tenth hole pumping station" by September 30, 1995.

W I T N E S S E T H :

In consideration of the mutual undertakings and covenants herein contained, and for other good and valuable consideration, it is agreed as follows:

1. Letter of credit to be posted by Village. Village shall post an irrevocable, unconditional and negotiable letter of credit with the Borough in the amount of its present estimated sewer connection charges not later than December 1, 1994. That estimate is based upon certain calculations of Boswell Engineering, dated June 4, 1993, which estimate is based upon certain assumptions relating to the development of certain properties along the route of Phase IIB, as detailed in Ordinance 514-94. One such assumption is that Dorotocky's Run, a contiguous property heretofore approved by the Planning Board, will be developed in accordance with certain Old Tappan Planning Board resolutions dated

December 1, 1993 and September 21, 1994, which grant approvals to Dorotocky's Run to develop a project consisting of one hundred thirty-three (133) townhouse units and seven (7) single family residences. The amount of the letter of credit from Village shall be \$1,065,619.97. The purpose of this letter of credit is to secure payment of the estimated sewer connection charges in accordance with Ordinance Nos. 409-89 and 514-94. It is in no sense intended to represent a separate payment related to sewer hookups in addition to the payment of the aforesaid sewer connection charges, nor shall it constitute a substitute for payment of the actual sewer connection charge as it becomes due.

Village recognizes and agrees that the sum of \$1,065,619.97 is only a good faith estimate of the amount of the sewer connection fees to be assessed by the Borough under formulae established under Ordinance Nos. 409-89 and 514-94. Village further agrees to pay the actual sewer connection fees charged pursuant to Ordinance Nos. 409-89 and 514-94 even if said charges exceed the amount set forth in the letter of credit and even if said formulae is recalculated after Certificates of Occupancy are issued. Should Village or its successors in interest fail to pay the sewer connection charges when due, the Borough shall have no obligation to issue Certificates of Occupancy for any dwelling units constructed, and any sums remaining unpaid whether or not the letter of credit is negotiated shall constitute a lien on the property, which lien shall run with the land and be the responsibility of Village and its successors in interest. In the event Village fails to make

payment of its sewer connection charges in accordance with said ordinances, then its letter of credit may be negotiated by the Borough and the amount of said letter of credit shall be deducted from the sewer connection charge to be paid by Village.

2. Penalty clause in bid documents. United Properties shall award to a third party utility contractor by means of public bidding a contract for the installation of Phase IIB sewer improvements. The contract shall stipulate that construction shall commence no later than March 18, 1995, and it shall provide penalty provisions in the amount of Eight Hundred Fifty (\$850.00) dollars per day for failing to complete Phase IIB up to the "Tenth Hole Pumping Station" by September 30, 1995 subject to force majeure. The contract shall define "completion" of Phase IIB up to the "Tenth Hole Pumping Station" as operative for Village's Woods Edge development.

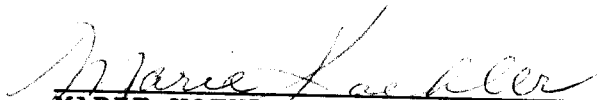
3. No effect on prior obligations. It is specifically understood that this Agreement shall have no effect whatsoever on the obligations of United Properties to construct the sewer improvements in accordance with an Agreement dated March 27, 1989, between the Borough and Rivervale Realty Company, Inc., as modified by Modification Agreement between the same parties, and in accordance with an Indemnification Agreement between the same parties dated September 20, 1993, nor shall it have any effect whatsoever on the obligation of Village to pay sewer connection charges as set forth in Ordinance Nos. 409-89 and 514-94.

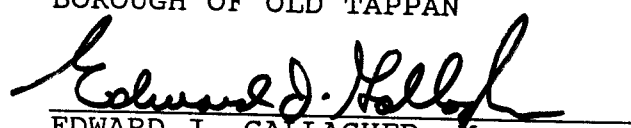
4. Recordation. The parties agree that this document may be recorded, in its entirety, with the Clerk of Bergen County. Village further agrees to disclose its obligations under this Agreement in its offering statement to be approved by the New Jersey Department of Community Affairs.

This Agreement is entered into as of the day and year first written above and executed in at least five (5) original copies of which one is to be delivered to Village, one to United Properties and the others to the Borough Clerk.

IN WITNESS WHEREOF, the parties have caused their corporate present to be hereunto affixed the said day and year.

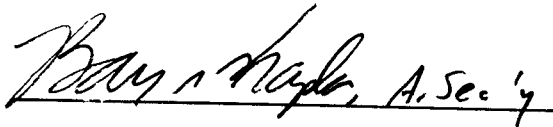
ATTEST:

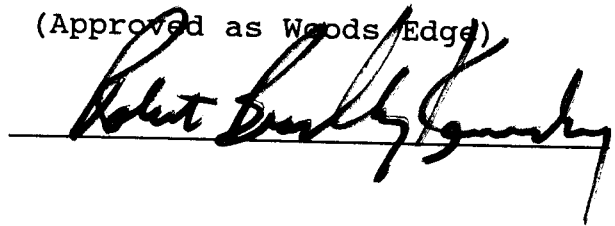

MARIE KOEHLER, Borough Clerk

BOROUGH OF OLD TAPPAN

EDWARD J. GALLAGHER, Mayor

THE VILLAGE, INC.

(Approved as Woods Edge)


Robert D. Hays, A. Sec'y


Robert D. Hays, A. Sec'y

UNITED PROPERTIES GROUP, INC.


Barbara A. Reenan


MICHAEL C.J. FALLON, President