

S-B AGREEMENT

67062

THIS AGREEMENT, made this 13th day of November 1982, by and between:

TOWNSHIP OF PARSIPPANY-THOY HILLS, a Municipal Corporation of the State of New Jersey, with offices at the Municipal Building, 1001 ParsIPPany Boulevard, ParsIPPany, New Jersey 07054

(Hereinafter "Township")

and:

LAKE PARSIPPANY PROPERTY OWNERS ASSOCIATION, a non-profit organization of the State of New Jersey, with offices at P. O. Box 62, Club House, ParsIPPany, New Jersey 07054

(Hereinafter "L.P.P.O.A.")

W I T N E S S E T H :

WHEREAS, the Township desires to incorporate Lake ParsIPPany into the township drainage program in connection with a project designated as "Contract S-8"; and

WHEREAS, the L.P.P.O.A. and the township will benefit by the work to be done; and

WHEREAS, the parties desire to enter into an agreement setting forth the rights, duties and obligations of the parties in connection with the utilization of Lake ParsIPPany as part of the Township drainage program.

NOW, THEREFORE, IN CONSIDERATION of the mutual promises, covenants and representations herein contained, the parties hereto for themselves, their heirs, successors and assigns, hereby agree as follows:

1. GRANT OF RIGHTS

1. The L.P.P.O.A., as the owner of Lake ParsIPPany, grants to the Township, its agents, employees and independent contractors, the right to construct certain improvements in and around Lake ParsIPPany, on property owned by the L.P.P.O.A. in accordance with the plans and specifications as set forth in Contract S-8, latest revision dated July 1982.

2. The L.P.P.O.A. as owner of Lake Parsippany and other properties surrounding the Lake, hereby grants to the Township the right to incorporate Lake Parsippany and such other property of the L.P.P.O.A. into the specific Township drainage project, as intended under the plans and specifications set forth in Contract S-6, latest revision dated July 1982.

3. The Township represents that it intends to shortly perform all the necessary work required under Contract S-6 and its plans and specifications. Such work shall be performed at the sole cost and expense of the Township. The Township agrees to require the construction of outfall basins one, two and three prior to any other construction under Contract S-6 and its plans and specifications as set forth hereinbefore. The plans and specifications referred to under Contract S-6 as prepared by Dave Walsh and Associates and as reviewed and stamped "accepted for construction" by Bienstock & Lucchesi, P. A., as consulting engineers, which plans and specifications are in accordance with proper engineering practice and design.

4. During construction, the Township shall defend, indemnify and hold harmless the L.P.P.O.A. from any and all claims, damages and losses, either to personal or real property, in connection with said construction work, unless such claims challenge the right of the L.P.P.O.A. to grant the rights as set forth in the within agreement. The Township shall require in its contract documents that the contractor performing the work provide certain insurance policies as set forth therein which shall name the Township and the L.P.P.O.A. as additional insureds thereunder.

5. Any and all trees which must be cut down during the course of construction on L.P.P.O.A. property shall remain the property of the L.P.P.O.A. and the Township shall deposit said trees in a location or locations designated by the L.P.P.O.A.

6. The Township agrees that only materials and equipment required to construct the outfall basins shall be allowed on L.P.P.O.A. property, and that other equipment or materials associated with Contract S-8 will not be stored on L.P.P.O.A. property.

7. Upon completion of all work on the outfall basins, or work directly associated therewith, the Township or its contractor shall remove all materials, tools, equipment, building and debris from all property and premises of the L.P.P.O.A. and generally restore the surface of the land to as nearly as possible the condition as it may have been prior to the undertaking of said work. Such restoration shall include regrading and seeding, as determined by the mutual consent of the parties.

8. The Township agrees that the integrity of Lake Parsippany is to be preserved during construction and thereafter and further that no waters are to be removed from Lake Parsippany.

9. All work to be performed under said Contract S-8 shall be performed in a good and workmanlike manner in accordance with the plans and specifications as approved by the New Jersey Department of Environmental Protection and inspected and supervised by the Township's consulting engineers.

10. Notwithstanding anything in this Agreement to the contrary, the L.P.P.O.A. must approve final plans before construction begins and shall be advised of any and all alterations to said plans and must approve of same.

**11. RIGHTS AND LIABILITIES OF PARTIES
AFTER CONSTRUCTION**

1. All improvements as constructed under Contract S-8 and its plans and specifications as aforesaid, shall be owned by and maintained by the Township.

2. The Township represents that the improvements to be constructed under Contract S-8 have been designed by Bowe Walsh and Associates and as reviewed by Bienstock & Lucchesi, P. A., as consulting engineers, with offices at 779 Littleton Road, Parsippany, New Jersey, and further represents that the plans and specifications have been prepared in accordance with proper engineering practice and design. The Township shall be responsible for cleaning and removing any and all silt and debris from the outfall basins at least semi-annually or as required, and repairing and maintaining all improvements as constructed under Contract S-8. In the event the Township shall fail or refuse or neglect to maintain and clean and repair said improvements within 30 days after written notice is provided to the Mayor and the Township, by Certified Mail, Return Receipt Requested, the L.P.P.O.A. shall have the right to perform such maintenance, repairs and cleaning in order to preserve the integrity of Lake Parsippany, and shall have the right to bill the Township for any and all costs and expenses in connection with same and the Township agrees to reimburse the L.P.P.O.A. for same within 45 days of submission of such costs and expenses.

3. Any and all easements for ingress and egress as may be required by the design drawing and specifications for the Contract S-8 shall be obtained from the L.P.P.O.A. by separate easement agreement between the parties, and shall be subject to any and all prior easements. Any and all other easements, either permanent, temporary or for purposes of ingress and egress, as may be required by the design drawing and specifications for the S-8 contract and not relating to premises owned by the L.P.P.O.A. shall be obtained by the Township from said property owners, at its own cost and expense.

4. Anything to the contrary notwithstanding, the Township, its employees and agents, shall not be relieved of any liability as a result of their negligence in the performance of the duties of the Township as set forth herein.

III. GENERAL TERMS

1. It is understood and agreed that the foregoing agreement affects work to be done by the Township in Lake Parsippany and on property owned by the L.P.P.O.A. Nothing herein shall be construed to affect private property rights, duties or obligations other than those of the L.P.P.O.A. as specifically set forth herein. Moreover, nothing herein shall be construed to affect the private status of Lake Parsippany and its certain real estate, it being understood that the use of the lake and its certain real estate is limited to the membership of the L.P.P.O.A.

2. All permits required for construction as set forth in Contract S-6 are to be secured by the Township, its contractors, engineers or agents, at its sole cost and expense. The L.P.P.O.A. agrees to cooperate with respect to the execution of any applications required in order to obtain the permits to perform the work as set forth in Contract S-6, as well as any other work which may be required to be performed subsequent to the completion of the initial project in furtherance of the rights granted herein and further provided that the Township is in compliance with all other terms and conditions of this agreement at the time said applications are submitted to the L.P.P.O.A. for execution.

3. The Township assumes liability and responsibility for the condition of Lake Parsippany as the within project and improvements thereon may affect same, as well as such acts of negligence, or fault of the Township, its contractor, or con-

sulting engineers. Solely as it relates to this project, the L.P.P.O.A. shall only be responsible for liability arising out of its own specific acts ... fault or negligence.

4. This agreement shall be recorded in the Office of the Morris County Clerk.

5. Except as provided in this agreement, nothing herein shall be construed to compel the Township to perform any additional work or improvements in connection with the S-B project.

6. The parties hereto acknowledge that the Township has advertised for and received bids on the S-B project. In the event the construction work provided for in the S-B project is not completed, the Township shall not be liable to the L.P.P.O.A. in any way whatsoever except to restore the Lake and the property of the L.P.P.O.A. to the same condition as it may have been prior to the undertaking of said work, if work has been commenced.

7. The parties agree that by the execution of the within agreement, the obligations of the L.P.P.O.A. as set forth in a certain Consent Judgment entered in the Superior Court of New Jersey, Chancery Division, Morris County, Docket No. C-2999-71 and dated November 8, 1973, specifically Paragraphs 3 and 4 of said Judgment, are hereby waived by the Township.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed by their proper corporate officers and their proper corporate seals to be affixed hereto, the day and

of year as indicated in the acknowledgments attached hereto.

ATTEST:

TOWNSHIP OF PARSIPPANY-TROY HILLS

Elmer C. Woodland, Clerk

By: Frank B. Pricre
Frank B. Pricre, Mayor

ATTEST:

LAKE PARSIPPANY PROPERTY OWNERS ASSOCIATION

Secretary

By: Stephen B. Kratt
Stephen B. Kratt, President

STATE OF NEW JERSEY)
)
COUNTY OF MORRIS)

SS.1

BE IT REMEMBERED, that on this 29th day of November, 1982, before me, the subscriber, a Notary Public of New Jersey, personally appeared Elmer C. Vreeland, who being by me duly sworn on his oath, doth depose and make proof to my satisfaction that he is the Clerk of the TOWNSHIP OF PARSIPPANY-TROY HILLS, a municipal corporation, the corporation named in the within instrument, that Frank B. Priore, is the Mayor of said municipality; that the execution, as well as the making of this instrument has been duly authorized by a proper resolution of the Governing Body of the said municipality; that deponent well and truly knows the corporate seal of said municipality; and the seal affixed to said instrument is such seal and was thereto affixed, and said instrument signed and delivered by said Frank B. Priore as and for his voluntary act and deed and as and for the voluntary act and deed of said municipality, in the presence of deponent, who thereupon subscribed his name thereto as witness.

Elmer C. Vreeland
Elmer C. Vreeland, Clerk

Sworn and subscribed to before me this 29th day of November 1982.

Barbara Martinez
BARBARA MARTINEZ
NOTARY PUBLIC NEW JERSEY
EXPIRES 12 1985



STATE OF NEW JERSEY)
COUNTY OF MORRIS)

ss.1

I certify that on the 13th day of November, 1962, MARY LEU WILSON personally came before me and this person acknowledged under oath, to my satisfaction, that:

(a) this person is the Secretary of LAKE PARSIPPANY PROPERTY OWNERS ASSOCIATION, the corporation named in the attached document;

(b) this person is the attesting witness to the signing of this document by the proper corporate officer who is STEPHEN B. KRATT, the President of the corporation;

(c) this document was signed and delivered by the corporation as its voluntary act duly authorized by a proper resolution of its Board of Directors;

(d) this person knows the proper seal of the corporation which was affixed to this document; and

(e) this person signed this proof to attest to the truth of these facts.

Signed and sworn to before
me on Nov. 13th, 1962.

[Signature]
Secretary

Alice M. Smith



Prepared by: [Signature]
William S. Bonanno, Esq.

S-8 AGREEMENT

TOWNSHIP OF PARSIPPANY-
TROY HILLS

and:

LAKE PARSIPPANY PROPERTY OWNERS
ASSOCIATION

Dated: November 13, 1982

AS
Record and Return to:

VILLORESI AND BUZAK, ESQS.
360 Hawkins Place
Boonton, New Jersey 07005
(201) 335-0004

RECEIVED

DEC 14 9 22 AM '82

William M. Mink
MORRIS COUNTY CLERK