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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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SC Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Alison R Lee, Circuit Court Judge

Case No 05-CP-40-0749

Dutch Fork Development Group II, LLC and
Dutch Fork Realty, LLC,

Respondents,

v

SEL Properties, LLC and Stephen E Lipscomb,
Defendants, of whom Stephen E Lipscomb is the,

Appellant

RECORD ON APPEAL
Vol IV of VIII
(Pages 1477 - 1968)

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1 A It is

2 Q And as part of the contract, Newman
3 Construction was supposed to be the one that actually
4 installed the roads at The Courtyards

5 A Supposed to put the infrastructure in Yes,
6 sir

7 Q And that includes the roads and the drainage
8 system?

9 A Right

10 Q How did the construction company -- Newman
11 in this case -- come about to be picked or selected for
12 The Courtyards?

13 A Well, the process usually is that the
14 engineer recommends some people and other people might
15 recommends people but who gets the lowest bid usually
16 gets the job I think they were the lowest bid

17 Q Since you entered the Contract, you are the
18 one that signed the Contract, did you have the final
19 decision on who was hired?

20 A I always had signed any financial things
21 Did I have the final say-so? Well, after
22 recommendations from the engineer and from the Melton's,
23 yes But, I mean, we were always -- took the lowest
24 bid They were the lowest

25 Q Had you previously used Newman Construction

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1 in other projects?

2 A I had -- I had Yes, sir

3 Q Tell me about that

4 A Well --

5 Q How many prior projects had you used them?

6 A Just one Stonington

7 Q Stonington? Was anything done to help
8 Newman come in as the lowest bid? Did you get any kind
9 of help or information that would help him to -- or have
10 any kind of an edge that would give them the lowest bid?

11 A There were no kickbacks, far as I know

12 Q Well, I'm not necessarily meaning kickbacks
13 But any kind of -- did he have any kind of advantage
14 amongst all the other people who were bidding that got
15 him the lowest bid, that you know of?

16 A No

17 Q You said earlier that you had, had some kind
18 of a signed contract or agreement with Letts Is there
19 a signed version of the exhibit we saw earlier that had
20 the scope of work that Letts was going to perform? Do
21 you remember signing something like that?

22 A I mean, it seems like there would have been
23 a signed one, but I don't know if I got a copy or not
24 Is that what you're asking me Do I have a copy of it?

25 Q No Just you -- well, you have a copy

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1 A I don't know

2 MR THOMAS Are you referring to Exhibit 6?

3 MR BOWENS Right

4 A Do I have a copy of it? I don't -- I gave

5 my attorney all of that I don't know if I do

6 Q Do you recall signing something like that

7 with Letts?

8 A I think we did sign something like that

9 Yes, sir

10 Q But there's no doubt in your mind that you

11 hired Letts to do this engineering work?

12 A Well, we paid him I guess we hired him

13 (Plaintiff's Exhibit No 11 was marked for

14 identification purposes (1 page) - SEL

15 Properties, LLC Authorization for Survey dated

16 March 7, 2001)

17 Q I want to show you No 11 Have you ever --

18 do you remember signing that document?

19 A It's got my name on it So I don't remember

20 seeing it But it's got to be one of my documents,

21 that's right

22 Q This is where you authorized Letts to do the

23 survey work

24 A Yes, sir

25 Q And that's separate and apart from what they

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1 did as the engineering work?

2 A I think so

3 Q It's a separate contract, it looks like

4 A It looks like it But I'm not sure

5 Q Who was Danny White? Do you remember?

6 A I don't recall who that is Danny White? I
7 don't know who that is I mean, I don't have any idea

8 Q Did the -- did the bank have an inspector
9 they sent out to the project to get it inspected?

10 A I think they did

11 Q Was that Danny White?

12 A I don't know who the bank sent out I have
13 no idea

14 (Plaintiff's Exhibit No 12 was marked for
15 identification purposes (2 pages) - The LPA Group
16 Incorporated Memorandum dated May 13, 2002)

17 Q I'm showing you Exhibit No 12

18 A It says, "LPA Group Incorporated -- the LPA
19 Group Incorporated Danny White, Project
20 Representative " Yes, sir

21 Q So he would come out and -- he would come
22 out and certify -- inspect and certify that the bank had
23 -- they had could go ahead and pay?

24 A I know they had an inspector I had no idea
25 who did it I never seen him or never knew his

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1 company's name

2 Q Who was the landscape company that was hired
3 for the project?

4 A It's an older fellow -- I can't quite think
5 of his name I could find out But I don't know -- I
6 can't recollect his name I can see his face, but I
7 can't recollect his name

8 Q Was it someone you'd used before?

9 A I never used him

10 Q How did you come to choose whoever it was?

11 A "D" Melton found him, or something

12 Q Who was the brick mason?

13 A I don't know who that was

14 Q Okay Was there ever any problems with the
15 landscaper or the brick mason, that you know of?

16 A I know the lights didn't work in the middle
17 And he -- but he finally come back and fixed them The
18 brick mason? I can't remember -- I can't recollect
19 there having anything wrong with the brick mason I
20 don't -- I don't know that I mean, the Melton's might
21 know that But I don't know anything was wrong with the
22 brick mason

23 Q You referred earlier to an agreement between
24 yourself and the Melton's Was that agreement entered
25 into before or after the land was purchased?

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1 A I'm not sure when it was entered We can
2 look at the date

3 Q Who brokered the land purchase for The
4 Courtyards?

5 A The Melton's

6 Q Did they get a commission for that?

7 A I don't believe they did

8 Q Do you know why not?

9 A Because they were going to get to sell the
10 houses there

11 Q They were going to get an exclusive right to
12 sell houses?

13 A That's right

14 Q How did the name Courtyards at Rolling Creek
15 come to be the name of the project?

16 A "D" Melton come up with it, I believe

17 Q And how did the logo or the design for The
18 Courtyards come about?

19 A Here again, I didn't have anything to do
20 with that I think "D" Melton did it, or one of the
21 Melton's I mean, I say "D", it could have been any one
22 of them

23 Q So they designed the logo for The
24 Courtyards?

25 A Surely did

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- 1 Q You didn't have anything to do with it?
- 2 A Not to my knowledge, no
- 3 (Plaintiff's Exhibit No 13 was marked for
- 4 identification purposes (6 pages) - State of
- 5 South Carolina, County of Richland, Development &
- 6 Marketing Agreement dated November 14, 2000)
- 7 Q I'm going to hand you Exhibit No 13 Do
- 8 you recognize that?
- 9 A (The witness reviews the document)
- 10 A Yes, sir
- 11 Q Is that your signature on the last page?
- 12 A It is
- 13 Q And this is the Development and Marketing
- 14 Agreement between yourself and the Melton's?
- 15 A Yes
- 16 Q Dutch Fork -- actually, it's between SEL --
- 17 or Stephen Lipscomb for SEL Properties and Dutch Fork
- 18 Realty
- 19 A That's correct
- 20 Q And that's for -- it between the company's
- 21 A Right
- 22 Q Now, you had an attorney by the name of
- 23 Jimmy Knight, previously
- 24 A I did
- 25 Q And he prepared this?

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1 A No, I think the Melton's prepared it Oh, I
2 don't know who prepared it I think the Melton's did

3 Q You don't know for sure?

4 A I believe the Melton's did

5 Q Jimmy Knight didn't prepare it?

6 A Jimmy Knight isn't the one that prepared
7 this No, sir I don't think so, no It'd a been
8 about this thick (the witness indicates) if he had a
9 prepared it I don't think Jimmy Knight prepared this,
10 no

11 Q Now, what was the intent on your side for
12 making this Agreement? What did you want to get out of
13 it?

14 A I wanted to make money off the deal by
15 putting infrastructure in at a reasonable cost, making a
16 reasonable profit in a reasonable amount of time

17 Q Was part of that to develop it as a
18 residential subdivision?

19 A It was

20 Q And you were going to sell the lots to the
21 general public?

22 A The Melton's were going to sell to builders
23 that they had, that they told us that they had eight
24 builders that would take down two lots apiece when we
25 got the go ahead from the County, and that they would

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1 sell so many a month They give the pro forma to the
2 bank as to what -- how they would sell the property

3 Q Okay And the -- it was going to be done in
4 three phases?

5 A Yes It was

6 Q I want to talk a little bit now about the
7 different responsibilities that were part of the
8 Agreement The -- your responsibilities under this
9 Agreement was to, first of all, secure the financing,
10 right?

11 A That's right

12 Q Purchase the property

13 A That's right

14 Q And the financing was going to be for the
15 purpose of getting the engineering studies done?

16 A It was to get the whole thing done, I think

17 Q The design -- the plan for the -- plans for
18 the project?

19 A To do the project

20 Q Costs of all the infrastructure is included
21 in that?

22 A Yeah

23 Q Get it up and ready to go

24 A Right

25 Q Did Dutch Fork have any kind of funding or

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1 financial responsibilities under this Agreement?

2 A They did not

3 Q And we may have already said this before,
4 but let's just -- since we're at this part of the
5 Agreement -- you had final approval of all the costs of
6 development, is that right?

7 A I was given a contract from the
8 infrastructure and I was given projections from the
9 Melton's as to what other things would cost And so
10 that's the way I borrowed the money

11 Q Okay If you'll look at paragraph 2 on page
12 2 of the Agreement

13 A (The witness complies)

14 Q The last sentence in paragraph 2

15 A Uh-huh

16 Q "SEL shall have final approval of all costs
17 pertaining to the development of the property "

18 A That's right

19 Q Is that right?

20 A Yes

21 Q And that was your -- you reserved that to
22 yourself, then

23 A Right

24 Q Why did you want to have that -- have that
25 approval reserved for yourself?

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1 A Because I didn't want them to spend money
2 for things other than the project or spend money
3 frivolously that wasn't available, because we had a
4 budget from the bank

5 Q Did you -- did you, or SEL, write all of the
6 checks for payments that were associated with the
7 development?

8 A Yes It would have been the office would
9 have written them, yes, sir

10 Q Did someone there have signature authority
11 for you?

12 A Yes

13 Q Or did you sign all of them?

14 A I didn't sign any of them

15 Q Someone had --

16 A Not that I know of I don't think I signed
17 any It's computer-generated or stamped, yeah

18 Q But someone had the authority to do it for
19 you?

20 A Yeah

21 Q If you'll turn to paragraph 7 of the
22 Contract on the next to the last page

23 A (The witness complies)

24 Q It says that "No contract, leases, or other
25 binding agreements may be entered into by the Dutch Fork

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1 Development Group or Dutch Fork Realty which would bind
2 SEL or create any lien or other encumbrance upon the
3 property "

4 What's the purpose of that being in there?

5 A "No contracts leases or other " Well, I
6 didn't want them to go out and do something I didn't
7 know about, 'cause we wouldn't be able to pay for it,
8 'cause we borrowed -- had a certain budget for the bank

9 Q And so am I correct in understanding that
10 only you could enter into contracts, then, as part of
11 this development project?

12 A I'm the only one that could enter into it
13 I hire professional people to advise me as to which
14 contracts to enter, from engineering to development
15 Yes, sir You're correct

16 Q What's kinds of -- what kinds of liens were
17 you concerned about in paragraph 7?

18 A I'm not sure What kind of liens?

19 Q Uh-huh

20 A I don't see where it says anything -- or any
21 lien -- created by any liens I didn't want them to
22 create any liens That's what I was concerned about

23 Q Are you familiar with the South Carolina
24 Mechanics Lien?

25 A Yes

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1 Q What is that?

2 A That's when you don't pay somebody on time,
3 and they -- you don't pay them within 90 days, they
4 could file a lien, so, therefore, they have a claim

5 Q Is there any part of the development that
6 wouldn't be subject to a Mechanics Lien like that, that
7 you would have to have work done for?

8 A Say that one more time

9 Q Is there any part of the project at Rolling
10 Creek -- The Courtyards at Rolling Creek that a contract
11 could be entered for that wouldn't create a Mechanics
12 Lien?

13 A Not to my knowledge I can't -- I don't
14 know the exact answer to that I mean, I'm sure anybody
15 could file a Mechanics Lien about anything at any time
16 on any part of anything

17 Q Other than Letts and Newman, who else did
18 you have as contractors out at The Courtyards?

19 A People that did the -- I guess there was
20 surveyors I guess there were -- who else? Some people
21 laid the walls that wasn't in Newman's contract Some
22 people did the landscaping, wasn't in Newman's contract
23 The Melton's There's probably others I can't
24 recollect right this minute, but could check the
25 register and see if there's others

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1 Q Any of those people who were out there doing
2 those work you just described, they would all have a
3 Mechanics Lien on the property if they hadn't been paid?

4 MR THOMAS Object to the form

5 A I don't know what people out there would
6 have had a Mechanics Lien Had they not been paid?
7 Sure Any -- I'm sure anybody could file a Mechanics
8 Lien if they hadn't been paid or if they wasn't
9 satisfied with what they were paid

10 Q If you talk about the responsibilities that
11 Dutch Fork had -- the Development Group had -- I want
12 you to look at paragraph 4 They were responsible for
13 obtaining the regulatory permits, devising architectural
14 design requirements, coordinating with builders and
15 contractors, and coordinating and cooperating with Dutch
16 Fork Realty in the sale of the -- of the lots

17 Other than those that are listed there, do you --
18 is there any other responsibilities that they had that
19 aren't listed in paragraph 4?

20 A Well, they had to sell a certain amount of
21 lots in a year, under -- under 8 b

22 Q Well, Dutch Fork Realty was selling the
23 lots is that right?

24 A The Melton's are Dutch Fork Realty

25 Q Well, you understand that Dutch Fork

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1 Development Group and Dutch Fork Realty are two separate
2 companies

3 A No But if you say they are I wasn't
4 aware of that, no

5 Q You weren't aware they were two separate
6 companies?

7 A No

8 Q I mean, as far as the development --

9 A Nobody ever showed me that they were two
10 different companies

11 Q As part of the development of -- that's what
12 Dutch Fork Development was supposed to do

13 A (The witness indicates to Mr Thomas)

14 Q You're not allowed to talk to him during
15 deposition Sorry

16 A Did I say anything?

17 Q No But you can't point at him

18 A Oh You didn't tell me that I'm sorry

19 Q That's all right

20 MR THOMAS Actually, he can point You
21 can just ask him what he's pointing at

22 MR BOWENS Sorry about that

23 MR THOMAS If you can find a good time to
24 take a break --

25 THE WITNESS I'm ready to take a break to

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1 get some water, if I could I just need some
2 water and need to go to the bathroom

3 MR BOWENS Sure We'll go ahead and go
4 off the record

5 (Off the record)

6 EXAMINATION RESUMED

7 BY MR BOWENS

8 (Plaintiff's Exhibit No 14 was marked for
9 identification purposes (1 page) - Secretary of
10 State Search Information for Dutch Development
11 Group, II, LLC)

12 (Plaintiff's Exhibit No 15 was marked for
13 identification purposes (1 page) - Secretary of
14 State Search Information for Dutch Development
15 Group, II, LLC)

16 Q I'm going to hand you what we've marked as
17 Exhibit's 14 and 15 And just tell you, those are
18 Secretary of State LLC filings, and shows Dutch Fork
19 Development Group and Dutch Fork Realty are two separate
20 companies

21 A (The witness reviews the document)

22 Q Does that satisfy that they are two separate
23 companies?

24 A It does

25 Q Dutch Fork Development Group, other than

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1 what's listed in paragraph 4, was there any other
2 responsibilities that they had?

3 A They were responsible for the development of
4 the -- of the Rolling Creek/Courtyards, whatever it
5 might be

6 Q And how is that? Other than --
7 (Talking over one another)

8 A -- you asked me what the developer does

9 Q Yeah But other than what's listed under
10 paragraph 4, and that is, the obtaining the permits,
11 devising architectural and design requirements,
12 coordinating with builders and contractors, coordinating
13 and cooperating with DFR in the sale of the proposed
14 lots Any other responsibilities that they had besides
15 what's listed there?

16 A They were responsible to sell 20 percent of
17 the lots in a year It says right here

18 Q Okay Other than that, any other
19 responsibilities?

20 A None other than what the developer is
21 supposed to do, that's all I know

22 Q Okay What sort of coordination was Dutch
23 Fork Development supposed to be doing with the
24 contractors and builders? What was envisioned about
25 that?

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1 A They were supposed to bring -- you talking
2 about the guys that buy lots? What are you talking
3 about? Builders? Or what are you talking about?

4 Q The Contract says, "Coordinate with builders
5 and contractors "

6 A Oh, yeah They were the ones that supposed
7 to get the builders to come buy lots

8 Q Okay What kind of coordination with the
9 contractors was contemplated by this paragraph 4?

10 A Coordination? I guess the -- to tell them
11 the lots were ready, that they -- and get them there to
12 build houses, and make sure that they didn't mess
13 streets up or do anything they wasn't supposed to do,
14 whatever that might be

15 Q Anything other than that?

16 A Not that I can think of

17 (Plaintiff's Exhibit No 16 was marked for
18 identification purposes (2 pages) - Dutch Fork
19 Development Group List of Services To Be
20 Provided)

21 Q I'm going to show you Exhibit No 16 Have
22 you ever seen this advertisement, or flyer, before?

23 A (The witness reviews the document)

24 A No I believe I seen this before I know I
25 seen this -- this before

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1 Q You don't -- you don't recall seeing this
2 before? Or you do?

3 A I think I do recall seeing this Yes, sir
4 I mean, it's five years I can't be positive But I
5 think so Yes, sir

6 Q All right That's all I wanted to ask you
7 about that one Look at -- look at paragraph 8 of the
8 Contract there It lists the grounds for termination
9 Is that right?

10 A (The witness does not respond)

11 Q Is that right?

12 A Yes, sir

13 Q And look back at Exhibit 13

14 A (The witness complies)

15 Q And the first one there is bankruptcy or
16 insolvency or composition of creditors created for any
17 one or more of the parties Is that right?

18 A That's right

19 Q Why would that be a reason you wanted to
20 have the option to terminate the Contract?

21 A I didn't -- I didn't -- I don't know if I
22 wrote this or not But if I wrote it, I don't know
23 Bankruptcy, insolvency or composition of creditors being
24 created for any one or more -- I don't know the reason

25 Q The next one there is the failure of Dutch

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1 Fork -- or Dutch Fork Realty to sell at least 20 percent
2 of the lots available in any one-year period

3 A I know why that one was created

4 Q Why is that?

5 A Because the bank loan would give a pro forma
6 that we had to meet -- we supposed to meet certain
7 criteria in compliance with the pro formas we'd give
8 them

9 Q And that was 20 percent a year?

10 A I think it was two a month, which was more
11 than 20 percent But this was a minimum

12 Q Okay Well, was it --

13 A I believe the bank thing was two lots per
14 month

15 Q Okay You said "the bank thing " What --
16 what is -- what's "the bank thing"?

17 A When we -- the Melton's give me the pro
18 forma to give to the bank and we go the money, I think
19 that it says that we would sell two lots per month

20 Q Well, the Contract says 20 percent per year

21 A That's right It does I agree

22 Q And then the next one is, term of five years

23 --

24 A Right

25 Q And then the last one is, failure of any

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1 party to comply with the terms of the Agreement

2 A Right

3 Q One of the other terms of the Agreement on
4 page 2 over there on -- the Agreement, paragraph 1, is
5 that the -- any of the principal parties -- either
6 yourself or the Melton's and William or Donald -- cease
7 to be involved actively in either Dutch Fork or SEL,
8 that would be a basis to terminate Do you agree with
9 that?

10 A I agree with it, No 2, you said?
11 Infrastructure, right?

12 Q Well, it's number -- where I'm referring to
13 No 1 there "The Parties " And it's --

14 A Oh

15 Q -- the second paragraph there

16 A I thought you said "2 " Oh, that's fine I
17 was reading No 2 Okay Sorry

18 Q All right Second "This Agreement is based
19 upon certain personal experience and ability of the
20 named individual members and managers with respect of
21 Limited Liability Companies should Stephen E
22 Lipscomb cease, for any reason, to be actively
23 associated with SEL or no longer be able to physically
24 or mentally participate in the develop as planned, then
25 you agree with them to terminate " Right?

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1 A Right

2 Q And the same with Ann, William or Donald
3 Melton, cease to be involved or can't participate, then
4 you can terminate the Contract

5 A Right

6 Q Any other basis to terminate the Contract,
7 that you know of?

8 A Non-performance

9 Q Well, that's paragraph (d) there,
10 " failure of the (sic) party to comply with the terms
11 of the Agreement " Is that right?

12 A Paragraph (d)

13 Q Paragraph 8(d) "The failure of any party to
14 comply with the terms of this Agreement and/or comply
15 with the intent of the parties "

16 A (The witness reviews the document)

17 A Yes, sir

18 Q Okay Any other basis that you're aware of?

19 A None that I see in here

20 Q On May the 28th of 2004, a letter was sent
21 to Dutch Fork Realty and Dutch Fork Development Group

22 MR BOWENS Let me have that marked

23 (Plaintiff's Exhibit No 17 was marked for
24 identification purposes (1 page) - Letter of
25 Correspondence from A Camden Lewis, Esquire, to

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1 Dutch Fork Realty, LLC and Dutch Fork Development
2 Group II, LLC dated May 29, 2004)

3 Q Do you recognize that letter?

4 A I do

5 Q Did you authorize that letter to be sent?

6 A I did

7 Q This is the first time you had tried to
8 terminate the Agreement, right?

9 A It's the first time I had written -- had
10 written a termination to the Melton's Yes, sir

11 Q And the reasons that are listed in here in
12 the first paragraph " under paragraph 4 of the
13 Agreement did not properly perform its functions as to
14 that paragraph Specifically, there have been numerous
15 road problems and budget problems throughout the
16 development " So --

17 A Yes, sir

18 Q -- road problems and budget problems are the
19 two things that are listed Are there any other
20 paragraph 4 "didn't properly perform functions" that
21 you're -- that you're complaining about besides those
22 two?

23 A In paragraph 4? No But the 20 percent --

24 Q Right I'm just talking about the paragraph
25 4 right now

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1 A Paragraph 4? No

2 Q Okay And the next one is under paragraph
3 8 the failure to sell at least 20 percent of the lots
4 in any one-year period

5 A Yes, sir

6 Q And those are the three reasons that you
7 give

8 A Yes, sir

9 Q Okay Any other reasons?

10 A No, sir Not in this letter

11 Q Was there any other reasons outside the
12 letter?

13 A Outside of the letter, I had been, at
14 several occasions, with "D" Melton to the bank, talking
15 about lots we were going to sell And they never
16 happened And I was up to my neck with the bank about
17 non-performance, of not selling lots on time as
18 scheduled

19 Secondly, the -- there didn't seem any desire
20 from the Melton's to want to sell lots All they wanted
21 to do was sell houses They never advertised, to my
22 knowledge, never did anything other than just talk to a
23 couple of builders about buying a few lots

24 Now, selling houses was a different story My
25 reason for dealing with the Melton's was to sell lots

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1 my sole purpose So, yes, prior to that, there was
2 reason other than this, yes

3 Q Well, from what you just told me, it was
4 about selling lots, is that right?

5 A Right Exactly

6 Q Well, that's what is in here in the letter
7 Anything other than what's written in here?

8 A No

9 Q Okay But the complaint you just described
10 is what's in here in paragraph 8, failure to sell 20
11 percent of the lots

12 A Yes, sir

13 MR BOWENS Let's get this marked
14 (Plaintiff's Exhibit No 18 was marked for
15 identification purposes (1 page) - E-mail from
16 Ronnie Colson to Margie Simkins dated 8/19/03)

17 Q I'm going to show you what we've marked as
18 Exhibit 18 Have you ever seen this e-mail before?

19 A No I don't know if I seen it, but I knew
20 about it

21 Q The first part of it there is from -- it's
22 from Ronnie Colson to Margie Simkins Who is Margie
23 Simkins?

24 A She's the person that's responsible for
25 money Ronnie -- I don't know what her title is But

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1 she's the NBSC person that's over, like,
2 subdivision/development, funding the money

3 Q Do you know who Margie is?

4 A Yes

5 Q It says that, "He took me out to the
6 development yesterday ' Was that you that he's talking
7 about?

8 A Yes

9 Q And it says, "Dutch Fork Realty company (the
10 Melton's) has a contract to sell 2 lots per month " Do
11 you see that?

12 A Yeah

13 Q Where is he getting that from?

14 A In the pro formas that the Melton's gave him
15 when we took it to the bank

16 Q Are you saying a pro forma is a contract?

17 A It's a agreement Is not a -- maybe it's
18 not a written -- no, it's not a contract But in -- in
19 their proposal to do the -- do the -- do the deal and me
20 to get the financing at Dutch Fork Yeah, I'd say it's
21 a verbal contract, yeah

22 Q But the contract that we have between
23 yourself and the Melton's is to sell 20 percent per
24 year

25 A Right But that's not what the pro forma

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1 that was prepared for the Melton's to give to the bank
2 said But that's the only reason I was talking to
3 Ronnie about it this way

4 Q All right It says their contract expires
5 the 22nd of August What does he get that from, do you
6 know?

7 A He might be talking about my loan I don't
8 know what that means I have no idea what that means
9 It might have been my contract with the bank I don't
10 know I don't know what that means I have no idea

11 Q Okay What budget problems are you
12 referring to when you talked about -- in the termination
13 letter, what -- do you remember what it was -- what
14 budge problems are you complaining about there in the
15 May 28th letter

16 A Where's the May 28th --

17 MR THOMAS Exhibit 17

18 Q Exhibit 17

19 A We give a pro forma to the bank as what the
20 development of Phase One was going to cost And it was
21 not -- didn't follow the budget, went over on several
22 things I don't know without having it in front of me
23 what it was Infrastructure, maybe the entrance I'm
24 not sure But there was not enough money With the pro
25 forma that was presented to the bank, we were short on

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1 money And it may have a -- I don't have it in front of
2 me, so I can't get down to the -- get down to the --

3 Q Well, how are -- how are budget problems the
4 Melton's fault?

5 A They the ones that gave the budget to me

6 Q I'm sorry

7 A They the ones that used the budget

8 Q Well, how are budget problems their fault?
9 How do you say that the budget problems are their fault?

10 A Well, if they were the developer and they
11 were selling me on this project to do it, and they told
12 me what they thought things would cost -- I'm not saying
13 that it is totally their fault But they told me what
14 the cost, we go borrow the money from the bank, and it's
15 short I'm only going by what people ask me to do And
16 if we're short on money, then it's got -- it's
17 somebody's fault Who's fault is it?

18 Q Well, I just want -- you -- you blame the
19 Melton's --

20 A I would say it was --

21 Q -- in this letter

22 A -- the Melton's, because they were the ones
23 that were the developers

24 Q But you don't have any specific thing that
25 they did or didn't do that caused these budget problems

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1 that you can point to?

2 A Specific thing that they did or didn't do?
3 They didn't do enough research on some stuff I don't
4 know

5 Q Did you ever agree to cover any shortfalls
6 or overruns to NBSC?

7 A I had no choice I had to

8 Q So it was contemplated that there might be
9 some --

10 A Not before

11 MR THOMAS Object to the form

12 A Not before During those -- I had no -- I
13 had no problem -- I mean, no -- what am I going to do if
14 I don't cover it?

15 Q Well, was that -- was that told at the bank
16 up front, that if there was some that you would cover
17 it?

18 A No

19 Q It wasn't part of the --

20 A Not to my knowledge

21 Q How common at cost overruns or budget
22 overruns in a development like this?

23 A Well, I've had some that didn't overrun
24 But I've had a lot of them that did, so Whatever few
25 I've been experienced with, I've had some that did and

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1 some that didn't So I don't know the percentage

2 Q It's not uncommon for there to be a budget
3 overrun, is there?

4 A I wouldn't say it was uncommon I wouldn't
5 say it was common or uncommon I don't know

6 Q What were the -- what was over -- what
7 overran in The Courtyards?

8 A I don't have the pro forma in front of me,
9 and I don't have the payments But I would say the -- I
10 don't know But it was over I mean, maybe the walls
11 were over maybe the infrastructure was over maybe the
12 landscaping was over, maybe it was a total -- all of
13 them were over a little bit

14 Q But you don't know of anything --

15 A I think the interest was over because it was
16 a little slower than anticipated happening

17 Q Is it your testimony, then, that the costs
18 that were anticipated were higher than they actually
19 turned out to be, and that's -- that was the budget
20 problem?

21 A Repeat the question

22 Q The costs that were projected ended up being
23 more than the -- than were projected? That's the budget
24 problem?

25 A I think so Yes, sir

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1 Q And the reason for that being higher may or
2 may not be the Melton's fault?

3 A Correct

4 Q If it turns out that the reason that the
5 costs were higher than expected had -- was out of the
6 Melton's control, would you still blame them for it?

7 A If it was out of their control? Probably
8 not

9 Q Was one of the problems that was encountered
10 that caused the price to be higher, some of the costs to
11 be higher was the blasting that had to be done to get
12 rid of a lot of the rock that was in the development?

13 A We had our budget for blasting But it did
14 go over, yes

15 Q That wouldn't be something that you would
16 hold the Melton's responsible for, could you? or that
17 you would hold them responsible for, being more rock
18 than was anticipated?

19 A I don't suppose I could hold them directly
20 responsible for that No, sir

21 Q One of the problems that caused an overrun
22 was having to do with the pavement, wasn't it?

23 A The --

24 Q Pavement

25 A Oh, yes

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1 Q Didn't Newman Construction have the wrong
2 design -- or the wrong pavement section they were
3 implementing early on and had to be changed?

4 A I don't know if it was early on But the
5 roads didn't start messing up, to my knowledge, till
6 about a year, year and a half after -- after --

7 Q I'm not -- I'm not talking about that I'm
8 talking about when he bid this -- when he bid for the
9 project, he had the low bid

10 A Right

11 Q It turns out that his -- what he had
12 budgeted for pavement didn't meet Richland County's
13 specifications and he had to re-do paving

14 A Oh, I don't know about that

15 Q You don't know that? Or you don't --

16 A I don't remember him not meeting Richland
17 County's specifications, no, sir I don't believe they
18 would have approved it if it hadn't of met --

19 Q No I mean, before --

20 A They did approve it

21 Q -- before they got to the approval part,
22 after --

23 A He had to re-do it when --

24 Q Before he -- before he built it, causing the
25 cost to go up

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1 A Well, I don't know Afterwards is when they
2 had the problem If he rebuilt it, it didn't rebuild it
3 very good

4 Q And I don't think I'm getting my question
5 across to you After Newman did his bid --

6 A Yes, sir

7 Q -- but before he started building it, did it
8 turn out that he had too low of a bid for pavement and
9 had to go back and fix it?

10 A You got to show -- if you got a change order
11 or something that shows that, he probably did But I --
12 there was a bunch of change orders, I could tell you
13 that, but I don't remember all of it

14 (Plaintiff's Exhibit No 19 was marked for
15 identification purposes (1 page) - Letts
16 Associates, Inc Memorandum dated August 12,
17 2002)

18 Q Let me show you Exhibit No 19 Have you
19 ever seen that?

20 A This seems to be the engineer saying there's
21 going to be a change order

22 Q And this is because the pavement section
23 that Newman Construction was using didn't meet the
24 Richland County minimum pavement section specs

25 A Well, when they bid I had no idea they

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1 didn't meet it I mean, I didn't know what Richland
2 County's standards were I'm not an engineer or the
3 developer at the time, so I had no idea what the
4 minimums were So if he bidded on it and he didn't do
5 it, you know, it's almost like -- you know, I thought
6 they always had to bid within the regulations

7 (Plaintiff's Exhibit No 20 was marked for
8 identification purposes (1 page) - NBSC Memo From
9 Margie Simkins dated 8/16/02)

10 Q Well, it wasn't -- didn't it turn out that,
11 that -- that, that kind of changed this bid -- I'm
12 handing you Exhibit No 20 If you look down at line 5,
13 "This is an overall increase to the original contract
14 amount of \$226,913 05 "

15 A Right

16 Q That's a pretty hefty increase, isn't it?

17 A I'd say it was

18 Q Can you blame that on the Melton's? Newman
19 getting his bid wrong

20 A Can I blame Newman giving the wrong bid on
21 the Melton's? No Although, they were the developer, I
22 would have thought they would have known that County
23 regulations But I don't guess I could blame them for
24 him bidding wrong

25 Q I'm sorry

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1 A I don't suppose I can blame them on him
2 bidding improperly

3 Q Other than the increase in cost because of
4 the rock having to be blasted and because of the
5 pavement situation, any other major cost overruns you
6 can remember?

7 A Here again, I don't remember what the
8 overruns were I didn't remember the -- I knew the
9 roads were overran I thought -- I'm pretty sure that
10 there were other stuff Not this kind of -- not this
11 major, I can tell you that

12 Q But you can't recall any right now?

13 A No

14 MR BOWENS Let's get this marked, please
15 (Patient's Exhibit No 21 was marked for
16 identification purposes (1 page) - Newman
17 Construction, Inc Memorandum to Mr Stephen
18 Lipscomb dated October 22, 2001)

19 Q This is Exhibit 21 It's a letter to you
20 from Mr Newman Do you remember getting that?

21 A It looks like a change order We got lots
22 of them I'm sure this is one of them

23 Q Well, this is not in the format of a change
24 order It looks like it's more of a letter We had
25 some change orders earlier, that this doesn't look like

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1 it's a change order There's no signature at the bottom
2 for anybody to sign off on

3 A Well, it doesn't have a signature place,
4 that's for sure

5 Q It doesn't say "change order," does it?

6 A No It doesn't say "change order "

7 Q And what it says is, "As requested, we offer
8 the following suggestions and/or comments in an effort
9 to lower the cost of the project "

10 And this is back in October of '01

11 A Okay

12 Q Right? Who requested that the --
13 suggestions on how to lower the cost of the project?

14 A It looks like Newman It looks like Newman

15 Q Now, he says, "As requested we offer "
16 Who made the request to --

17 A I think the Melton's probably told him we
18 need to get it within -- somewhere within the budget
19 range And I probably told the Melton's we don't have
20 enough money, unless we get this straightened out, we
21 can't do the project

22 Q Well, one of the things that you're --
23 that's listed here is changing the paving sections is
24 that right?

25 A Yes, sir

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1 Q Was that adopted?

2 A Well, what does that mean? adopted

3 Q Well, did you-all change the paving sections
4 as suggested here in paragraph 1?

5 A I'm not sure But I mean, I would say we
6 did But I'm not sure I don't know what these paving
7 sections are

8 Q So you don't remember one way or the other
9 whether you agreed to change the paving sections?

10 A I know the -- somehow we worked out, the we
11 got back within the -- when the contract started, we got
12 back within the budget Then when the roads started
13 getting built, it got out of budget again So this must
14 be prior to the building of the roads

15 Q Right This is back in --

16 A Prior to --

17 Q -- '01 --

18 A -- the contract or something I don't know

19 Q This is October of '01

20 A Must be prior I don't know when the
21 contract was signed

22 Q Well, there's a copy right there for you in
23 the exhibits

24 A The contract -- this is the contract?

25 Q That's the one with you and Newman

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1 A Let me look back here at the signed dates
2 and see if there's a date on this

3 A (The witness reviews the document)

4 A It says September 2001 This is October
5 The contract had already been signed

6 Q And then he made the following suggestions
7 to change it as far as the paving sections goes And
8 did you agree to let them change this?

9 A I guess I did

10 Q And that was the very thing that ended up
11 causing the big overrun, wasn't it, later on in 2002?

12 A I suppose it was

13 Q Can you blame the Melton's for that?

14 A Well, I would think the developer would have
15 understanding of what's required of the roads, as they
16 had did developments prior to this

17 Q Well, this letter is to you, isn't it?

18 A I'm sure the Melton's reviewed it before
19 they give it to me Or they saw it, for sure

20 (Plaintiff's Exhibit No 22 was marked for
21 identification purposes (2 pages) - Letts
22 Associates, Inc Memorandum to Gordon Green dated
23 October 12, 2001)

24 Q This is Exhibit 22 to your deposition This
25 is a letter from Letts, the engineers, to Richland

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1 County Public Works, and it's dated October 12, 2001
2 And it seems to indicate that they have changed the
3 pavement section to conform to Richland County's
4 requirements, is that right?

5 A That's what it seems to be

6 Q Do you know how it came to be that after the
7 engineer changed the pavement specs to meet Richland
8 County's requirements, that subsequent to that, Newman
9 proposed to change it back? This is October 22nd This
10 is October 12th

11 A I have no idea

12 Q How did that come about that Newman, after
13 this had been changed, wanted to change it to something
14 different?

15 A I have no idea Don't have any idea

16 Q Would you agree that Newman didn't follow
17 the design specifications given to him by the engineer?

18 A Seems that he didn't

19 Q But you didn't know that at the time?

20 A Well, I know that there was a change in
21 them But I never knew that there was a change in them
22 that didn't meet any -- didn't meet Richland County's
23 standards, let's put it that way

24 Q Do you know the -- do you have any
25 information or evidence that the Melton's knew that

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1 Newman had changed the pavement section after he had
2 been told to do it a different way?

3 A I knew what the Melton's knew because they
4 give me all the paperwork

5 Q But you said you didn't know

6 A I said, no, I didn't know it didn't meet the
7 Richland County standards, is what I said

8 Q Do you have any evidence that the Melton's
9 knew that Newman had gone back and changed it?

10 A No

11 Q Early on in the project after you got the
12 bank -- the bank loan -- well, first of all, how much
13 was the bank loan for, for the development?

14 A I'm not sure

15 Q Does that \$2 million sound right?

16 A Probably

17 Q Did you -- do you recall taking \$800,000 of
18 that money out of the budget?

19 A It's for a land purchase It was in the
20 budget

21 Q Right That was supposed to -- was that
22 supposed to be taken out up front or was it supposed to
23 be taken out on the end?

24 A Well, I guess at the first That's -- we
25 got about -- you got to pay the land back first

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1 Q But you had already bought the land

2 A I had, had a bridge loan to buy the land
3 till we got the loan thing And it was in the budget,
4 800,000, for the land

5 Q Right But that was going to be paid back
6 to you at the end of the project, out of the profit

7 A No Absolutely not

8 Q Why did -- why did Mr Melton have to do two
9 pro formas then?

10 A I didn't know he did two pro formas, but he
11 may have did He may have did more than two 'Cause I
12 know at first, the bank -- there's no agreement with the
13 bank that I was supposed to take that at the end, if
14 that's what you were asking

15 Q Well, the first pro forma, as I understand
16 it, had -- didn't have 800,000 in there to be paid back
17 to you right off, then the second one had to be
18 incorporated Do you remember that?

19 A I don't know

20 Q But you do -- you do remember taking out
21 800,000 out of the budget to pay you back for the land
22 purchase

23 A I'm sure we paid back for the land purchase
24 But I don't know exactly when it was, but I'm sure we
25 did

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1 (Plaintiff's Exhibit No 23 was marked for
2 identification purposes (2 pages) - NBSC Memo
3 From Margie Simkins dated January 11, 2002)

4 Q I'm going to show you Exhibit No 23 And
5 if you'll look in the first little paragraph there
6 "This loan closed on November the 19th, 2001 --

7 A Uh-huh

8 Q -- at which time NBSC funded \$1,259,089 70 -
9 -

10 A Right

11 Q -- on our new \$2,001,375 loan

12 A Right

13 Q So is \$2,001,375 the loan that you got for
14 the development?

15 A I believe it is

16 Q It says, "Funds were disbursed to pay off
17 the existing land loan of \$803,477 76 "

18 A That's what it says

19 Q That's the money you got back for your land
20 purchase?

21 A I believe it is It says on here, land
22 loan

23 (Plaintiff's Exhibit No 24 was marked for
24 identification purposes (1 page) - Borrower
25 Statement, SEL Properties, LLC dated November 19,

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1 2001)

2 Q Do you recognize Exhibit No 24?

3 A Ht looks like something that would have been

4 did at that time, yes, sir

5 Q Is that your signature at the bottom?

6 A It is

7 Q And this is the -- this is the development

8 plan?

9 A This is what now?

10 Q Is this part of the development budget?

11 A No It's the Borrower's Statement

12 Q But some of these elements are part of the

13 development budget, aren't they?

14 A Yes, they are

15 Q Is this accurate?

16 A It looks accurate

17 Q Anything substantially different, what

18 actually happened than what's reflected on this exhibit?

19 A This would have been -- I mean, six years

20 ago, looking at it, it looks like to me it's -- it looks

21 like to me it's normal

22 (Plaintiff's Exhibit No 25 was marked for

23 identification purposes (1 page) - The Courtyards

24 at Rolling Creek Budget Phase One)

25 Q Let me show you Exhibit No 25 Do you know

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1 what that is?

2 A It's looks like a budget that the Melton's
3 put together

4 Q Is that the development budget for Phase I?

5 A It looks like it

6 (Plaintiff's Exhibit No 26 was marked for
7 identification purposes (1 page) - NBSC Memo from
8 Margie Simkins dated 1/30/02)

9 Q I'm going to show you Exhibit No 26 I'm
10 going to refer you down to the second to the last
11 paragraph

12 A Second to the last

13 Q "After the meeting was disbursed, the
14 account officer discussed sources of income held by the
15 owner which could be used to cover the cost overruns
16 Subsequently, a hold was put on account

17 ----- " "

18 What account are they talking about here?

19 A Probably one of my other business accounts

20 Q Do you know which one it goes with?

21 A No, I don't

22 Q Had a balance of \$23,000 Do you know which
23 one it was --

24 A No, sir

25 Q A little further down it says, "Lot releases

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1 are expected to begin as soon as the construction is
2 completed "

3 Is that the same as lot sales?

4 A "Lots release are expected to begin as soon
5 as construction is completed "

6 Now, what are you -- what's your question?

7 Q That's the same as lot sales, isn't it? Lot
8 sales are expected to begin as soon as --

9 MR THOMAS Object to the form

10 A Soon as -- soon as construction is
11 completed Actually, this is NBSC The agreement with
12 the Melton's was, as quick as we got the County's --
13 where you can sell the lots

14 Q Well, when they talk -- when they say "lot
15 release," they're meaning -- they mean lot sales Is
16 that right?

17 A "They mean lot sales" --

18 Q A little further down there, it says, "In
19 addition, the borrow is in the process of selling a
20 portion of the undeveloped acreage "

21 What acreage were you trying to sell in January
22 of '02?

23 A I was selling a portion to Phase IV of
24 Rolling Creek

25 Q Who were you selling it to?

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1 A To the -- we were just taking it out of that
2 entity and putting it in another entity so we could get
3 another -- another loan for infrastructure on a
4 different project

5 Q Who were you going to sell the acreage to?
6 And this is from Phase IV at Rolling Creek, you said?

7 A No I said the main body of land, we were
8 splitting part of it off, ten acres, for another
9 development

10 Q And who was it going to be sold to?

11 A It was just going to be put into the other
12 entity which was Phase Four of Rolling Creek That's
13 what I think this is

14 Q What's the other entity you're talking
15 about?

16 A Twenty lots, Phase IV, Rolling Creek
17 That's what I think it is

18 Q You weren't trying to sell the remaining
19 Phase II and III at Courtyards?

20 A No For \$59,000? Hell, I paid them eight
21 hundred for it

22 (Plaintiff's Exhibit No 27 was marked for
23 identification purposes (1 page) - Memo from
24 Margie Simkins to Ronnie Colson)

25 Q I'm sorry Let me give you evidence that's

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1 been copied (3-5 56) This is Exhibit No 27 This is
2 time period ending June 30th of '02 There was
3 \$124,176 78 draw there And then they ask "Can you
4 talk with Mr Lipscomb and see when we can get this
5 money an from where?"

6 What was the problem that you had to find extra
7 money from someplace?

8 A We were over the budget

9 Q Did you -- were you able to find the extra
10 money?

11 A I guess so We don't owe anybody out there
12 now that I know of

13 Q Where did you find it? Where was it --
14 where did it come from?

15 A From one of my other businesses I borrowed
16 it

17 Q Do you remember which one?

18 A No, sir

19 (Plaintiff's Exhibit No 28 was marked for
20 identification purposes Memo from Margie Simkins
21 to Ronnie Colson dated 3/11/02)

22 Q This is Exhibit No 28 It refers to a -- I
23 want to bring your attention that the fourth draw shows
24 \$59,882 in new change orders Do you know what -- do
25 you know what that's referring to and what --

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1 A Yeah

2 Q -- what was the cause of that?

3 A It was a increase in cost of the Rolling
4 Creek/Courtyards project, I believe -- or that's what I
5 believe it is

6 Q You don't remember what, specifically,
7 they're talking about and what the changes were?

8 A No It doesn't say on here

9 Q Well, I know That's why I'm asking you Do
10 you know what the changes were?

11 A This was -- this was six years -- four years
12 ago I don't remember things four years ago, I guess

13 Q Okay Would you agree, that if the \$800,000
14 that was budgeted for land purchase had been taken out
15 later in the projects' life, toward the end -- like, in
16 Phase III -- that it would have allowed 800,000 more
17 dollars to be available to -- for the development of the
18 project?

19 A If I'd a borrowed 20 million and we had
20 taken it out at the end of April, same thing It wasn't
21 meant for that

22 Q Right But if it had been taken out later,
23 it would have been --

24 A It wasn't meant to be taken out later

25 Q I know it wasn't I'm just -- I know what

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1 you're saying But if it had been

2 A Sure

3 Q That would have given --

4 A If I hit the jackpot and put it in there,
5 we'd a had even more money, we'd had a billion dollars
6 in there and it would have been available to the
7 project But I didn't do that And that's what it was
8 meant -- it was not meant for Sure Yeah If we'd a
9 left it in there, there would have been 800 dollars -- a
10 \$800,000 reserve

11 Q And that would have cleared up all of the
12 budget overrun problems, wouldn't it?

13 A It would not have cleared up all the budget
14 overrun problems We didn't want budget overrun
15 problems We had to pay it back The object is to stay
16 within the budget no matter whether you got the money or
17 not

18 Q Right Let me -- just follow my question,
19 if you would, please If you -- if you'd left the
20 800,000 for the land purchase in the budget and taken it
21 out at the end of the project --

22 A We'd a just owed more at the end

23 Q Owed more to you at the end

24 A Yeah

25 Q Right?

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1 A Yeah

2 Q But these overruns wouldn't have occurred
3 early on

4 A Well, that's for sure

5 Q That's all I was asking I want to move now

6 --

7 MR BOWENS Do you-all need a break?

8 MR THOMAS Yeah

9 MR BOWENS We'll go ahead and take a short
10 break

11 (Off the record)

12 EXAMINATION RESUMED

13 BY MR BOWENS

14 (Plaintiff's Exhibit No 29 was marked for
15 identification purposes (1 page) - NBSC Memo from
16 Millicent Munn dated February 6, 2002)

17 Q I'm going to show you Exhibit No 29 This
18 indicates -- is a memo from Millicent Munn to the Credit
19 File It indicates that the mortgage was satisfied by
20 Jimmy Knight's office Do you remember that happening?

21 A What are you saying now?

22 Q Well, the first line there, it says "Hope
23 Deter with Jimmy Knight's office called today and said
24 that the satisfied mortgage on the \$800,000 Note we
25 paid off on November 19th hasn't been received by

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1 them "

2 Do you -- do you remember the note being paid
3 off?

4 A No I hope it was paid off But I don't
5 remember when the note was paid off, if that's what
6 you're asking I'm sure it was paid off Yes, sir

7 Q Before, we were talking about how you got
8 the money together for the eight hundred -- to pay for
9 the land And you weren't a hundred percent sure Does
10 this help you remember how you got the money, talking
11 about the \$800,000 note?

12 A No It didn't help me remember how I got
13 it I mean, I got the \$800,000 note -- I mean, money to
14 buy the land, then we paid it back at the close -- at
15 the final closing when we got the infrastructure loan,
16 that's what I do know

17 Q Okay

18 (Pleading's Exhibit No 30 was marked for
19 identification purposes (1 page)- NBSC Memo from
20 Margie Simkins dated 1/29/02)

21 MR BOWENS Let's mark this one too

22 (Pleading's Exhibit No 31 was marked for
23 identification purposes (1 page) - Construction
24 Draw Checklist dated 1/23/02)

25 Q I'm going to hand you what's been marked as

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1 Exhibit 31, and talk about this one for a moment This
2 is dated, at the top right-hand corner, it says, "Funded
3 Date 2/1/02," and it's a Construction Draw Checklist
4 This is what? three or four months from the time that
5 the note was -- the original construction loan was
6 funded?

7 A I suppose it was, yes, sir

8 Q This is Draw Request No 2, is that right?

9 A Draw Request No 2 Yes, sir

10 Q And the draw -- and the date received was
11 January 23rd of '02?

12 A Yes, sir

13 Q If you look down at the Comments section, it
14 says, Budget for construction will be short -- Borrower
15 to put equity into loan the end of the project "

16 A Okay

17 Q What are they talking about? want the
18 borrower to put equity in at the end of the project

19 A Well, I think some change orders had came
20 in Since they're -- since the beginning of the loan,
21 there was change orders that was going to force it over

22 Q So this was known early on in the -- in the
23 process?

24 A Known early on? It was -- no, it wasn't
25 known when we did the original loan It was known after

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1 we did the original loan

2 Q Well, early on -- I mean, this is only the
3 second --

4 A Well, later --

5 Q -- draw request

6 A Whatever

7 Q So budget shortfalls wasn't a surprise when
8 they came

9 A Well, they were a surprise when they were
10 given to me Yes, sir They wasn't a surprise after I
11 was told about them, no It was -- but this was -- this
12 was later on after the project has already started

13 Q Let's make sure we've got this straightened
14 out

15 A Let's make sure

16 Q The loan closed November the 19th, 2001,
17 right?

18 A November Right

19 Q And just over two months later, January
20 23rd, we know that there's going to be a budget
21 shortfall

22 A Yes, sir

23 Q Was it -- within two months of the loan
24 closing

25 A Sixty days Yes, sir

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1 Q Just a little over -- January 19th would
2 have been sixty days

3 A I'd say it was a lot more than what they
4 knew about at this time This could have been some
5 amount of money that could have ended up being a lot
6 more

7 Q I'm going to hand you Exhibit No 30 And
8 this is dated January 29th, which is after the second
9 draw was received but before it was funded

10 A Uh-huh Right

11 Q And the first paragraph there indicates that
12 considerable -- there would be a considerable amount of
13 funds needed for rock removal

14 A Right

15 Q Is that what's causing this concern in the -
16 - comments on here about a construction shortfall?

17 A I'm sure it's part of it I don't know if
18 it's all of it I mean, I don't have no way of knowing
19 that

20 (Plaintiff's Exhibit No 32 was marked for
21 identification purposes (1 page) - NBSC Memo from
22 Margie Simkins dated 3/26/02)

23 Q I'm going to show you Exhibit No 32 This
24 is a memo dated March the 26th of '02 from Margie
25 Simkins And it indicates, if you look in paragraph 2,

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1 that the -- that most of the excavation work has been
2 completed There are still some facilities to be
3 constructed and may need additional removal And then
4 in paragraph 4, it tells you that the overall increase
5 to the cost of the contract Do you remember that
6 taking place?

7 A I remember it was more than this At this
8 point it must have been 97,000 I think it was a lot
9 more -- more than that

10 Q And that's related to the rock, right? rock
11 removal

12 A I don't know I got to read this here

13 A (The witness reads Exhibit No 32)

14 A It says change orders 4 through 8 I don't
15 know what 4 through 8 is I mean, that's what it says
16 on here Ninety-seven dollars (sic) will clear it up --
17 I mean, I -- I don't know the ninety-seven was for But
18 it says change orders 4 through 8

19 (Plaintiff's Exhibit No 33 was marked for
20 identification purposes (1 page) - NBSC Memo from
21 Margie Simkins dated 4/01/02)

22 Q This is Exhibit 33 And it's another memo
23 from Margie regarding your loan, April of '02 And it
24 indicates that the rock removal necessary for excavation
25 is still not complete, April, and that change orders 11

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1 and 10 add twenty days to the contract time and increase
2 the change orders to \$157,774 35 Do you remember what
3 that was for if it was not related to the rock?

4 A I have no idea Change order No 11 -- I
5 mean, it's something to do with the infrastructure,
6 because that's what was going on at this time

7 (Plaintiff's Exhibit No 34 was marked for
8 identification purposes (1 page) - Memo from
9 Margie Simkins to Ronnie Colson dated 3/11/02)

10 Q And this is Exhibit No 34 And if you look
11 at the second paragraph, it indicates that \$117,000 in
12 change orders is for blasted and ripped rock -- for rock
13 excavation Does that sound right to you? Do you
14 recall that?

15 A I don't recall it, but if that's what it
16 was, that's what it was I don't know how much it was
17 But that's what it says right here It says one
18 seventeen

19 Q How much other budget problems are you -- do
20 you think there were besides 117,000 that's attributed
21 to the rock removal

22 A I'm not sure

23 Q Okay Do you know if that's the bulk of the
24 problem, the budget overruns? Is that 117,000?

25 A I don't know how much the overrun was at

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1 this time, I -- to be honest with you about it I don't
2 know what the original contract was and the final
3 payment was If I knew that, we could subtract it and
4 find out I don't have the numbers in front of me It
5 could be found out

6 Q To the best of your recollection, though, do
7 you remember any other budget overruns that were more
8 than a hundred and seven -- \$117,000?

9 A No I don't think any other thing was more
10 than 117,000 --

11 Q That overran

12 A One individual thing? No I think that was
13 probably the highest one

14 Q As far as overruns go

15 A As far as all overruns, that's the -- I
16 think one seventeen is probably right Unless I don't -
17 - but I don't know that to be a fact, but I would assume
18 it was

19 Q Well, do you think that the -- if there was
20 something else that overran by 117,000 or more you could
21 remember what it was?

22 A Well, the eventual repair of the roads at
23 the end were more than that But during the -- not
24 during the -- this initial construction

25 Q At the time you -- the letter was written in

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1 May 28th of '04, had you started having the roads
2 repaired at that time?

3 A Yeah Gotten estimates

4 Q But you hadn't had any repairs yet

5 A No, I don't believe so

6 Q So that wasn't --

7 A I don't think so

8 Q -- part of your -- that wasn't part of the
9 budget problem at the time that letter was written

10 A We knew about it, the repairs that was going
11 to be necessary yes, sir

12 Q Well, the budget overruns that you're
13 complaining about in the --

14 A The budget overruns --

15 Q -- letter --

16 A -- were at the first -- on the initial
17 contract

18 Q The problems with repairing the roads and
19 the cost of that wasn't what you were complaining about
20 when you complained about budget problems

21 A When I complained about budget problems?
22 Probably not

23 Q Okay All right Let's talk about the road
24 problems, themselves, now What experience have you had
25 with roads and residential developments?

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1 A What do you mean? what experience have I
2 had

3 Q Have you installed roads before?

4 A No, I've never --

5 Q Been in charge of --

6 A -- installed road, never been in charge of
7 installing roads

8 Q Have you had any experience with getting
9 roads put in, in developments previously to the
10 Courtyards?

11 A No

12 Q Never taken a direct role in getting them --

13 A I didn't do it there either

14 Q What do you allege is wrong with the roads?

15 A I didn't allege anything was wrong with the
16 roads They -- they didn't hold up after about -- I'd
17 say it was about a year we started selling -- seeing
18 some -- and this is just a guess -- started seeing some
19 cracks in the road And they turned in all kinds of
20 potholes and disintegration of the road in certain
21 areas probably a year and a half later when major
22 problems really got going

23 Q Now, you said "certain areas " It wasn't
24 the whole road system failed It was just certain parts
25 here and there?

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1 A Certain parts

2 Q Do you remember when the road problems
3 began?

4 A Like I said, I think it was about a year
5 after the project had started Once we started having
6 some construction and some heavy trucks got on it -- was
7 nobody out there much prior to that, so it wasn't -- it
8 wouldn't have been any difference just sitting there

9 Q Okay So it wasn't long after construction
10 of infrastructure began

11 A Say that again

12 Q It wasn't long after the infrastructure
13 construction began that you had these problems?

14 A Well, no I mean, we had two or three
15 houses When we started having numerous houses being
16 built, I think that's when the roads started to fail

17 Q After the houses started to be built

18 A Yeah

19 Q Okay In the Counterclaim that you have
20 filed in this litigation, one of the things that's
21 alleged is that Dutch Fork Development Group was
22 supposed to plan and construction the roads and drainage
23 systems and in another place in the Complaint it says
24 that -- or in the counterclaim -- it says that they were
25 supposed to make sure that the roads and drainage

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1 systems were planned and constructed properly

2 Were they supposed to plan it and do it? Or were
3 they supposed to make sure it was done?

4 MR THOMAS Object to the form of the
5 question

6 Q Which one?

7 MR THOMAS Object to the form

8 Q You can answer

9 A I would think that their job was a
10 supervision and the selection of -- making sure that the
11 roads meet the codes, and that they -- that they were
12 suitable

13 Q In another place in the Counterclaim,
14 paragraph 23, it says that the Plaintiffs unjustifiably
15 breached its contracts with the Defendant SEL, by
16 improperly designing, planning, overseeing, developing
17 and constructing the roads and drainage systems Is
18 that your allegation?

19 A Yes, sir

20 Q And what did they do that was improper?

21 A Well, they didn't oversee it very well

22 Q How so?

23 A Well, the roads failed And they were the
24 ones that were primarily out there at that time dealing
25 with the engineers and dealing with the daily work

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1 Q Have you ever known a development company to
2 take on the obligation of overseeing and making sure
3 that roads and drainage systems were designed and
4 constructed properly?

5 A Overseeing the design and put in property?
6 I don't think that they do that They're in the
7 selection and -- and the -- over the engineer and the
8 plans

9 Q Well, I want -- I want to know from you,
10 what you're -- what you're saying that they did wrong,
11 other than it -- they were -- that it happened We know
12 that it happened But what did they do to cause it?

13 A Well, I don't know exactly what they did to
14 cause it But I was under the impression that the
15 person that ran the company out there would oversee the
16 daily operations of the installation of such things

17 Q I thought we were -- you testified earlier
18 that we were relying upon the engineer to certify that
19 it had been done right

20 A Certify that -- I was relying on his also
21 But to certify that he -- he is the one that's supposed
22 to meet the County's standards, he was the one that's
23 supposed to design it, and he's also the one that's
24 supposed to sign the papers to say that it was done
25 right

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1 Q You're -- it's not your allegation that
2 Dutch Fork Development Group was supposed to actually
3 build the roads

4 MR THOMAS Object to the form of the
5 question

6 Q You didn't rely upon them to build the
7 roads

8 A I didn't rely on them to build the roads --

9 MR THOMAS Object to the form of the
10 question

11 Q Did you rely upon them to actually do the
12 design of the roads?

13 A No

14 Q You relied upon Letts and Newman to design
15 and build, right? respectively

16 A Correct

17 Q And as far as the overseeing of it goes, you
18 relied upon Letts to do that, because they had to
19 certify it to the bank that it had been done right

20 A And I relied on the Melton's to make sure
21 that things were properly looked at out there

22 Q But you made you're financial decisions to
23 pay Newman based on the engineer's certification had
24 been done and done right

25 A That's correct

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1 Q The Melton's weren't involved in that
2 A Probably saw the payments But I'm the one
3 -- but the engineer is the one that signed off on it
4 Because the bank wouldn't have taken it unless the
5 engineer and the -- and the -- whoever they hired --
6 Q LPA
7 A Right
8 Q They looked at it too and --
9 A Right
10 Q -- approved it, right?
11 A Right
12 Q Other than having the engineer -- getting
13 the engineer to sign off on that it had been done and
14 done right, having the bank's inspector pass on it as
15 well, what more did you expect the Melton's to do?
16 A I don't know Just as the developer, I
17 thought they would have knowledge of, you know, when
18 things weren't being put in right or something
19 Q Well, if they -- what more could they have
20 done than have the engineer certify that it was done
21 right and that the LPA inspector, the bank's inspector,
22 pass on it as well? What more could they have done than
23 that?
24 A I don't know
25 Q What did you do to make sure that the work

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1 had been done and been done correctly before you paid
2 for it?

3 A All I did was -- Newman sent the Melton's
4 the paperwork I think they called for the engineer to
5 come out to get it checked off And when they did, they
6 sent it to my office, I signed it and give it to the
7 bank, and they sent the inspector out I think that's
8 the way it worked

9 Q Okay So you relied upon the bank's telling
10 you to go ahead and pay before you paid

11 MR THOMAS Object to the form of the
12 question

13 A Well, I don't know about that Like I said
14 -- I'll repeat it -- I relied on the engineer to sign
15 off on the work, that he give it to the Melton's, I got
16 it, we signed the paperwork, we give it to the bank, and
17 we think that's the way it worked

18 Q So the Melton's role in all of that was to
19 give the paperwork that Newman gave them --

20 A I'm sure they reviewed the work that had
21 been done

22 Q All right But the decision to actually pay
23 for it, the reliance came from the inspector and from
24 the engineer

25 MR THOMAS Object to the form of the

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1 question

2 A That's correct

3 Q Okay The bank wouldn't have let the money
4 be funded to pay him had the engineer not certified it

5 MR THOMAS Object to the form of the
6 question

7 A Correct

8 Q And if the LPA, their inspector, hadn't
9 certified, they wouldn't have paid it

10 A That's correct

11 MR THOMAS Object to the form of the
12 question

13 Q If one of the Melton's had sent a letter to
14 the bank saying work's been done and it's been done
15 right, that wouldn't have been sufficient to authorize
16 payment

17 A I don't think so

18 Q Do you know what the architectural review
19 board is?

20 A I do

21 Q What is that?

22 A It's where the type of house is approved

23 Q And what is the developer's role with the
24 architectural review board?

25 A Well, they wrote the standards for it And

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1 they were -- would always tell me if it was of the right
2 design. I think I signed some. They signed some of
3 them, I don't know. But the -- it has to meet certain
4 architectural standards. That's what it means.

5 Q In your Contract between yourself and the
6 Melton's, in paragraph 4 where it talks about devising
7 architectural and design requirements, is that what
8 we're talking about there, is the architectural review
9 board?

10 A Yes.

11 Q Do you know of any design or construction
12 practice that was violated in the design and
13 installation of the roads at Rolling -- at The
14 Courtyards?

15 A In the design that was violated?

16 Q Any engineering principle, any engineering
17 standard in the design of the roads, or any construction
18 practice that was not followed by Newman Construction in
19 the installation you can point to that says that -- and
20 say that's what caused this?

21 MR THOMAS Object to the form of the
22 question.

23 A I'm not an engineer. I wouldn't be able to
24 answer that question.

25 Q Well, have you been advised by any of your

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1 engineers that -- as to what the cause is?

2 A Oh After the fact?

3 Q Yeah

4 A Or before the fact?

5 Q Well, either one

6 A Well, after the fact, everybody was pointing
7 fingers at everybody They were blaming it on --
8 blaming it on the sprinkler man

9 Q Who put the sprinklers in?

10 A Gosh I can't think of this name

11 Q Is that the landscaper that did that?

12 A Yeah

13 Q Was that part of the landscaping?

14 A Yeah But there wasn't even any sprinklers
15 where part of it broke up

16 Q So that didn't really account for it, did
17 it?

18 A It couldn't account for all of it

19 Q But you don't know of any particular
20 engineering standard that was violated or construction
21 standard that was violated --

22 A It had to meet the County's standards
23 because it wouldn't have passed if it wasn't

24 Q And it passed the County's standards, didn't
25 it?

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1 A Yes We got -- we got the paperwork, yeah

2 Q You remember getting that action?

3 A Well, the Melton's got it and they give me a
4 copy of it

5 (Plaintiff's Exhibit No 35 was marked for
6 identification purposes (2 pages) - Newman
7 Construction, Inc Memorandum to Mr W P Melton
8 dated August 19, 2002 Richland County Department
9 of Public Works Inspection Letter from Stevan L
10 Amick dated August 7, 2002)

11 Q This is Exhibit No 35, it's a two-page
12 exhibit Is that the County's approval?

13 A Well, this is -- it says at a later date
14 there was a approved final inspection But I know they
15 did it They didn't do it then, but I know it's been
16 did

17 Q But the County, ultimately, approved it

18 A As far as I know they did I don't think
19 they'd let us sell houses if they didn't

20 Q Do you know who a company called GS2 is?

21 A Surely, I do

22 Q Who are they?

23 A They're an engineering firm to check the
24 roads after they had failed

25 Q Okay Were they involved earlier in that?

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1 A Not to my knowledge They may have been
2 (Plaintiff's Exhibit No 36 (26 pages) - GS2
3 Engineering & Environmental Consultants, Inc
4 Report dated October 10, 2001)

5 Q I'm going to hand you Exhibit No 36 But
6 do you recall Rick Maxheimer, Letts Associates, Inc ,
7 engaging AGS to -- engineering company -- to design the
8 actually asphalt mixture?

9 A No

10 Q Is that -- is that what's -- that does?

11 A I don't know what this does -- report It's
12 something the engineering must have did I mean, I
13 wouldn't have been involved in them checking it then
14 Later on, after they failed, we had two or three
15 different companies check it

16 Q Well, this is -- this is dated October of
17 2001, that's before the roads failed

18 A Yeah I see the date

19 Q This is where they recommended what the
20 pavement mixture ought to be, is that right?

21 A Yeah

22 Q Do you remember who a call called S&ME was?

23 A It's another one of those company's that
24 checks the soil and the stuff -- the compaction

25 Q Do they have any other -- any other role at

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1 The Courtyards except the soil testing?

2 A I mean, they -- I don't know They could
3 have worked for anybody out there They work for
4 builders sometimes

5 Q Do you recall then being involved with the
6 wetlands study?

7 A No I don't recall anything about the
8 wetlands study

9 Q Would you agree that if something was wrong
10 -- if it were wrong -- with the design of the roads,
11 that, that would have to be related to either Letts or
12 GS2? If they -- if there was a mistake in the technical
13 design of the --

14 A The technical design? Yes

15 Q Any other design aspect of that, that could
16 be laid any anybody else's door besides Letts or GS2?

17 A The design? Well, I don't know if there's
18 anybody else involved But I know those two, since you
19 showed me, that they's the one that chose the asphalt
20 I didn't know they chose the asphalt till just now

21 Q And then other -- after the asphalt was
22 chosen, then Letts designed the rest of the roadway

23 A Yes, sir

24 Q So if anything was wrong with the design, it
25 was either Letts fault of GS2's fault?

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1 MR THOMAS Object to the form of the
2 question
3 (Talking over one another)
4 A As far as I know Yes, sir
5 COURT REPORTER I'm sorry Repeat your
6 answer
7 A As far as the design Yes, sir
8 Q And as far as the construction goes, if
9 there was something done improper or wrong in the actual
10 building of it, that would be Newman Construction's
11 fault
12 A That's right
13 Q Do you know what exactly it was that caused
14 the roads to have these road problems out here, cracking
15 and alligator and all of that?
16 A Like I said, some people said it was the
17 sprinkler, some people said it was the design All I
18 know -- I'm not an engineer and I'm not a developer in
19 the sense of the day-to-day -- all I know is they failed
20 when heavy traffic got on them at a later point
21 Q All right And if the cause of the failure
22 was the design problem you would have blamed Letts or
23 GS2 for that?
24 A The design? Yes, sir
25 Q And if it was the construction being built

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1 problem, you'd blame Newman

2 A I mean, I don't know anything about it So
3 I guess they would be the ones that did it

4 (Plaintiff's Exhibit No 37 was marked for
5 identification purposes (2 pages) - Letter from
6 Palmetto Consulting Engineering Group, Inc to
7 Mr Steve Lipscomb dated June 2, 2004)

8 Q This is Exhibit No 37 And if you look at
9 this in conjunction with the first -- one of the first
10 exhibits, that's Letts' Scope of Work proposal, would
11 you agree it indicates that they were going to be the
12 ones that were designing the roads? This is talking
13 about the fees that they were charging

14 A (The witness reviews the document)

15 Q If you look at the little bullet points
16 And they're designing and permitting the sixty-two --
17 the 262 lots and the construction of Phase I, drainage
18 study, land planning

19 A It points out all of the --

20 Q That they were doing the designing, right?

21 A Right It says that on there

22 Q On page two of that letter there, the top
23 bullet, "Mr Lipscomb requested that the land plan for
24 Phase II be revised to create more lots in Phase II "

25 A Uh-huh

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1 Q Do you recall any other -- you recall that
2 request?

3 A Yes, sir

4 Q Any other land plan changes you recall that
5 you made of the engineer?

6 A Over a six-year period, I'm sure that was
7 others

8 Q And as far as the supervision of Newman
9 Construction, Letts -- the engineers were actually doing
10 the supervision, weren't they?

11 A They were one of the ones doing the
12 supervision

13 Q I'm sorry?

14 A They were one of the people doing the
15 supervision

16 Q Who else was supervising?

17 A LPA was overseeing the job, the County, and
18 the Melton's

19 Q How were the Melton's supervising Newman's
20 work?

21 A They were not supervising their work They
22 were -- the scope of their thing as developers is to
23 make sure everything is on time, the works being did
24 properly, but especially from an on-time point of view,
25 from interest running at the bank and stuff like that

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1 Q Well, you said they're -- the contract
2 indicates their role is to coordinate with contractors,
3 right?

4 A That's right

5 Q That's their --

6 A Well, that's not part of coordination --
7 (Talking over one another)

8 A Okay Sorry Then their job was to do it
9 yourself

10 Q To coordinate

11 A To coordinate the progress and stuff from
12 the -- from the builder, right

13 Q Well, when it comes to overseeing the work
14 that's being done and making sure it's being done right,
15 that was left to LPA inspectors, County inspectors, and
16 the engineer

17 MR THOMAS Object to the form of the
18 question

19 Q Is that right?

20 A Yes

21 Q Now, at some point in time, the roads at
22 Rolling Creek -- at The Courtyards had been -- had been
23 built and installed, and people were able to use it for
24 a period of time before they started to fail?

25 A That's correct

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1 Q Do you know how long it had been from the
2 time they were built till they started to fail?

3 A I'm thinking about a year and a half

4 Q About a year and a half? Who actually was
5 hired to do the road repairs?

6 A Willis, out of Florence

7 Q And has he completed this yet?

8 A He has

9 Q When did they --

10 A Well, all except for one other section that
11 connects from I to II

12 Q When did he complete the road repairs?

13 A Well, I think it was about maybe a year ago

14 Q And do you -- do you know what the cost of
15 the road repairs?

16 A Not offhand But we have -- we can get the
17 cost for you I don't have it

18 Q Do you remember a company called S&ME, GS2,
19 PSI and AFA, those four companies, looking at what
20 caused the roads to fail?

21 A Yes, sir

22 Q Do you remember reading any of their
23 reports?

24 A I read one of them, but I don't remember
25 which one I think it was -- I'm trying to think of

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1 which one it was

2 (Plaintiff's Exhibit No 38 was marked for
3 identification purposes (2 pages) - Letter from
4 Tim Ray, P E , PSI, to Mr W P Melton dated July
5 29, 2003)

6 Q This is Exhibit 38 to your deposition It's
7 a letter from Tim Ray, the senior engineer at PSI, which
8 is Professional Services Industries, Incorporated Do
9 you recall ever receiving or reading that letter?

10 A I don't believe I read it, but I know about
11 this letter I know about the sprinklers I knew what
12 they said It was told to me by either the Melton's or
13 Rick Maxheimer, but I don't -- I don't believe I read
14 it But I know about it -- I knew about the -- saying
15 the sprinklers caused the thing

16 Q Well, according to his opinion, the drainage
17 characteristics or the subgrade conditions and subgrade
18 of the soil was the cause of the pavement failure, is
19 that right?

20 A If that's what he says, that's what he says

21 Q Well, the overall assessment of the failure
22 of the pavement appeared to be associated with drainage
23 characteristics or unsatisfactory subgrade conditions at
24 the site Do you have any reason to disagree with that?

25 A No, sir

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1 Q Is it common to have the sprinklers placed
2 where they were placed in The Courtyards?

3 A As far as my knowledge, it is

4 Q It wasn't anything out of the ordinary?

5 A No, sir I don't think so I mean, I'm not
6 sure, but I don't think it was unnormal I've ridden in
7 other subdivisions and seem them beside the road

8 Q All right Paragraph 1 is listed
9 observations "There is infiltration of surface water
10 from rain, adjacent sprinkler systems and drainage
11 runoff into the subgrade of the pavement sections

12 Do you have any reason to disagree with that?

13 A No

14 Q Well, the sprinklers is only one of three
15 possible sources, is that right?

16 A Yes, sir

17 Q Assuming that we could control where the
18 sprinklers were placed -- you can't control the rain or
19 the -- or the drainage runoff, can you?

20 A No

21 Q That's outside of anybody's control

22 A Yes, sir

23 Q The in paragraph 3, it says, "The loading
24 applied to the asphalt binder material by construction
25 traffic has contributed to the cracking of the asphalt

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1 pavement immediately above the loosened subgrade "

2 Do you agree with that?

3 A If that's what it says, I agree that it
4 does

5 Q Do you have any reason to disagree with that
6 assessment?

7 A No I'm not an engineer I have no reason
8 to disagree with it

9 Q Has anybody told you that, no, this person's
10 wrong, it was something else that caused it?

11 A No

12 Q Do you accept this as being the reason to
13 why it happened?

14 A I think this is probably the reasons

15 Q And there in No 4 "The cracking of the
16 asphalt pavement then allows for more infiltration of
17 moisture, which results in acceleration of the pavement
18 and subgrade deterioration "

19 Do you agree with that?

20 A Agree

21 Q On the very last page, then, of his opinion
22 "Our final observation is that all elements of the
23 pavement and drainage structures were constructed as
24 specified in the plans The subgrade was compacted
25 according to the specifications, land pavements were

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1 constructed as specified "

2 Do you agree with that?

3 A Well, I'm not a engineer But if he says it
4 -- that's what he says, I agree with him

5 Q Do you have any reason to disagree or any --

6 A I have no --

7 Q -- evidence --

8 A -- I have no reason to disagree with him

9 Q Do you have any evidence to the contrary
10 that anything else happened besides this?

11 A No

12 Q "Our review of the plans and the test
13 results indicating that all construction items were
14 accomplished as specified "

15 Do you have any reason to disagree with that?

16 A I don't know what the specifications were
17 But if he says that they met all specifications, I agree
18 with it

19 Q Well, based on his opinion, do you agree
20 that the roads were designed and built as specified
21 according to the plans?

22 A That's what he says

23 Q Do you agree with that?

24 A I think they were built according to the
25 specifications because the County approved them That's

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1 the reason I believe it, okay?

2 Q Would you agree that if -- if that's the
3 case, then, and if they failed, then there -- the
4 failure is not anybody's particular fault

5 MR THOMAS Object to the form of the
6 question

7 A Isn't anybody's particular fault?

8 Q If the plans were designed and built as they
9 were supposed to be, but they will failed -- it's just
10 one of those things -- then --

11 A I don't know what "one of those things" are
12 I know that I had to pay extra for them But I don't
13 know what "one of those things" are But it's got to be
14 somebody's -- somebody didn't do something right if
15 water is seeping under the surface and -- just from
16 rain

17 Q Can you point to anything that was done
18 wrong, though, that --

19 A No

20 Q -- this is the expert you-all hired to come
21 in and give you an opinion as to what happened

22 A No He says what happened He said excess
23 water got under the surface So I agree with him, you
24 know what I mean?

25 Q Who do you blame for the excess water

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1 getting under the surface?

2 A Maybe it was in his design

3 Q But according to him, though, it was
4 designed according to specifications, wasn't it?

5 A That's what he says

6 Q And you don't disagree with that

7 A I don't disagree because I don't have
8 knowledge of how the design was

9 Q Do you have any evidence from any other
10 engineers that you've hired to look at this, that said
11 anything different than there?

12 A I haven't seen the other three you said you
13 had

14 Q Well, I'm just asking you Do you know of
15 anybody else that's come in and said no, that's not
16 right?

17 A I haven't seen the other reports But no,
18 nobody's come in and told me that, no

19 MR BOWENS Let's make this one

20 (Plaintiff's Exhibit No 39 was marked for
21 identification purposes (2 pages) - Letter from
22 Allen Folline Associates to Dutch Fork
23 Development Group dated September 17, 2003)

24 Q I'm going to hand you Exhibit No 39 This
25 is from Allen Folline Associates Is this the one that

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1 gathered -- companies that came in and did an analysis?

2 A I don't know this company But it looks
3 like they did come in and do an analysis

4 Q This is a Phase IV and Phase I of The
5 Courtyards, right?

6 A Okay

7 Q And if you look down in the middle of that
8 paragraph "The presence of groundwater in the fractured
9 rock is unpredictable as the rock surface is uneven
10 Based on our observations, the railed pavement (base
11 course of the full depth asphalt-surface course has not
12 yet been placed) is the result of unstable subgrade
13 soils due to excessive moisture from water migration
14 under the pavement The source of water is a
15 combination of recent heavy rains, on-site irrigation
16 and groundwater "

17 Is that pretty much the same as what the other --
18 PSI's analysis was?

19 A It is

20 (Plaintiff's Exhibit No 40 was marked for
21 identification purposes (16 pages) - GS2
22 Engineering & Environmental Constants, Inc
23 Letter of Pavement Remediation Recommendations
24 dated July 1, 2003)

25 Q This is Exhibit No 40 And it says GS2s

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1 remediation recommendations And if you turn to the top
2 of page 3

3 A (The witness complies)

4 Q The last part of that paragraph "This
5 insufficient asphalt thickness, when subjected to
6 construction traffic, especially with the presence of
7 oversaturated subgrade soils similar to those at this
8 site, is not sufficient and will cause rapid degradation
9 of the asphalt itself "

10 And the if you go down to the next paragraph
11 "Additionally, with the recent increase in rain and the
12 presence of untraveled roadways in other portions of the
13 subdivision, it is likely that other areas of failing
14 subgrade will manifest when subjected to wheel loads,
15 especially with a reduced asphalt section "

16 Would you agree that, that's pretty much what the
17 other two previous inspectors had to say?

18 A Pretty much

19 Q That the construction traffic, coupled with
20 not being a full -- the full course of asphalt not
21 having been put down, just the bottom course, in
22 conjunction with the saturated -- the soil, is what
23 caused this?

24 A That's what they say Yes, sir

25 Q Have you had anybody else tell you anything

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1 any different than what these three independent --

2 A No

3 Q -- consulting firms --

4 A I have not

5 Q -- consulting firms?

6 A I have not

7 Q Are the subsurface soil conditions the fault

8 of the Melton's?

9 A No

10 Q Is the increase in -- heavy increase in rain

11 that happen at that time of the year after the drought,

12 was that the Melton's fault?

13 A No

14 Q Was the placement of the sprinkler systems

15 the Melton's fault?

16 A No That was the guy that put it in

17 Q Is the construction traffic the Melton's

18 fault?

19 A No

20 Q Is there anything that any of these experts

21 laid out for you the Melton's fault?

22 A It didn't seem to be on that

23 Q Who is CGD Paving Company?

24 A Just a contractor, a road contractor

25 Q Did they come in and do some work after the

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1 roads had some problems?

2 A After Willis had fixed the roads, they put
3 the second -- the second coat on the roads

4 Q Did they finish the work altogether?

5 A Did they finish it altogether? No

6 Q What's left to be done, still?

7 A Only -- at this point, some other
8 contractors came in and finished the rest At this
9 point, the only sections left is the -- between Phase I
10 and Phase II I don't know the name of the street "D"
11 probably knows it

12 Q Why did it take so long for the roads to get
13 repaired after they started to fail?

14 A Because the County got involved -- for one
15 reason, the County got involved And they had to --
16 they wanted to get the tests for us, and they wanted to
17 review it And I'd say that took six or eight months

18 Q Is that the primary reason for the delay?

19 A Yes, sir

20 Q They wouldn't let you fix them until they --

21 A They said what they were presented to by
22 Willis, to do -- they thought would do the job

23 Q Okay Was that the Melton's fault, the
24 delay?

25 A No

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1 Q Did the -- did the engineers and Newman try
2 to have this work done sooner than it was? The repair
3 work

4 A No, they didn't try Or didn't have it
5 done

6 Q They didn't pressure you to get it done
7 sooner?

8 A No They wanted to say it was somebody
9 else's fault

10 Q Were there ever any problems getting Newman
11 -- Newman's invoices paid?

12 A Probably, when we run into shortfalls

13 Q Did he ever stop work or threaten to stop
14 work because of not being paid?

15 A He never stopped work

16 Q Did he ever place any liens on the property?

17 A You know, he might have placed one at the
18 end, but we paid it off real quick But that was after
19 -- after the last, I think He may have, and he may not
20 have I'm not sure, but it seems like he did do one

21 Q I understand that Letts has now changed
22 their name to Palmetto Consulting Engineering Group

23 A That's right

24 Q Are they still your engineers for The
25 Courtyards?

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1 A They are

2 Q Are you a -- have you brought any claims
3 against them for doing anything wrong in terms of the
4 design or the building of the -- of the roads?

5 A I'm not sure about that

6 Q Is it your testimony that you could not have
7 repaired the roads any sooner than you did because of
8 the County's involvement?

9 A I'm sure it could have been sooner

10 Q Other than the County, did anything prevent
11 you from having them repaired sooner?

12 A We had a bunch of rain it was wet We
13 couldn't do it while it was wet Willis had to pull off
14 of the job one time 'cause they had a earlier
15 commitment They didn't get it through as quick as they
16 thought they would But just the normal stuff

17 Q But it's your testimony you got it done as
18 soon as you could?

19 A As soon as I thought we had the proper
20 contractor and the proper form that they wanted it fixed
21 right I didn't want to have to fix it again

22 Q Did the County eventually give you the go-
23 ahead to have them fixed?

24 A Yeah

25 Q Do you remember when that came?

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1 A No

2 Q Do you remember how? Was it a letter that
3 you got?

4 A I know that Willis had to send down to them
5 -- Willis was involved with that They sent it to the
6 County, and the County had to approve And one time
7 they didn't approve it, or something, and they sent it
8 back, or they wanted another section did But it was
9 between Willis and the County

10 Q How many times did Newman try to -- Newman
11 Construction try to fix the road problems?

12 A Well, we tried to get him to fix it -- the
13 Melton's and I tried to get him to fix it a number of
14 times But they never fixed it, I don't -- to my
15 knowledge

16 Q Did he ever attempt it?

17 A No I don't think so

18 Q Based on the Agreement between you and the
19 Melton's, the Development and Marketing Agreement we've
20 marked as an exhibit, the No 13, they wouldn't have had
21 any authority to go out and hire a contractor to come in
22 and fix the roads, themselves

23 A Not without me signing off on it, no

24 Q And you signed off on getting it done as
25 soon as you thought it -- you really could do it

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1 A Yes, sir

2 Q No additional time was passed because of
3 lack of funds or anything like that?

4 A No, sir

5 Q As soon as you had the -- a plan to do it
6 and the contractor who would do it, you got it done

7 A Right

8 Q The other thing that you had listed in the
9 letter of May 28th, was failure to sell 20 percent of
10 the lots

11 A Yes, sir

12 Q What does the Exclusive Right to Sell mean?
13 You said that was -- earlier, you testified that was
14 granted to DFR

15 A That was houses They didn't have anything
16 to do with lots

17 Q Nothing to do with lots I want you to turn
18 to paragraph 6 of the Agreement

19 A (The witness complies)

20 Q It says, " DFR shall be entitled to a real
21 estate commission of ten percent upon the closing of the
22 sale of developed lots to non-builders " Okay?

23 A Yeah

24 Q Is that what you're talking about there, the
25 sale of houses not lots?

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1 A No I give anybody ten percent if they --
2 if they sell it to a non-builder, a lot

3 Q But the next sentence, then, says, "DFR
4 shall receive no commission for any lot sale to
5 builders "

6 A That's right

7 Q So the Right to Sell was for lots

8 A It's says "non-builders," that they would
9 receive ten percent for builders, they received
10 nothing

11 Q Right No commission for sales to
12 builders

13 A But to any outside person --

14 Q -- they get ten percent

15 A Ten percent

16 Q But this is talking about lots, not houses

17 A That's right

18 Q So they had the exclusive right to sell
19 lots and houses

20 A I don't see where it says that

21 Q Do you -- the last sentence there in that
22 first paragraph -- in paragraph 6 "DFS shall receive
23 no commission for any lot sale to builders "

24 A Right

25 Q Well, a lot's not a home, is it?

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1 A A lot's not a home right

2 Q So this says they have -- they don't get
3 any commission for any sale of a lot they give to
4 builders

5 A Right

6 Q And that's under the heading, Exclusive
7 Right To Sell

8 A Right

9 Q So we're talking about lots

10 A Okay

11 Q All right Is that right?

12 A Yes

13 Q So they have the exclusive right to sell
14 both lots and houses for a period of five years

15 A Okay

16 Q Do you agree with that?

17 A I agree with that

18 Q Provided they sell no less than 20 percent
19 of the lots available for sale per year

20 A Right

21 Q Well, it's clear we're talking about both
22 lots and houses The sale -- is that right?

23 A We're not talking about houses It never
24 says they get ten percent for selling houses

25 Q Right What I'm asking you is The

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1 Exclusive Right to Sell was in Dutch Fork Realty for a
2 period of five years and the Exclusive Right to Sell
3 was to sell the lots, provided they sold 20 percent per
4 year And I'm asking you Do you agree with that?

5 A They were supposed to sell 20 percent of
6 the lots a year I agree with it

7 Q And that they had the exclusive right to do
8 that

9 A Well, I had the right to sell, other than
10 them They had a right to sell, right

11 Q Well, that's what I'm asking what does the
12 Exclusive Right to Sell mean to you?

13 A It means that they have -- that they have
14 the right to sell lots there, but they don't get any
15 money if they sell it to a builder

16 Q Right But I'm asking you about the
17 "exclusive" part of that, the Exclusive Right to Sell
18 We understand that they sell to a builder they get no
19 commission If they sell to a non-builder, they get a
20 ten percent commission I'm not talking about the
21 commission part The right to sell being exclusive
22 goes to Dutch Fork Realty

23 A Well, that's not the way I understand it,
24 okay?

25 Q Well, how do you understand it?

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1 A I understand it this way if they sell --
2 this mean, if they sell a lot to a non-builder, they
3 get ten percent If they sell -- if it's sold to a
4 builder -- if I sell it, they sell it, anybody else
5 sells it -- they don't get any commission, okay?

6 Q Right If Dutch Fork Realty has an
7 exclusive right to sell, who was excluded from having
8 the right to sell?

9 A Me

10 Q You're excluded right?

11 A Yes

12 Q And you have to approve the lot price in
13 advance

14 A We-all agreed to the price in advance, yes

15 Q Well, the second paragraph there says, "The
16 sales price for each lot shall be approved in advance
17 by SEL "

18 A Okay Yes, sir

19 Q Right? And it says, should you purchase --
20 should SEL purchase any one or more lots, no commission
21 will pay to them, because you're a builder -- well,
22 you're -- SEL -- SEL is not a construction company, is
23 it? It's not a builder

24 A K&L Contractor is the builder

25 Q Right But the contract says, "Should SEL

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1 purchase any one or more lots in the development, no
2 commission shall be charged nor shall any commission be
3 payable "

4 A Right

5 Q It doesn't say K&L --

6 A Okay

7 Q -- purchases this It says if SEL
8 purchases

9 A Right

10 Q And SEL -- SEL, LLC, is not a builder, is
11 it?

12 A No

13 Q K&L is the builder

14 A Right

15 Q Is one of several builders that bought lots
16 out there?

17 A That's right

18 Q And if you turn over to the next page, at
19 the top there, it says, "DFR shall have the exclusive
20 right to sell new homes constructed for a period of
21 seven years (sic) "

22 A Where do you see that?

23 Q On the next page over It's the last page
24 -- next to the last page of the document

25 A Seven percent Where do you see seven

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1 years? I don't see that

2 Q I'm sorry Not to exceed seven percent
3 And this is for a twelve -- for a one -- for a twelve-
4 month period after construction has begun

5 A Right

6 Q Right? So the exclusive right to sell the
7 homes was also in Dutch Fork

8 A Right

9 Q Then it says, "Upon the expiration of the
10 exclusive right to sell period for either unimproved or
11 improved lots "

12 That means lots that are just vacant lots, or
13 lots that have houses on them right?

14 A (The witness pauses)

15 Q That's the difference between "improved"
16 and "unimproved"?

17 A That's right

18 Q Then it says, "Then SEL and/or the owner of
19 the to or lots shall be free to list the same with any
20 realtor of their choice "

21 A That's right

22 Q So that kicked in after the Exclusive Right
23 to Sell period was over

24 A Twelve months, right

25 Q Or five years, if it's the lots themselves,

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1 isn't it?

2 A Twelve months --

3 Q Twelve months --

4 A On houses --

5 Q -- is what this --

6 (Talking over one another)

7 Q -- but the lots is five years

8 A Right

9 Q Right? Is that right?

10 A Yes

11 Q When do you say that the first year of
12 sales of the lots began? What was the date?

13 A When the County gives the authority to
14 sell

15 Q And when was that given?

16 A I don't have the date in front of me But
17 I think it was, like, August of -- August of whatever
18 year -- the first year that was I could look it up

19 Q Well, was it August -- was it '02, that
20 year that they began? August of '02?

21 A Yeah It says it was about -- I think it
22 was Yes, sir

23 Q I'm going to show you what --

24 MR BOWENS I want to mark this one

25 (Plaintiff's Exhibit No 41 was marked for

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1 identification purposes (2 pages) - Letter from
2 Richland County, South Carolina, Planning &
3 Development Services Department To Mr W P
4 Melton dated July 31, 2002)

5 Q This is Exhibit No 41 It's dated July
6 31st of 2002 Okay And I'm going to go ahead and
7 give it to you It's a letter from the County to Mr
8 Melton, is that right?

9 A (The witness does not respond)

10 Q Have you ever seen that letter before? Or
11 did you know about it?

12 A I don't know I hadn't read it yet I
13 don't think I seen it, no

14 A (The witness reviews the document)

15 A I mean, I don't recall seeing this letter

16 Q Do you know who Mr Gosline is?

17 A Yeah He's the -- he used to work for the
18 County

19 Q Okay At the time of this letter, he still
20 worked for the County He's the Land and Development
21 Administrator, wasn't he?

22 A I think he was

23 Q If you look at the last page, it gives you
24 his title

25 A Okay

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1 Q And this is the office that would give the
2 final approval to go ahead and start selling then?

3 A No

4 Q Who gives the final approval?

5 A Whoever -- when you get a -- when you get a
6 bonded plat at Richland County you can sell lots, once
7 a bonded plat is issued

8 Q Well, all right When was the bonded plat
9 issued then for Rolling Creek?

10 A I'm going to say July or August of --

11 Q How about June 20th of '02? Would you
12 agree that was the date?

13 A Yeah Probably Yes, sir I don't have
14 it in front of me, but --

15 Q Well, I'll represent to you that, that was
16 the date on the bonded plat

17 A Okay

18 Q But this is -- this is July, over a month
19 later

20 A Right

21 Q And according to this letter, you-all can't
22 sell yet, right?

23 A (The witness pauses)

24 Q The ability for Mr Melton -- is writing to
25 him, it says, you have requested guidance on --

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1 regarding what steps are required to pull builder --
2 building permits and sell lots in this subject
3 property So Mr Melton's asking Mr Gosline to tell
4 him what he has to do, still, what steps he has to take
5 to begin selling lots, right?

6 A Uh-huh

7 Q And if you look on the last page there,
8 next to the last paragraph, it says, "It is the
9 Department's understanding that lots cannot be sold
10 until the plat is recorded "

11 Do you see that?

12 A Right

13 Q When was the plat recorded?

14 A You said June -- July 20th

15 Q No, June 20th was the date it was bonded
16 When was it recorded?

17 A I don't have that in front of me

18 Q Does August 22nd sound right?

19 A Could be, if you say it is

20 Q Are you willing to stipulate that's when it
21 was recorded?

22 A No You have a copy of it?

23 Q Yeah But you can't see it It's so small
24 on the page But --

25 A I'm not willing to stipulate

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1 Q That's the date's on all of the deeds, that
2 it was recorded

3 MR THOMAS The documents can speak for
4 themselves

5 (Off-the-record discussion)

6 Q Well, let's say, for discussion's sake
7 here, that it was August 22nd

8 A Okay

9 Q Do you know when the flood plain issues
10 referred to in paragraph 8 were resolved?

11 A I didn't know there was any flood plain
12 issues But --

13 Q Look at paragraph 8 of that exhibit

14 A (The witness complies)

15 Q Another condition is that the flood
16 elevation issue must be resolved in consultation with
17 Harry Reed Do you know when that -- when that issue
18 was resolved?

19 A No, I don't know But there is no -- in
20 the South Carolina Code you can sell lots in the flood
21 plain

22 Q You don't have to get FEMA's approval to --
23 or resolve it with them first?

24 A I sold twenty lots in a flood plain before
25 in one day

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1 Q At The Courtyards?

2 A Not at The Courtyards, at other places

3 Q Well, what's the flood issue that has to be
4 resolved that he's talking about?

5 A I don't know It might be 'cause of --
6 shot it from a airplane or something, and it wasn't the
7 real flood plain they were looking at That happens a
8 lot

9 Q How many lots were in the flood plain at
10 Courtyards?

11 A I didn't know any was in the flood plain

12 Q You didn't know that there were nine lots
13 in the flood plain?

14 A No, sir

15 Q Were you aware that it was not until May
16 the 12th that the flood plain issue was cleared up with
17 FEMA?

18 A No, sir

19 Q May 12th of '03?

20 A No, sir

21 Q All right Do you see on the last page of
22 that letter that we're talking about, that -- it says,
23 "In summary, all of the conditions of the Planning
24 Commission approval have not yet ben satisfied
25 Therefore, no building permits will be issued until

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1 satisfactory completion of ALL the matters identified
2 above has occurred "

3 A They were issued

4 Q When were they issued, is the question

5 A I know, like, in September or something
6 there was some issued

7 Q So would the first month of sales at the
8 Courtyards be September of '02?

9 A I'm not sure But I'm -- I'm not positive
10 I don't have -- I don't have the records in front of
11 me

12 Q Well, the first -- they -- it wasn't ready
13 to be sold in July of '02, was it? You couldn't sell
14 in July of '02, do you agree with that?

15 MR THOMAS Object to the form

16 A No, I don't know that I thought when you
17 got the bonded plat you could sell lots

18 Q Well, you would agree, though, that based
19 on Carl Gosline's letter, as of July 31st, you-all
20 weren't allowed to sell lots yet

21 MR THOMAS Object to the form

22 Q Do you agree with that?

23 A I agree that, that's what that letter says
24 Yes, sir

25 Q So it's got to be sometime in August, at

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1 the earliest, that you could begin to sell lots,
2 because July 31st is the last day of July Is that
3 right?

4 A Seems to be

5 Q So assume, at the very earliest, it would
6 be sometime in August that the lots were approved to be
7 sold

8 A I suppose so, yes

9 Q And according to this letter, one of the
10 things that has to occur is the plat be recorded,
11 right?

12 A The plat was recorded

13 Q On August the 22nd -- let's say that's the
14 date it was, so

15 A Okay

16 Q Do you --

17 A It could be sold on that day then

18 Q Do you know when the other issues that are
19 listed in here -- there's -- there's nine -- eight or
20 nine issues that are listed here -- do you know when
21 they were all cleared up?

22 A I don't know But I know -- no, I don't
23 know when they were cleared up I don't have no idea
24 The Melton's were doing that

25 Q Would you agree that if -- and I know you

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1 don't have the records in front of you But if it
2 turns out there are nine lots in the flood plain, and
3 the flood plain issue wasn't resolved until May of '03,
4 then those nine lots couldn't be sold until at least
5 May of '03?

6 A I don't know that I wouldn't agree to
7 that

8 Q You wouldn't agree to that?

9 A No

10 Q Do you remember telling Margie Simkins that
11 you couldn't start selling lots until you had a bonded
12 plat?

13 A No

14 (Plaintiff's Exhibit No 42 was marked for
15 identification purposes (1 page) - Memorandum
16 from Margie Simkins to Ronnie Colson)

17 Q I'll show you Exhibit No 42

18 A Okay

19 Q Do you remember telling her that you
20 couldn't sell lots until you got your bonded plat?

21 A No, sir

22 (Plaintiff's Exhibit No 43 was marked for
23 identification purposes (1 page) - Letter from
24 Associated E&S, Inc , To Mr D Melton dated
25 September 19, 2002)

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1 Q I'm going to show you Exhibit No 43 Do
2 you ever recall seeing that or knowing about that?

3 A (The witness reviews the document)

4 A I don't remember seeing it But I mean,
5 I'm not saying it wasn't -- did I just don't remember
6 seeing it

7 Q Do you know why -- do you know why that
8 Associated E&S who, apparently, are the ones who
9 prepared the plats, would be telling Rick Maxheimer
10 that they needed to reset all of the property lines and
11 calculate and draft a new bonded plat in September of
12 '02?

13 A No

14 Q So based on this letter of September 19th
15 of '02, it looks like we're still talking about
16 drafting bonded plats, isn't it? He's quoting you a
17 price to do the bonded plat

18 A It looks like it

19 Q Do you think that based on this, that if,
20 in September of '02, we're still talking about trying
21 to get a bonded plat drafted you would be able to sell
22 houses or sell lots as of that date?

23 A I don't know -- I don't know what date we
24 got he bonded plat, but I know we had a bonded plat I
25 thought we had the bonded plat in August or July We

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1 can find out

2 Q Well, I -- let's just stipulate -- well,
3 not stipulate But for argument's sake, let's say that
4 June 20th of '02 was when the plat was bonded and
5 August 22nd was when it was recorded

6 A Okay

7 Q Why, in September, are we talking about
8 doing a new one?

9 A I have no idea

10 Q And if we're talking about doing a new one,
11 as this letter indicates, do you think you were able to
12 sell in September of '03 -- of '02? Did you have the
13 final go ahead to start selling lots?

14 A Yes, sir

15 Q You think you did?

16 A Yes, sir

17 Q What would be -- what would tell you, in
18 your mind, that you were able to go ahead and start
19 selling lots? What would you have to see to know --

20 A When you get a bonded plat that's when you
21 can sell them, at every place I've been involved in

22 Q Just the bonded plat

23 A Yes

24 Q The recording of the plat doesn't --

25 A You don't have to have the roads in You

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1 don't have to have anything in As long as you have a
2 bonded plat you can sell lots in South Carolina

3 Q What does the recording of the bonded plat
4 have to do with anything?

5 A It's recorded at the courthouse It's like
6 recording a deed

7 Q You don't have to record it before you can
8 start selling?

9 A You have to record it, yes

10 Q So once it's bonded and recorded, then you
11 can start selling

12 A All I know, is you have to have it bonded
13 I don't know if you have to have it recorded, okay?

14 Q Well, how do you determine, then, when the
15 first month of the first year of sales beginning? That
16 was my first question How do you know when that date
17 is?

18 A When you get the bonded plat, that's my
19 understanding of it

20 Q Okay So the date the plat was bonded is
21 when you say the first year of sales began

22 A Yes, sir

23 Q Depist Mr Gosline's letter that says you
24 have to do all of that other stuff first

25 A Right

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1 Q And that letter being dated after that plat
2 was bonded

3 A Well, I didn't know nothing about that
4 letter, okay?

5 Q Well, you got it there --

6 A I don't --

7 Q -- in front of you

8 A I see it now, yes

9 Q According to him, as of July 31st, those
10 conditions hadn't been met, and Courtyards could not
11 sell lots, right?

12 A According to that letter

13 Q Well, if on July 31st you couldn't sell
14 lots, and the plat was bonded June 20th, over a month
15 before, when did the first month of sales then begin?

16 A I would assume whenever you get the bonded
17 plat

18 Q Okay But we've already got the bonded
19 plat, let's say The plat's already been bonded, June
20 20th of '02 July 31st of '02, the County says you
21 still can't sell lots yet you've got to meet these
22 eight conditions first

23 MR THOMAS Objection, asked and answered

24 A I've already answered the question My
25 question -- my answer is I think you can sell lots

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1 when you get the bonded plat

2 Q All right When was the first lot sale at
3 The Courtyards?

4 A I'm not sure

5 (Plaintiff's Exhibit No 44 was marked for
6 identification purposes (3 pages) - Courtyard
7 Phase I Lot Sales)

8 Q Do you remember taking a -- having a --
9 Rick Maxheimer take thirteen lots in The Courtyards --
10 lots 1 through 13 -- and have a new land plan for those
11 thirteen lots?

12 A I'm not saying I didn't, but I don't
13 remember doing it, no

14 Q Did you ever have a time when you were
15 going to use those thirteen lots for a different kind
16 of product, going to redesign it and put slab homes or
17 pad homes down instead of crawlspace ones?

18 A We could have put crawlspace, I guess,
19 anywhere

20 Q Was there a period of time when these
21 thirteen lots were going to be redesigned -- lots 1
22 through 13 were going to be redone and -- and --

23 A I think we spoke about it one time about
24 it, but he said that the lay of the land wasn't good
25 enough for that

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1 Q How long did that process take from the
2 time you proposed it to the time it was decided?

3 A Oh, this was two or three years after we'd
4 started -- started the subdivision, I think I mean, I
5 don't recall the dates But that's what I'm thinking

6 Q Was there ever a period of time when those
7 thirteen lots were not available to be sold because
8 they were undergoing a redesign?

9 A Never As far as I'm concerned, we could
10 have sold every lot in there the first day

11 (Plaintiff's Exhibit No 45 was marked for
12 identification purposes (1 page) - Palmetto
13 Consulting Engineering Group, Inc Invoice dated
14 7/19/2003)

15 Q I want to show you what we've marked as
16 Exhibit 45 And this is an invoice from Palmetto
17 Engineering, formerly known as Letts, dated July the
18 19th of 2003 And it's referring to a thirteen-lot
19 grading plan and an on-site visit Do you ever
20 remember that happening?

21 A I remember them talk -- us talking about
22 can we build less expensive houses by putting them on a
23 slab He says it was too much grading -- too much --
24 the land didn't lay right Yes, sir

25 Q Okay How many lots were in Phase I?

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1 A Fifty-seven

2 Q And what is 20 percent of 57?

3 A Probably, twelve

4 Q How about eleven?

5 A If you say so

6 Q Between the time period of September of '02

7 and September of '03, that twelve-year period -- or

8 twelve-month period, do you know how many lots were

9 sold? Or closed?

10 A I don't know I don't remember

11 Q Does eleven sound about right?

12 A What was the date?

13 Q From September of '02 to September '03

14 A I don't know I don't have the -- anything

15 in front of me to look at

16 Q What would you have to have to tell you

17 when lots were sold?

18 A Sales contracts

19 Q But that wouldn't tell you when they were

20 closed, would it?

21 A Well, the closing statements then

22 Q Do you have copies of the closing

23 statements for the sales of all of these?

24 A I don't But I'm sure the accountants do

25 Q Well, let's just say, for argument's sake,

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1 that eleven lots were closed between a period of twelve
2 -- September '02 to September '03, okay, based on the
3 Registrar of Deeds records

4 A Okay

5 Q On their website Okay? If eleven lots
6 were sold and 20 percent is eleven, would you agree
7 that they sold 20 percent of the lots that were
8 available for sale?

9 A But I know the Melton's didn't sell that
10 many

11 Q Well, if that many were sold, then 20
12 percent were sold

13 A Well, some of them may have been taken up
14 by us because there wasn't any sales going on and we
15 had to absorb them

16 Q Taken up by who?

17 A K&L Contractor I don't have any of this
18 information in front of me, so I can't --

19 Q Well, I understand --

20 A -- answer that

21 Q -- I understand that But --

22 A If you want to say some hypothetical thing,
23 I agree with you if you want to say some hypothetical
24 thing that has no meaning I'll agree with you

25 Q Well, eleven lots are hypothetical, aren't

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1 they? I mean, you had the eleven lots for sale
2 A I had 57 lots for sale
3 Q And if eleven were sold, closed, between
4 the period of September of '02 and September of '03,
5 then 20 percent was --
6 A Let me have some paper
7 Q -- was made I'll run and get a calculator
8 for us That might make --
9 A Fifty-seven divided by eleven Let's see
10 Q Here's a calculator You can use that
11 A I'm in no rush
12 A (The witness calculates)
13 A It looks like less than 20 percent
14 Q Well, let's do this 57 times 20 -- where's
15 the percent on here -- here it is Fifty-seven --
16 11 4, right? Do you want to do the calculation? Or
17 you can do it yourself Fifty-seven times 20 percent -
18 -
19 A You said eleven, so you've got to sell
20 11 4 So that's not the right amount
21 Q But you can't sell four-tenths of a lot,
22 can you?
23 A You can sell a whole lot and get the four-
24 tenths, okay?
25 Q But then you've sold more than 20 percent,

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1 haven't you?

2 A You had to sell a minimum of 20 percent, is
3 what it says It don't say you can't sell more

4 Q Well, I know But it doesn't say you can't
5 sell more But you can't be -- you have to sell at
6 least twenty, right?

7 A It says 20 percent

8 Q Twenty percent And if you sold eleven
9 lots, you wouldn't agree that they've sold 20 percent?

10 A No, sir

11 Q Why not?

12 A That's not 20 percent You've got a
13 calculator I mean, I've answered the question and
14 I've did it on a calculator for you

15 Q Well, let's move on to October of '02,
16 okay? From October of '02 to October of '03, there
17 were 54 lots available for sale, because three had
18 already been sold or taken off the market or closed on,
19 right? prior to October

20 A Twenty percent of the total amount of 57
21 lots has to be sold each year

22 Q Well, I mean, let's go back --

23 A The total amount of lots sold is 20 percent
24 of the total amount It's not 20 percent of what's
25 left

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1 Q Well, let's ask this --
2 (Talking over one another)
3 Q Let go back to the -- go back to the
4 contract
5 A Okay
6 Q Turn to the part about --
7 A Okay
8 Q It says 20 percent of the lots available
9 for sale, right?
10 A Sell at least 20 percent I don't see --
11 available lots in -- available for sale means 57
12 Q Well, if you've already sold three, then
13 those three aren't available for sale anymore, are
14 they?
15 A The intent was -- that, specifically, means
16 20 percent of the total amount That's my
17 understanding
18 Q Well, what does the contract say?
19 A That's what it says
20 Q Twenty percent of the available lots,
21 right?
22 A The available lots are 57 in my
23 terminology
24 Q Well, starting out, yeah But after you've
25 sold some, then those -- the ones that are sold aren't

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1 available anymore

2 A My term -- my understanding of this is 57
3 throughout the contract

4 Q Well, then how do you calculate how --
5 whether they've 20 percent or not?

6 A You have to sell --

7 Q If you've already sold --

8 A You have to sell twelve a year That's a
9 minimum One of my -- the bank contract has two a
10 month, but at least one a month That's twelve, okay?
11 That was what was the intent of that paragraph

12 Q From October of 2002 to October of 2003, do
13 you agree that fourteen lots were closed?

14 MR THOMAS Object to the form --

15 A I don't know that --

16 MR THOMAS -- to the form of the
17 question You're assuming fact no known

18 MR BOWENS I said "if" --

19 MR THOMAS And I'm not --

20 A I don't have that in front of me But the
21 ones that sold to K&L would not be included in their
22 sales

23 Q Why would they not be included in the
24 sales?

25 A They -- we had that agreement We -- us

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1 and the Melton's, off to the side

2 Q Off to the side What does the side
3 agreement accommodate?

4 A The K&L lots, they did not sell those We
5 created a company to push lots through 'cause they
6 wasn't meeting the bank's sales

7 Q I'm not sure I understand how the sales of
8 lots to K&L don't count Can you explain that to us?

9 A Yeah They did not sell those lots

10 Q Who sold them?

11 A Well, we -- we created a company -- I
12 created a company by putting up money that they lost
13 money every year on to absorb some of the lots they
14 weren't selling

15 Q Well, was there a closing that took place
16 when you transferred the lots to K&L?

17 A Yes, there was

18 Q Who is listed on the HUD as the -- as the
19 agent?

20 A Well, I think they put their name on every
21 one of them

22 Q But you don't -- they don't get credit for
23 those?

24 A No They had nothing to do with creating
25 that sale

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1 Q Is there anyplace in the contract where it
2 says that lots sold to K&L don't count toward the 20
3 percent?

4 A No

5 Q Would you agree that the lots that K&L --
6 if we could use the phrase "took" or "took down" --
7 those aren't available for sale to anybody else?

8 A They only took them down because they
9 weren't selling lots

10 Q But if -- the ones that they took are no
11 longer for sale to any builder or anybody else?

12 A No, they're not But there were plenty of
13 other ones

14 MR THOMAS Glenn, can we take a quick
15 break?

16 MR BOWENS Sure -

17 (Off the record)

18 EXAMINATION RESUMED

19 BY MR BOWENS

20 Q What effect did the condition of the roads
21 have on the ability to sell lots?

22 A None at first I mean, for the first year
23 or so we didn't have any problems with roads except a
24 few cracks that happened about a year and a half
25 afterwards

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1 Q Well, wasn't -- when it did start, what
2 effect did it have on the sales?

3 A We didn't increase any We didn't decrease
4 any I think we increased, believe it or not That
5 was our biggest selling time We could check it out
6 But I believe it was

7 Q Did you ever remember getting complaints
8 from realtor's that --

9 A Man, I got --

10 Q -- the roads were -- or problems showing
11 the lots?

12 A I did I got complaints from them about
13 everything houses weren't big enough they wasn't
14 small enough, the yards weren't pretty enough, the
15 roads were messed up, nobody was there when they came
16 by, whatever, you know

17 Q But you do recall getting a --

18 A Oh, yeah

19 Q -- complaints about the roads?

20 A No question

21 Q What effect did -- how many lots did K&L
22 end up taking?

23 A I don't know Probably, half the whole
24 place I don't know what the number is

25 Q What effect did that have on other builders

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1 wanting to come in and take lots?

2 A I don't know We'd never been there --
3 been there if there were any other builders, I can tell
4 you that

5 Q K&L wouldn't have taken any lots down if
6 the builders had wanted to?

7 A If we'd a had other builders lined up like
8 we were supposed to -- we were supposed to have eight
9 builders taking two down apiece at the beginning If
10 they were, K&L never would have bought the first lot

11 Q And where does that come from, that they
12 were supposed to have eight taking two down a time?

13 A I got -- I had some documentation for that
14 -- and the bank

15 Q Well, it's not part of the contract,
16 though, right? Not part of that contract, is it?

17 A No, it's not part of this contract

18 Q And that's what we're supposed to -- that's
19 what we're litigating over, is this contract not
20 anything else, is it? There is no other agreements
21 that we're litigating about?

22 A No

23 Q now, what was this -- you mentioned before
24 we left for the break, there was a side agreement
25 between you and the Melton's What was the side

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1 agreement you were talking about?

2 A K&L contracts did not count as them selling
3 a lot

4 Q Okay Is that -- is that written down
5 anywhere?

6 A It was not

7 Q Just a side agreement

8 A No I don't know it was written -- I don't
9 think it was written down

10 Q Let's look at the last page of the
11 contract, Exhibit 13 that you have there

12 A I have No 12

13 Q No, it's Exhibit 13, the last paragraph
14 there, Paragraph 12

15 A Oh Paragraph 12

16 Q It says -- it's titled the "Entire
17 Agreement "

18 A I see that

19 Q It says, "This represents the entire
20 Agreement between the parties superceding all prior
21 verbal or written agreements --

22 A I see that

23 Q -- and the same shall not be modified,
24 amended or changed except by a writing signed by all
25 parties hereto "

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1 A Right

2 Q Was this side agreement before or after
3 this was signed?

4 A It was before, I think

5 Q Well, would you agree that this paragraph
6 12 renders that agreement void? It's not in here, is
7 it?

8 A I don't agree to it, but I can read it and
9 see it, okay?

10 Q Would you agree that it doesn't apply?

11 A Would I agree it doesn't apply?

12 Q Right This side agreement that you had

13 A No, I wouldn't agree to that

14 Q All right Let's start again then This
15 agreement that the K&L lots don't count was made before
16 the contract was signed?

17 A I think it was made after the contract was
18 signed

19 Q Okay If it was made after the contract
20 was signed, according to paragraph 12, it has to be in
21 writing, signed by all the parties, any agreement

22 A That's what it says, yes, sir

23 Q And this agreement is not in writing signed
24 by the parties, is it?

25 A That's right

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1 Q So it doesn't apply, does it?

2 A I suppose not

3 MR THOMAS It's been asked and answered

4 Q Is that right?

5 A I suppose not

6 Q So K&L lots do count toward the 20 percent,
7 then, right?

8 A Not in -- not -- not the way I see it, no

9 Q Well, the contract reads it counts, though

10 A I suppose it does

11 Q The way that the parties -- and by that, I
12 mean the Melton's and yourself -- conducted business
13 after May 28th of '04, you would agree that you-all
14 still dealt with one another after the 28th of May?

15 A Uh-huh

16 Q They were still --

17 A They were selling houses out there, but I
18 didn't deal with it

19 Q You didn't deal with them at all? Never
20 had any communications with "D" --

21 A "D" -- "D" spoke to me, yes He spoke to
22 me on several occasions

23 Q They didn't continue to do development work
24 after the 28th of May?

25 A No, sir If they did, it wasn't by -- I

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1 didn't give them permission to I'm not saying they
2 didn't do so I don't --

3 Q Well, you were aware they were still
4 continuing to do development work, right?

5 A No I'm not

6 Q You -- I want to make sure I got this -- I
7 understand this right you weren't aware that Dutch
8 Fork Development Group --

9 A After Cam sent them the letter?

10 Q Right

11 A No They sent a letter back and said they
12 wasn't there And I said -- I asked Cam, "Well, how do
13 you fire anybody?" And he said --

14 MR THOMAS (Speaking to the witness) I'm
15 going to instruct you not to answer

16 THE WITNESS Okay

17 MR THOMAS Attorney-client privilege

18 Q You want to invoke that privilege, I take
19 it?

20 A No

21 Q You can answer then if you want to

22 A I'm not going to answer it

23 Q Okay If you don't want to invoke, you can
24 answer But if you want to invoke it, you can

25 MR BOWENS Let me have that marked,

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1 please

2 (Plaintiff's Exhibit No 46 was marked for
3 identification purposes (1 page) - Dutch Fork
4 Development Group Agreement dated 1/20/2005)

5 Q This is Exhibit No 46 And it's -- you
6 have to kind of look on this a little closely, because
7 at the top of it, it's got several fax date stamps of
8 January 20th -- or January the 18th of '06 And then
9 one of the signature dates is January 20th of '06 And
10 one of them January 20th of '05 I don't know if
11 that's a mistake or what But do you remember seeing
12 that?

13 A This is a part of a sale of a house It's
14 a part of a sale of a house

15 Q It says, "SEL Properties agrees to relocate
16 the retaining wall currently located within the
17 property line of Lot 34 the retaining wall is to be
18 reconstructed and relocated in the storm drain right-
19 of-way of Lot 34

20 The common area between Lots 33 and 34 is to be
21 cleaned up and landscaped by SEL Properties "

22 A This is a condition of selling a house

23 Q Which house?

24 A I don't know which house -- 34, I believe,
25 or 33, one of the two It's in the contract of the

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1 house sale

2 Q Well, what does Dutch Fork Development
3 Group have to do with selling houses after May of '04?

4 A They were -- they're still selling houses
5 They've been sell -- they've sold some houses out
6 there They got -- they got another real estate
7 company doing it, but they're doing it through them

8 Q Well, I'm talking about Dutch Fork
9 Development Group

10 A Well, I don't know what they have to do
11 with it

12 Q Well, it's signed "D" Melton, Dutch Fork
13 Development Group And it's got --

14 A Well, it had --

15 Q -- and it's got their --

16 A -- it had to do with the sell of a house

17 Q And the header of the letter is Dutch Fork
18 Development Group, and it's signed by both you and "D"
19 Melton

20 A Well, it had nothing to do with the
21 development aspect It had to do with whether
22 somebody's going to buy a house or not

23 Q I see --

24 A And they were involved in the sale

25 Q Let me ask you a couple of questions, then

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1 This is a letter on Dutch Fork Development Group
2 letterhead, right?

3 A I see that

4 Q And it's dated January 20th or January the
5 18th of 2006

6 A Right

7 Q What does Dutch Fork Development Group have
8 to do with anything out at the property after -- in
9 January or '06?

10 A Absolutely nothing

11 Q Well, this why is this written and signed
12 by "D" Melton?

13 A I have no idea except to sell a house

14 Q All right

15 MR BOWENS Let's get this marked

16 (Plaintiff's Exhibit No 47 was marked for
17 identification purposes (1 page) - Copy of
18 check)

19 Q This is Exhibit 47 to your deposition
20 It's a -- it's a copy of a check made payable to Dutch
21 Fork Development dated November 22nd, 2004 Why are
22 you writing checks to Dutch Fork Development in
23 November of '04 if they were done after May of '04?

24 A Maybe on a previous bill I don't know

25 Q Well, it says site development costs

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1 A So

2 Q Are they still doing development work --

3 A No

4 Q -- payment for --

5 A No That could have been previously done

6 I don't know when it was done It could have been done

7 three years ago, and I'd owed them some money

8 (Plaintiff's Exhibit No 48 was marked for

9 identification purposes (1 page) - Copy of

10 check)

11 Q This is Exhibit 48 It's another check

12 dated 11/22/04 paid to "D" Melton, and it says,

13 "Reimbursement " What is that for? Why are you --

14 A Reimbursement --

15 Q -- why are you reimbursing --

16 A -- for some previous bills he'd had

17 (Plaintiff's Exhibit No 49 was marked for

18 identification purposes (1 page) - Copy of

19 check)

20 Q And what's the significance of 49? What

21 was that check for?

22 A I have no idea

23 Q Well --

24 A It says -- it says, "Escrow reimbursement "

25 Q Has "D" worked -- "D" Melton worked with

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1 Rick Maxheimer on the -- on the Creek Crossings over
2 the last year and a half?

3 A I don't know if he has or not

4 (Plaintiff's Exhibit No 50 was marked for
5 identification purposes (2 pages) - Letter from
6 S&ME to Mr Stephen Lipscomb dated August 13,
7 2004)

8 Q This is Exhibit No 50 It's a letter
9 dated August the 13th of '04 If Dutch Fork
10 Development Group is off -- is out of there after May
11 of '04, why is S&ME still sending them correspondence
12 about the project?

13 A I have no idea The County is still
14 sending them the tax notices and stuff, or the Midland
15 Power is But I mean, you know, everything doesn't get
16 changed -- the address don't get changed, they get it

17 (Plaintiff's Exhibit No 51 was marked for
18 identification purposes (1 page) - CBG, Inc
19 Proposal dated July 22, 2005)

20 Q This is Exhibit 51 Can you explain why
21 CBG is sending bills and proposals to Dutch Fork in
22 July of '05 after -- over a year after they were
23 supposed to have been gone from the project?

24 A No Unless -- oh Unless "D" asked them
25 top give him a bid on something

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1 Q That's for the Rolling Creek/Courtyards,
2 isn't it?

3 A Yeah He asked them but I didn't give him
4 permission I didn't tell him to get it -- a bid on
5 it And he can ask fifty people --

6 Q Well, if they're off the project why is he
7 out there doing it? Just for the fun of it?

8 A I have no idea I guess so he could prove
9 his self in this court case That seems like what it's
10 about

11 Q Do you recall in September of '04 meeting
12 with the County engineer to determine how you were
13 going to fix the roads?

14 A I did And Bill Melton drove up, but I
15 didn't invite him to drive up

16 Q Was "D" Melton involved in that?

17 A I don't remember -- I don't think "D" was
18 there I think it was Bill But I might have been
19 "D" But I think it was Bill

20 Q Do you remember a letter going out to the
21 homeowners at Rolling Creek that you and "D" had met
22 with the engineer about getting the roads fixed?

23 A No

24 (Plaintiff's Exhibit No 52 was marked for
25 identification purposes (1 page) - Letter from

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1 Dutch Fork Development Group dated September 13,
2 2004)

3 Q Let me show you Exhibit 52 Take a look at
4 that and see if that helps you remember

5 A (The witness reviews the document)

6 Q Do you remember that at all?

7 A I remember that there was something sent
8 out to the homeowners I thought that the real estate
9 company did it, selling houses, which is ARA or
10 whatever

11 (Plaintiff's Exhibit No 53 was marked for
12 identification purposes (1 page) - Copy of
13 check)

14 Q I'm going to show you Exhibit 53 This is
15 a copy of a check dated March 8th of '05 And it says
16 it's for rent on a mobile office for June of '04 to
17 December of '04 Do you remember authorizing that
18 check?

19 A This is K&L's -- dated it for sales -- for
20 their house sales, and K&L used it as a construction
21 trailer Yes, sir

22 Q Why is K&L Contracting paying "D" Melton
23 and Dutch Fork Realty for use of an office?

24 A 'Cause they used half the trailer

25 Q Okay Well, if it's from June of '04 to

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1 December of '04, why is the trailer even there if
2 they're off the -- off the project?

3 A It's the sales trailer, their selling
4 office

5 Q So they were authorized to have an office
6 there?

7 A Sales office -- they were supposed to have
8 one, I think from day one

9 Q Well, didn't you -- I thought we terminated
10 them in May of '04?

11 A Terminated them from the development

12 Q But not the sales of the lots?

13 A Well, no, that's not so We terminated
14 them --

15 Q Well, my question --

16 A They said that they had contracts to sell
17 for builders that were -- that were signed by builders
18 And they hired another real estate company But they
19 had half of that trailer for a sales house -- sales
20 part for houses

21 Q Did any other -- any other realtor's or
22 real estate companies have sales offices at the
23 property?

24 A Well, one of them lives there An ARA guy
25 lives there, Robbie -- Robbie --

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1 Q Milon?

2 A Milon Right He works for the Melton's,
3 I believe

4 Q Anybody else -- any other realtor? Russell
5 Jeffcoat? Anybody like that have a sales office out
6 there?

7 A No

8 Q The current advertising that's for the
9 Courtyards, doesn't it show Dutch Fork Development
10 Group and Dutch Fork Realty as the developer --

11 A I didn't even know there was any
12 advertising

13 Q Doesn't the sign out at the property still
14 indicate that Dutch Fork Development Group is the
15 developer?

16 A There is a sign still out there that shows
17 the lots that's got their name on the bottom of it

18 Q You haven't changed that?

19 A I haven't changed that

20 Q Why not?

21 A I just haven't 'Cause I didn't want to
22 have to pay to have the lots drawn over again

23 (Plaintiff's Exhibit No 54 was marked for
24 identification purposes (4 pages) - Asphalt
25 Paving & Maintenance Company, Inc Proposal

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1 dated July 15, 2005)

2 Q I'm going to show you Exhibit 54 It's a
3 proposal dated July 15th, 2005, sent to Dutch Fork
4 Development Group from Asphalt Paving Company Do you
5 know why that was sent to them over a year later?

6 A They probably asked for it -- asked for a
7 quote on it to make sure that I was not overcharging
8 them when I got one done, or compared it to the ones we
9 had done, that's what I would assume

10 Q Why haven't you had the County tax bills
11 changed so that Dutch Fork doesn't get them anymore?

12 A There's a bunch of stuff hadn't been
13 changed We just -- it's just we hadn't had it
14 changed It's not just that

15 Q I mean, I got two letters here One is
16 October of '06 and one's November of '06, this month,
17 from Mid-Carolina Electric Why are they still getting
18 the power bill?

19 A I have no idea The address hadn't been
20 changed, that's the reason

21 Q Why haven't you-all changed the address?

22 A The girls must have missed some They
23 changed a lot of them

24 Q Part of the -- part of the Counterclaim
25 that you-all have filed says that Dutch Fork

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1 Development Group has been unjustly enriched in the
2 amount of \$100,000 How do you come up with that
3 figure?

4 A Our accounts worked it up -- I don't have
5 the real numbers in front of me -- 'cause they said
6 they were paid when we didn't make any profits

7 Q Have you -- have you got payments of
8 \$100,000 going to Dutch Fork Development Group?

9 A I assume we do

10 Q But you don't know today?

11 A No

12 Q Part of the contract there indicates that
13 Dutch Fork Development Group's supposed to be --
14 receive \$9,000 per month for six months during Phase
15 One of the development for the development fee Was
16 that paid to them?

17 A It was not

18 Q Why not?

19 A 'Cause they wasn't meeting the quota of the
20 20 percent

21 Q Well, if you look at paragraph 5 of the
22 contract, it's says that, " during Phase I of the
23 development " When did Phase I begin?

24 A I don't know the exact date I don't have
25 it in front of me

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1 Q And it's your testimony, the reason you
2 didn't pay them is because they hadn't sold 20 percent
3 of the lots?

4 A Right

5 Q Well, this is supposed to be \$9,000 per
6 month for six months

7 A Okay

8 Q And you didn't make any of those payments

9 A No, sir

10 Q Why didn't you make the first month's
11 payment?

12 A I'm not sure

13 Q They had not, not performed in the first
14 month, had they?

15 A No, sir

16 Q Why didn't you make the first month
17 payment?

18 A I'm not sure

19 Q Would you agree that's a breach of the
20 Agreement?

21 A They told me I didn't have to pay them
22 until we got some money coming in

23 Q Was that written down and signed by the
24 parties anywhere?

25 A No, sir

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1 Q Doesn't it have to be according to
2 paragraph 12?

3 A Yes, sir

4 Q So not paying them the \$9,000 would be a
5 breach of the contract, wouldn't it?

6 A I don't guess -- it said it has to be
7 presented in writing And I never received anything

8 Q What's presented in writing?

9 A Any breach of the contract

10 Q Well, I don't understand -- wouldn't it be
11 that -- it would be breach not to -- not to pay them,
12 though

13 A Unless they authorized it -- unless they
14 told me was okay to go for a while

15 Q Has Phase II started yet?

16 A No, sir

17 Q Why not?

18 A 'Cause the -- the main reason is because
19 the permits were not properly gotten They still
20 hadn't been gotten

21 Q When is it projected that it's going to
22 start?

23 A Hopefully, soon But I can't give you an
24 exact date

25 Q Was there any attempt, ever, to sell the

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1 property in -- Phase II and Phase III property to any
2 other developer?

3 A Since Day One the whole place has been for
4 sale

5 Q I mean, to as individual lots But the
6 whole acreage

7 A Every -- any way they want to -- anybody
8 that wanted it could buy it, it's for sale

9 Q But wasn't it your intent with entering
10 into this Agreement to develop it as a subdivision and
11 sell individual lots, not the whole thing?

12 A Sure But the -- but the pro forma didn't
13 work So sometimes we were trapped into trying to do
14 something It's never happened, so it's hypothetical
15 anyway

16 Q The next thing I wanted to --

17 MR BOWENS Let's go off the record for a
18 second

19 (Off the record)

20 MR THOMAS We just had a off the record
21 conversation, two of them One, we going to
22 agree not to -- to, I guess, withdraw his
23 question -- stop any testimony regarding Cam's -
24 - Cam Lewis' conversation with Steve Lipscomb
25 which I objected to earlier on the attorney-

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(803) 256 4500

1 client privilege He's going to allow me to
2 assert that as to that conversation

3 Two, we've had a discussion then -- because
4 as Glenn pointed out, he's got another series of
5 questions on another contract We're going to
6 agree to reconvene this deposition at a later
7 time

8 MR BOWENS I only have one -- five more
9 minutes to wrap this up I could just tell we
10 were getting close to the end And then let me
11 just go through this one little series and then
12 we'll -- then we'll adjourn and get back on the
13 next phase, or the next contract

14 EXAMINATION RESUMED

15 BY MR BOWENS

16 Q Was there ever any cooperation problems
17 between the engineer, Letts, Rick Maxheimer and Newman
18 Construction?

19 A I don't know about that

20 Q Do you know about any problems with them
21 getting along with one another or anything like that?

22 A I think they did have a problem getting
23 along at one time That's so long ago, I -- I do
24 remember some little agitation that -- you're talking
25 about five years ago

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1 Q Do you recall complaints from Newman about
2 not getting paid on time?

3 A Darlene used to call the -- you know, she
4 always got paid a little later But yeah, she called a
5 couple of times about not getting paid on time

6 Q What about -- what about Letts getting paid
7 on time? Did you ever have any problems getting them
8 paid on time?

9 A Probably

10 Q Any problems getting them paid on time?

11 A Probably so I mean, we were over budget
12 Probably everybody, not just them

13 (Plaintiff's Exhibit No 55 was marked for
14 identification purposes (1 page) - Letts
15 Associates, Inc Fax Memorandum dated April 25,
16 2002)

17 Q Do you ever remember back in April of '02
18 getting a communication from Letts about not getting
19 paid?

20 A '02? No, I don't remember, but I'll look
21 at it here

22 A (The witness reviews the document)

23 A Yeah I see this

24 (Plaintiff's Exhibit No 56 was marked for
25 identification purposes (1 page) - Letts

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1 Associates, Inc Memorandum to Billy Melton
2 dated October 17, 2002)

3 Q Do you recall in October of '02, Newman
4 Construction refusing to give a lien waiver to the City
5 of Columbia?

6 A I think I do recall that

7 Q That's because they hadn't been paid?

8 A Well, it probably was, yes

9 Q Was there ever any developers or other
10 companies that tried to -- or was interested in buying
11 the remaining acreage at The Courtyards?

12 A Nobody ever brought the money, let's put it
13 that way There's at least a hundred people come out
14 and said they wanted to buy the place But none of
15 them ever came with any money or give any downpayment -
16 - or even give a dollar down on it, you know

17 Q Wasn't there a --

18 A So I don't know what that means I mean, I
19 must have had a hundred people saying, "Oh, I'd love to
20 buy that place " I think the Melton's even wanted to
21 buy it at one time But, you know, I just tell you the
22 truth about it, nobody would ever put any money or
23 nobody would ever give me any money

24 Q Was there ever a contract put down on it?

25 A A contract? No I don't think so

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1 Q What's the furthest anyone said in
2 discussions about it with -- where anybody got?

3 A Not far enough to give me no money

4 Q Did you ever have a meeting with Rick
5 Maxheimer about anybody buying the property?

6 A Sure Probably had about five, six or
7 seven with him

8 Q About other developers --

9 A Over the years? Yeah Over the years I'd
10 say -- I'd say probably ten times

11 Q Did you ever instruct him to keep that away
12 from the Melton's, to not tell the Melton's about this?

13 A I don't believe so

14 Q All right

15 MR BOWENS We'll adjourn right here for
16 today And then we'll resume at a mutually
17 agreeable time in the short, near future Thank
18 you very much

19 Further deponent sayeth not

20 (There being no further questions, the
21 deposition adjourned at 3 46 p m)
22
23
24
25

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Columbia South Carolina 29211
(803) 256 4500

CERTIFICATE OF REPORTER

I, PATRICIA G BACHAND, COURT REPORTER AND NOTARY PUBLIC IN AND FOR THE STATE OF SOUTH CAROLINA AT LARGE, HEREBY CERTIFY THAT I REPORTED THE DEPOSITION OF STEPHEN E LIPSCOMB, ON TUESDAY THE 21ST DAY OF NOVEMBER, 2006, THAT THE WITNESS WAS FIRST DULY SWORN BY ME AND THAT THE FOREGOING 189 PAGES CONSTITUTE A TRUE AND CORRECT TRANSCRIPTION OF MY STENOMASK REPORT OF THE SAID DEPOSITION

I FURTHER CERTIFY THAT I AM NEITHER ATTORNEY NOR COUNSEL FOR, NOR RELATED TO OR EMPLOYED BY ANY OF THE PARTIES CONNECTED WITH THIS ACTION, NOR AM I FINANCIALLY INTERESTED IN SAID CAUSE

I FURTHER CERTIFY THAT THE ORIGINAL OF SAID TRANSCRIPT WAS THEREAFTER SEALED BY ME AND DELIVERED TO GLENN BOWENS, ESQUIRE, POPE & BOWENS, PA, 158 LANGFORD ROAD, BLYTHEWOOD, SOUTH CAROLINA, WHO WILL RETAIN THIS SEALED ORIGINAL TRANSCRIPT AND SHALL BE RESPONSIBLE FOR FILING SAME WITH THE COURT PRIOR TO TRIAL OR ANY HEARING WHICH MIGHT RESULT IN A FINAL ORDER ON ANY ISSUE

IN WITNESS WHEREOF, I HAVE SET MY HAND AND SEAL THIS
28H DAY OF NOVEMBER, 2006



PATRICIA G BACHAND, COURT REPORTER
MY COMMISSION EXPIRES APRIL 15, 2007

Garber Reporting Service

Certified Court Reporters

Post Office Box 12348

Columbia South Carolina 29211

(803) 256 4500

Corporate Office
105 Pulaski Street
Columbia, SC 29201
803-254-8403
Fax 803-771-4937



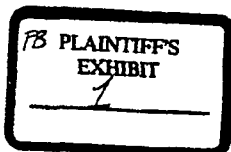
AMERICAN AMUSEMENT
1105 PULASKI ST
COLUMBIA, SOUTH CAROLINA 29201
803 254-8403
FAX. 803-771-4937

FACSIMILE TRANSMITTAL SHEET

TO:	Bill Melton	FROM:	Steve Lipscomb
COMPANY:		DATE:	8-16-01
FAX NUMBER:	803-635-5515	TOTAL NO. OF PAGES INCLUDING COVER:	2
PHONE NUMBER:		SENDER'S REFERENCE NUMBER:	
TEL:		YOUR REFERENCE NUMBER:	

☐ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

NOTES/COMMENTS



1
2
3
4
5
6
7
8
9
10
11
12

925 Breckwood Drive
Columbia SC 29202
Phone 303 251 4000
Fax 303 77 4451

PO Box 1 641
COLUMBIA SC 29211 641

American
Amusement

Fax

To Maiole Simkins From Shacky Matson
Fax 929-2074 Date 10-8-02
Phone _____ Pages 19
Re Rolling Creek
Urgent ☐ for Review ☐ Please Comment ☐ Please Reply ☐ Please Recirculate

Mangle

Steve said he would get a
Mangle tomorrow about the crime
Diders = 15, 16, 17

Thanks,

Shacky



3688

0001622

e National Bank of South Carolina
 A SYNOVUS FINANCIAL CORP. Affiliate
LOAN APPROVAL / LOAN REVIEW MEMORANDUM

Type of Memorandum					
X	Renewal Loan Request		Narrative Review	Branch 09	Loan Officer 634

Background Information					
Borrower's Name	SEL Properties LLC		Date Prepared	12/08/2003	Loan Grade 4
Street Address					
City/State/Zip	Columbia, SC 29201				
Line of Business or Occupation	Developer/ Amusement Games			SIC Code	
Type of Entity	Corp./S-Corp	Partnership/LLP	Individual	Sole Prop	X LLC
Name of Related Interests	Stephen E. Lipscomb/ Amusements Games				

New Loan Summary (Complete for New / Renewed Loans Only)					
Loan Amount	\$1,384,621.00			New or Renewal	Renewal
Loan Purpose	Renewal of existing loan that used to purchase 122.28 acres and the Development of 30 acres and 60 Lots for Phase I of The Courtyards at Rolling Creek Development				
Repayment Terms	One year Development Line of Credit W/ Interest due monthly and principal pay-outs of 80% of gross proceeds of lot sales		Renewal Agreements	None	
Collateral Description	FREM on 122.28 acres First Lien on all construction materials assignment of all sales contracts and earnest money Assignment of all construction contracts permits and licenses for the project.		Appraised Value	Real Estate Appraisal	
Loan Pricing	Interest Rate	Prime + 1.00%	Loan Fees	1/2 POINT	Other Interest Reserve
Sources of Repayment	Primary	Sale of Lots			
	Secondary	Liquidation of assets taken as collateral			

Loan and Deposit Summary (In 000's)			
Total Direct Debt Outstanding	2,932M	Total Checking Balances	126M
Total Unfunded Commitments	3,455M	Total Savings Balances	5M
Total Direct Exposure - Bank	3,455M	Total Certificates of Deposit	752M
Total Indirect Exposure - Bank	1,512M	Sub-total Deposits	
Grand Total Bank Exposure	4,967M	Deposits from Related Interests	
Participations Sold - Direct		Grand Total Deposits	913M
Participations Sold - Indirect		Merchant / VISA Relationship	
Total Synovus Exposure		Cash Management Services	

Financial Statement Summary (In 000's)			
Statement Type	Tax Return	Tax Return	Interim
Statement Date	12/31/02	12/31/01	9/31/03
Liquid or Current Assets	6,233M	4,119M	6,151M
Total Assets	9,056M	5,463M	9,022M
Total Liabilities	7,439M	3,797M	5,418M
Net Worth (Tangible)	1,618M	1,667M	3,603M
Gross Sales (Business)	2,279M	1,276M	1,632M
Net Profit or Income	6M	129M	98M
Current Ratio			

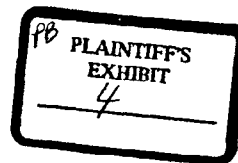
**PLAINTIFFS
EXHIBIT**
3



NEWMAN CONSTRUCTION INC

500 MYRTLE BEACH HWY SUMTER SOUTH CAROLINA 29153 (803) 757385

CHANGE ORDER



To S E L Properties LLC
P O Box 510
Winnsboro S C 29180

Change Order No 1
Date November 30 2001

Attn W P Melton

Contract Date October 26 2001
Contract For The Courtyards at
Rolling Creek - Phase 1

We request a change order for blasting rock for the off site sewer line as shown on the attached rock excavation sheet

1 Blasted rock 662 77 CY @ 50 00 = 33 138 50

Total Change Order \$33 138 50

This work will require an additional 5 calendar days to achieve substantial completion

The original contract sum was	799011 10
Net change by previous change orders	0 00
The contract sum prior to this change order	799011 10
The contract sum will be (increased)(decreased)(unchanged) by this change order in the amount of	33138 50
The new contract sum including this change order	832149 60

Owner
S E L Properties LLC
P O Box 510
Winnsboro S C 29180

[Signature]
Signature

Print Name and Title

1-21-02
Date

Contractor
Newman Construction Inc
500 Myrtle Beach Hwy
Sumter S C 29153 5014

[Signature]
Signature

DARLENE V Ivey Controller

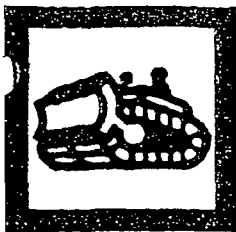
11/30/01
Date

Engineer
Letts Associates Inc
P O Box 212327
Columbia S C 29221 2327

[Signature]
Signature

John T Johnson P.E.

1-21-02
Date



NEWMAN CONSTRUCTION, INC

00 MYRTLE BEACH HWY SUMTER SOUTH CAROLINA 29153 (803) 75 7385

CHANGE ORDER

To S E L Properties LLC
P O Box 510
Winnsboro S C 29180

Attn W P Melton

Change Order No 2
Date December 31 2001

Contract Date October 26 2001
Contract For The Courtyards at
Rolling Creek - Phase 1

We request a change order for blasting rock for the off site sewer line as shown on the attached rock excavation sheets

1	Blasted rock	336 59 CY @	50 00 =	16 829 50
2	Correction of prior month s blasted rock	(88 10) CY @	50 00 =	-4 405 00

Total Change Order \$12 424 50

This work will require an additional 5 calendar days to achieve substantial completion

The original contract sum was	799011 10
Net change by previous change orders	- 33138 50
The contract sum prior to this change order	832149 60
The contract sum will be (increased)(decreased)(unchanged) by this change order in the amount of	12424 50
The new contract sum including this change order	844574 10

Owner
S E L Properties LLC
P O Box 510
Winnsboro S C 29180
John E. Brown
Signature
Print Name and Title
1-31-2002
Date

Contractor
Newman Construction Inc
500 Myrtle Beach Hwy
Sumter S C 29153 5014
Jarlene V. El
Signature
Print Name and Title
12/31/01
Date

Engineer
Letts Associates Inc
P O Box 212327
Columbia S C 29221 2327
Johnny T. Johnson
Signature
Print Name and Title
1-29-02
Date



NEWMAN CONSTRUCTION, INC

500 MYRTLE BEACH HWY SUMTER SOUTH CAROLINA 29153 (803) 775 1385

CHANGE ORDER

To S E L Properties LLC
P O Box 510
Winnsboro S C 29180

Change Order No 3
Date December 31 2001
Contract Date October 26 2001
Contract For The Courtyards at
Rolling Creek - Phase 1

Attn W P Melton

We request a change order for changes to the on site sanitary sewer lines A11 A11-2 and A11 7
embedding 18 DIP off site sanitary sewer in concrete and installing additional water line bends
at the creek crossing according to the revised plans Also the manhole drop for MH #A11 2 1
was not shown on the project bid sheet

On Site Sewer

1	8 PVC 0-6	-60 LF @	12 00 =	720 00
2	8 PVC 6-8	70 LF @	13 00 =	910 00
3	8 PVC 8 10	-65 LF @	15 00 =	975 00
4	8 PVC 10-12	72 LF @	17 00 =	1 224 00
5	Manhole 0-6	-1 EA @	1000 00 =	1 000 00
6	Manhole 6-8	1 EA @	1100 00 =	1 100 00
7	Manhole 8-10	2 EA @	1300 00 =	2 600 00
8	Manhole 10 12	2 EA @	1600 00 =	3 200 00
9	8 Manhole drop	7 VF @	150 00 =	1 050 00

Off-Site Sewer

10	Embed 18 DIP off site sewer in concrete	5 CY @	85 00 =	425 00

Water

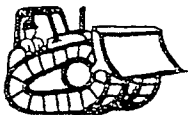
11	12 45 Degree MJ water line bend	2 EA @	340 00 =	680 00

Total Change Order \$1 094 00

This work will require an additional 0 calendar days to achieve substantial completion

The original contract sum was	795011 0
Net change by previous change orders	45563 00
The contract sum prior to this change order	844574 10
The contract sum will be (increased)(decreased)(unchanged) by this change order in the amount of	1094 00
The new contract sum including this change order	845668 10

Owner	Contractor	Engineer
S E L Properties LLC	Newman Construction Inc	Letts Associates Inc
P O Box 510	500 Myrtle Beach Hwy	P O Box 212327
Winnsboro S C 29180	Sumter S C 29153 5014	Columbia S C 29221 2327
<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>
Signature	Signature	Signature
<i>[Signature]</i>	DARLENE V IVEY, Controller	Johnny T. Johnson, Pres
Print Name and Title	Print Name and Title	Print Name and Title
1-21-2001	12/31/01	1-29-02
Date	Date	Date



NEWMAN
500 MYRTLE

Post It Fax Note	7671	Date	5/21	pages	2
To	Denny White		From	Newman Construction	
Co/Dept	1		Co		
Phone			Phone		
Fax #			Fax #		

CHANGE ORDER

To S E L Properties LLC
P O Box 510
Winnsboro S C 29180

Change Order No 14
Date April 30 2002

Attn W P Melton

Contract Date October 26 2001
Contract For The Courtyards at
Rolling Creek - Phase 1

We request a change order for the installation of 12 water service taps along the proposed Dutch Fork Creek Trail a 12 x 6 tee 6 gate valve two joints of 6 pipe and a 6 plug to stub out the water line for the proposed Dutch Fork Branch Court in Rolling Creek Phase 4

1	3/4 water service on 12 DIP	12 EA @	200 00 =	\$2 400 00
2	Survey for placement of water services	1 LS @	885 00 =	885 00
3	12 x 6 tee	1 EA @	480 00 =	480 00
4	6 Gate valve	1 EA @	520 00 =	520 00
5	6 Plug	1 EA @	75 00 =	75 00
6	6 PVC	40 LF @	8 50 =	340 00

Total Change Order \$4 700 00

This work will require an additional 3 calendar days to achieve substantial completion

The original contract sum was	799011 10
Net change by previous change orders	173823 15
The contract sum prior to this change order	972834 25
The contract sum will be increased/decreased/unchanged by this change order in the amount of	4700 00
The new contract sum including this change order	977534 25

Owner
S E L Properties LLC
P O Box 510
Winnsboro S C 29180

Signature

Print Name and Title

Date

Contractor
Newman Construction Inc
500 Myrtle Beach Hwy
Sumter S C 29153-5014

Signature

Print Name and Title

Date

Engineer
Letts Associates Inc
P O Box 212327
Columbia S C 29221 2327

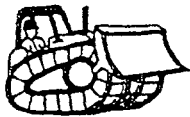
Signature

Print Name and Title

Date

PHONE (803) 775 2385 • FAX (803) 775 1040

GRADING PAVING UTILITIES



NEWMAN CONSTRUCTION, INC

500 MYRTLE BEACH HWY • SUMTER SC 29153 5014

REVISED CHANGE ORDER

To S E L Properties LLC
P O Box 510
Winnsboro S C 29180

Change Order No 15
Date April 30 2002

Attn W P Melton

Contract Date October 26 2001
Contract For The Courtyards at
Rolling Creek Phase 1

We request a change order for the installation of conduit in excess of the bid quantity the addition of irrigation conduit by the owner and special backfill

1	Additional conduit	365 LF @	5 00 =	\$1 825 00
2	Sand clay backfill for conduit	32 CY @	35 00 =	1 120 00
3	Flowable fill for conduit	27 5 CY @	65 00 =	1 787 50

Total Change Order \$4 732 50

*his work will require an additional 5 calendar days to achieve substantial completion

The original contract sum was	799011 10
Net change by previous change orders	178523 15
The contract sum prior to this change order	977534 25
The contract sum will be (increased)(decreased)(unchanged) by this change order in the amount of	4732 50
The new contract sum including this change order	982266 75

Owner
S E L Properties LLC
P O Box 510
Winnsboro S C 29180

Signature

Print Name and Title

Date

6-14-2002

Contractor
Newman Construction Inc
500 Myrtle Beach Hwy
Sumter S C 29153-5014

Signature

Print Name and Title

Date

DARLENE V IVEY, Controller

4/30/02

Engineer
Letts Associates Inc
P O Box 212327
Columbia S C 29221 2327

Signature

Print Name and Title

Date

5/23/02

PHONE (803) 775 2385 • FAX (803) 775 0000

GRADING PAVING UTILITIES

3694

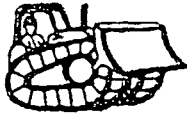
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1-23-1996 8 31PM

FROM 000000000000

P 1

**NEWMAN CONSTRUCTION, INC.**

500 MYRTLE BEACH

Post it Fax Note	7671	Date	of pages 1
To	Danny White	From	Margie Smkins
Co./Dept.		Co	
Phone		Phone #	929-2074
Fa		Fax	

CHANGE ORDER

To S E L Properties LLC
P O Box 510
Winnsboro S C 29180

Change Order No 16
Date May 31 2002

Attn W P Melton

Contract Date October 26 2001
Contract For The Courtyards at
Rolling Creek - Phase 1

We request a change order for the omiss on of the grassing on the berm as stated in the attached letter from the engineer

1 Omit grassing of berm 1 LS @ (750 00) = (\$750 00)

Total Change Order (\$750 00)

This work will require an additional 0 calendar days to achieve substantial completion

The original contract sum was	799011 10
Net change by previous change orders	183255 65
The contract sum prior to this change order	982266 75
The contract sum will be (~~increased~~)(~~decreased~~)(unchanged) by this change order in the amount of	750 00
The new contract sum including this change order	981516 75

Owner
S E L Properties LLC
P O Box 510
Winnsboro S C 29180

Stephen Lipscomb
Signature

STEPHEN LIPSCOMB
Print Name and Title

7-18-02
Date

Contractor
Newman Construction Inc
500 Myrtle Beach Hwy
Sumter S C 29153 5014

Darlene V Ivey
Signature

DARLENE V IVEY, Computerizer
Print Name and Title

5/31/02
Date

Engineer
Letts Associates Inc
P O Box 212327
Columbia S C 29221 2327

John T. Johnson
Signature

JOHN T. JOHNSON, Pres
Print Name and Title

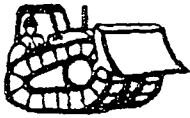
6-11-02
Date

PHONE (803) 775-2385 FAX (803) 775-1040

GRADING PAVING UTILITIES

3695

0001629



500 MYRTLE Bca Hwy • SUMTER SC 29153 5014

Date _____



July 10, 2002

Mr Billy Melton
c/o Realty Associates
P O Box 510
Winnsboro SC 29180

RE SEL Properties

Dear Mr Melton

Enclosed please find the original Change Order #16 from Newman Construction.

Please have this change order executed by the owner where indicated and return the original to me at your earliest convenience so I can proceed your pay request

Thank you for your prompt attention to this matter Please call me at 929-2074 if you have any questions

Sincerely

Marge Simkins
Real Estate Administration Officer

MJS/mm

Enc



Post Office Box 1457 / Columbia, South Carolina 29202 1457 / (803) 929-2145
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A MEMBER OF THE SYNOVUS FINANCIAL CORP FAMILY OF COMPANIES



3697

0001631

LETTS ASSOCIATES, INC

INNOVATIVE ENGINEERING DESIGN & CONSTRUCTION



December 5 2000

Mrs Ann Frazier Melton
Dutch Fork Development Company
P O Box 510
Winnsboro SC 29180

Re The Court Yards at Rolling Creek
Containing Approximately 130 Acres
LETTS ASSOCIATES INC Job # M-1007
Engineering/Surveying Proposal



Dear Mrs Melton

Thank you for giving us the opportunity to provide this proposal for planning, surveying, technical and engineering services related to design, permitting, bidding construction observation and platting of the subject property

This proposal is based upon the sketch plan prepared by LETTS ASSOCIATES INC which contains approximately 256 lots which conform to the minimum requirements of RS1 cluster housing, and approximately 6 lots which conform to the minimum requirements of RS1. The sketch plan is attached to this proposal and is referred to as Exhibit "A"

LETTS ASSOCIATES INC proposes to offer the following services

SURVEY

- Verify boundary of approximately 130 acre parcel
- Perform work necessary to establish a MSL benchmark on site
- Perform topographical survey of approximately 138 acres extending to the centerline of Highway 176 and including a 25' wide overlap onto adjoining property around the project perimeter
- Profile the centerline of Chapin Road approximately 600 feet past the project in each direction
- Prepare a topographical map of the project from field run surveys showing 2-foot contours and showing the 100-year flood plain as scaled from the FEMA map

P O Box 212327 1343 Garner Lane•Suite 200•Columbia SC 29221 2327•Telephone (803) 798-4562 Facsimile (803) 798 1678

3698

0001632

Page Two

The Court Yards at Rolling Creek Containing Approximately 130 Acres

December 5 2000

- Incorporate wetlands survey into the topographic map The wetland survey will be provided in accordance with the attached hourly rate schedule and is not included in this proposal The wetlands delineation shall be provided by others and is not included in this proposal
- Field stake 67 lots and common area in Phase I Prepare bonded plat of Phase I Re-staking of lot pins, which are lost due to construction, shall be done in accordance with the attached hourly rate schedule and is not included in this proposal Prepare final plat of Phase I

SKETCH PLAN

- Prepare a sketch plan of the entire project based upon a field run boundary and a field run topographic survey
- Meet with client to review any deviations from Exhibit A as a result of existing site conditions
- Prepare color exhibit for planning commission meetings
- Attend planning commission meetings with client The client shall make the formal presentation to the planning commission.
- Incorporate revisions to the sketch plan as required by the planning commission
- Revise color exhibit

DESIGN – (All phases 262 lots)

- Roads/Grading
- Drainage system
- Sewer system
- Water System

PROJECT COORDINATION (All phases 262 lots)

LETTS ASSOCIATES INC will coordinate with the following reviewing agencies and with utility providers during the design process

- Water system – City of Columbia/SCDHEC
- Sewer system – Richland County SCDHEC and Central Midlands
- Roads/Drainage – Richland County SCDHEC SC Department of Transportation
- Gas
- Electric
- Telephone
- Cable Television

Page Three

The Court Yards at Rolling Creek Containing Approximately 130 Acres

December 5 2000

- Coordinate with the geo-technical engineer and incorporate the geo-technical engineer s recommendations into the construction documents The geo-technical engineer s fees are not included in the proposal
- Coordinate with Richland County to establish a sewer line extension agreement
- Provide construction drawings to the owner s architect who will design the pool clubhouse and associated parking areas

SUBMITTALS

LETTS ASSOCIATES INC will submit construction documents to the following reviewing agencies and utility providers

- City of Columbia
- SCDHEC
- Richland County
- Gas
- Electric
- Telephone
- Cable Television

LETTS ASSOCIATES INC will incorporate the reviewing agencies comments into the final construction documents

BIDDING (Phase I)

- Provide construction documents to bidders
- Sealed bids will be forwarded to the client
- Review bids with client
- Award contract for Phase I construction

CONSTRUCTION STAKING (Phase I)

- Construction staking shall be provided by the contractor

CONSTRUCTION OBSERVATION (Phase I)

- Provide construction observation for a period not to exceed 7 months
- Process monthly applications for payment
- Attend construction meetings

Page Four
The Court Yards at Rolling Creek Containing Approximately 130 Acres
December 5 2000

AS-BUILT/RECORD DRAWINGS (Phase I)

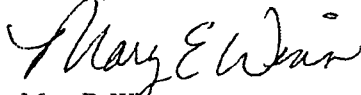
- Prepare record drawings based upon field measurements provided by the contractor
- Submit record drawings to reviewing agencies for final approval
- Final inspections (Phase I)
- Attend final inspections with reviewing agencies

This proposal includes the design, and permitting of 262 lots and the construction of Phase I. Our fee for providing the services listed above is \$196,875.00. Services requested by the owner which are not outlined above will be considered extra and will be charged to the project as extra in accordance with the attached hourly billing rates. All extra invoices will be approved by the Owner. Invoices will be mailed every four weeks and are considered due and payable upon receipt. Reimbursable expenses will be charged to the project as an extra in accordance with the attached reimbursable expense schedule.

If this proposal is acceptable to you, please sign in the space provided and return a copy to us for our files.

LETTS ASSOCIATES, INC. will begin formally working on this project upon your acceptance of this proposal.

Sincerely,



Mary E. Winn
Office Manager

Attachments
Hourly Rate Schedule\Reimbursable Expense Schedule
Exhibit A

Accepted by

Title

Date

M 1007.doc

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LETTS ASSOCIATES, INC

HOURLY RATES AND PAYMENT SCHEDULE

M 1007

ENGINEERING SERVICES

Position Description	Hourly Rates
Principal (PE)	\$135 00
Project Manager	\$100 00
Engineering Designer	\$82 00
Engineering Technician	\$56 00
Technician Clerical	\$35 00

SURVEYING SERVICES

Position Description	Hourly Rate
Surveyor P L S	\$95 00
Draftsperson	\$40 00
3 Person Crew	\$95 00
2 Person Crew	\$85 00

The above rates include all wages payroll burden, overhead and profit for consulting and/or design hours expended by the technical staff All non-project stenographic general clerical and accounting work and general office administration costs are included in overhead and are not charged separately

On hourly rate type projects the client will be billed only for the time actually spent on the project as recorded on each staff member's time sheets which are open for audit Client will also be charged for expenses incurred as listed in the reimbursable expense schedule

Invoices will be sent out every four weeks coinciding with the company's accounting periods All invoices are due and payable upon receipt If payment is not received within thirty-one (31) days of the invoice date LETTS ASSOCIATES INC reserves the right to stop project work until the invoice is reconciled

REIMBURSABLE EXPENSE SCHEDULE

Expense	Charge	Expense	Charge
Xerox copies	\$ 10	Diskettes	\$1 00
Blueprints	\$1 00	CDs	\$2 00
Sepia	\$4 00	Facsimile	\$1 60
Mylar	\$10 00	Travel per Mile	\$ 325
Plots	\$10 00	Long Distance	Actual + 10%

APPLICATION AND CERTIFICATE FOR PAYMENT AIA DOCUMENT G702

TO (OWNER)	S E L Properties LLC P O Box 510 Winnsboro S C 29180	PROJECT	Rolling Creek Subdivision Phase 4 - 20 Lots Richland County S C	APPLICATION #	7	Distribution to	☐ OWNER ☐ ARCHITECT ☐ CONTRACTOR
FROM (CONTRACTOR)	Newman Construction Inc 500 Myrtle Beach Hwy Sumter SC 29153 5014	VIA(Architect)	Letts Associates Inc P O Box 212327 Columbia S C 29221 2327	PERIOD TO	8/31/02	ARCHITECT S	☐
CONTRACT FOR				PROJECT NO			☐
				CONTRACT DATE	1/29/02		

CONTRACTOR'S APPLICATION FOR PAYMENT

Change Order Summary			
Change Orders approved in Previous months by Owner		Additions	Deductions
Total		1,606 00	0 00
Approved this month		0 00	11 526 00
Number	Dated Appro ed		
Totals		0 00	9 920 00
Net change by Change Orders		9 920 00	9 920 00

The undersigned contractor certifies that to the best of the Contractor's knowledge information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner and that current payment shown herein is now due

CONTRACTOR Newman Construction Inc

By Darlene V. Hargis Date 8/31/02

Application is made for Payment as shown below in connection with the Contract Continuation Sheet, AIA Document G703 is attached

1	ORIGINAL CONTRACT SUM	\$	250 662 00
2	Net change by Change Orders	\$	9 920 00
3	CONTRACT SUM TO DATE (Line 1+2)	\$	240 742 00
4	Total Completed & STORED TO DATE (Column G on G703)	\$	219 263 00
5	Retainage		
	2.00% of Completed Work	\$	4 385 26
	(column D + E on G703)		
	2.00% of Stored Material	\$	0 00
	(column F on G703)		
	Total Retainage (Line 5a + 5b or total in Column I of G703)	\$	4,385 26
6	TOTAL EARNED LESS RETAINAGE (Line 4 less Line 5 total)	\$	214,877 74
7	LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 from prior Certificate)	\$	206,092 05
8	CURRENT PAYMENT DUE	\$	8 785 69
9	BALANCE TO FINISH, PLUS RETAINAGE (LINE 3 LESS LINE 6)	\$	25,864 26

State of SC County of Sumter
Subscribed and sworn to before me this 31 day of August 2002
Notary Public Sandra B. Goya
My Commission Expires 7-12-2011

Architect's Certificate of Payment

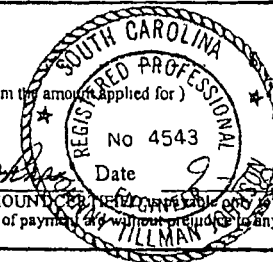
In accordance with the contract documents based on on-site observations and the data comprising the above application the Architect certifies to the Owner that to the best of the Architect's knowledge information and belief the Work has progressed as indicated the quality of the Work is in accordance with the Contract Documents and the Contractor is entitled to payment of the AMOUNT CERTIFIED

AMOUNT CERTIFIED

(Attached explanation if amount differs from the amount Applied for)
Architect

By Johanny T. Goya Date 9-12-02

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment shall not prejudice in any rights of the Owner or Contractor under this Contract.



LETTS ASSOCIATES, INC

CIVIL ENGINEERING DESIGN & CONSULTING



January 29 2002

Mr Ronnie O Colson
Senior Vice President
NBSC
P O Box 1457
Columbia, SC 29202 1457

Re The Courtyards at Rolling Creek Phase I - Pay Application #2
M 1007

Dear Mr Colson

Please find enclosed an approved pay application for \$154,513.15. Please process as soon as possible.

If you have any questions please contact this office.

Yours truly

Johnny T Johnson, P E

JTJ/mw

Enclosures

cc Billy Melton
Richard W Maxheimer



P O Box 212327 1343 Garner Lane Suite 100-Columbia SC 29221 2327 Telephone (803) 798-4562 Facsimile (803) 98 1678
C:\My Documents\M 1007 Courtyards\BSC LETTER.doc

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1343 Garner Lane Suite 200
P O Box 212327
Columbia, SC 29221

Invoice

Date	Invoice #
7/19/2003	2003 1009

Bill To

SEL Properties LLC
Steven Lipscomb

Columbia, SC 29201

Terms	Project Name	
Due on Receipt	M 1007M Courtyards at Rolling Creek Extra	
Description	Qty	Amount
Engineering Technician @ \$56/Hr	7 5	420 00
Project Management @ \$100/Hr	4	400 00
13 lot grading plan on site visit Tel-cons with D Melton, meet with Mr and Mrs Melton, Tel-cons with Mr Lipscomb preliminary grading plan for 13 lots prepare pads recommended to client to use crawl space/not slabs		
Total		\$820 00

Phone #	Fax #
(803) 798-4562	(803) 798 1678

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THIS CONTRACT IS SUBJECT TO ARBITRATION PURSUANT TO THE PROVISIONS OF
THE SOUTH CAROLINA UNIFORM ABRITRATION ACT, SECTION 15-48-10, ET SEQ, CODE
OF LAWS OF SOUTH CAROLINA, 1976 AS AMENDED

AIA DOCUMENT A107-1997

Abbreviated Standard Form of Agreement Between Owner and Contractor for Construction Projects of Limited Scope where the basis of payment is a STIPULATED SUM

AGREEMENT made as of the
in the year
(In words indicate day month and year)

twenty sixth day of October
two thousand one

This document includes
abbreviated General
Conditions and should
not be used with other
general conditions

BETWEEN the Owner
(Name address and other information)

SEL Properties LLC
3911 Kilbourne Road
Columbia S C 29205

This document has impor
tant legal consequences
Consultation with an
attorney is encouraged
with respect to its
completion or modification

and the Contractor
(Name, address and other information)

Newman Construction Inc
500 Myrtle Beach Hwy
Sumter S C 29153 5014

This document has been
approved and endorsed by
The Associated General
Contractors of America

The Project is
(Name and location)

The Courtyards at Rolling Creek
Phase 1 (57 Lots)
Richland County S C



The Architect is
(Name address and other information)

Letts Associates Inc
P O Box 212327
Columbia S C 29221 2327



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The Owner and Contractor agree as follows

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ARTICLE 1 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents except to the extent specifically indicated in the Contract Documents to be the responsibility of others

See Attachment A for items of work included in contract

ARTICLE 2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

2.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner

(Insert the date of commencement if it differs from the date of this Agreement or if applicable state that the date will be fixed in a notice to proceed)

The date of commencement shall be stipulated by the notice to proceed. All permits and a letter assuring payment must be received prior to the date of commencement.

2.2 The Contract Time shall be measured from the date of commencement

2.3 The Contractor shall achieve Substantial Completion of the entire Work not later than one hundred eighty (180) calendar days from the date of commencement or as follows *(Insert number of calendar days. Alternatively a calendar date may be used when coordinated with the date of commencement. Unless stated elsewhere in the Contract Documents insert any requirements for earlier Substantial Completion of certain portions of the Work.)*

Substantial completion shall be defined as all curb and gutter and base material in place. Extensions of time shall be granted for rain days, days lost due to wet soil conditions, change orders, extra work, if required items, etc.

subject to adjustments of this Contract Time as provided in the Contract Documents *(Insert provisions if any for liquidated damages relating to failure to complete on time or for bonus payments for early completion of the Work.)*

The Contractor and the Contractor's surety, if any, shall be liable for and shall pay the Owner the sums hereinafter stipulated as liquidated damages for each calendar day of delay until the Work is substantially complete: One Hundred Fifty Dollars (\$100.00) per day.

ARTICLE 3 CONTRACT SUM

estimated

3.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be Seven hundred ninety nine thousand eleven & 10/100 Dollars (\$ 799,011.10)

subject to additions and deletions as provided in the Contract Documents

This shall be a unit price contract



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3.2 The Contract Sum is based upon the following alternates if any which are described in the Contract Documents and are hereby accepted by the Owner
(State the number or other identification of accepted alternates. If decision on other alternate are to be made by the Owner subsequent to the execution of this Agreement attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

See Attachment A

3.3 Unit prices if any are as follows

See Attachment A

ARTICLE 4 PAYMENTS

4.1 PROGRESS PAYMENTS

4.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents. The period covered by each Application for Payment shall be one calendar month ending on the last day of the month or as follows. The Contractor will submit an estimate of work completed each month. Progress payments will be made to the Contractor each month for the estimated value of work completed and materials stored at the project site with retainage held as follows. See Page 21 Article 20 for continuation.

4.1.2 Provided that an Application for Payment is received by the Architect not later than the last day of a month the Owner shall make payment to the Contractor not later than the last day of the next month. If an Application for Payment is received by the Architect after the date fixed above payment shall be made by the Owner not later than thirty days after the Architect receives the Application for Payment.



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4.1.3 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below or in the absence thereof at the legal rate prevailing from time to time at the place where the Project is located
(Interest rate of interest agreed upon if any)

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate of Eighteen Percent (18%) per year until payment is made by Owner

(Usury law and requirement under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Contractor's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Legal advice should be obtained with respect to deletions or modifications and also regarding requirements such as written disclosures or waivers.)

4.2 FINAL PAYMENT

4.2.1 Final payment constituting the entire unpaid balance of the Contract Sum shall be made by the Owner to the Contractor when:

1. the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Paragraph 17.2 and to satisfy other requirements if any which extend beyond final payment and
2. a final Certificate for Payment has been issued by the Architect

4.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment or as follows:

See Page 21 Article 20 for continuation

ARTICLE 5 ENUMERATION OF CONTRACT DOCUMENTS

5.1 The Contract Documents are listed in Article 6 and except for Modifications issued after execution of this Agreement are enumerated as follows:

5.1.1 The Agreement is this executed 1997 edition of the Abbreviated Standard Form of Agreement Between Owner and Contractor AIA Document A107 1997

5.1.2 The Supplementary and other Conditions of the Contract are those contained in the Project Manual dated _____ and are as follows:

Document	September 2001 Title	Pages

Special Conditions to the Agreement
General Conditions to the Agreement



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5.1.3 The Specifications are those contained in the Project Manual dated as in Subparagraph 1.2 and are as follows
(Either list the Specifications here or refer to an exhibit attached to this Agreement)

Section	Title	Pages

The specifications shall be those of the governing authorities

5.1.4 The Drawings are as follows and are dated _____ unless a different date is shown below
(Either list the Drawings here or refer to an exhibit attached to this Agreement)

Number	Title	Pages

Plans by Letts Associates Inc for The Courtyards at Rolling Creek Phase 1 dated September 14 2001 sheets 1 of 15 through 15 of 15

5.1.5 The Addenda if any are as follows

Number	Date	Pages

Addendum #1	October 10 2001	
Addendum #2	October 11 2001	

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 5

5.1.6 Other documents if any forming part of the Contract Documents are as follows
(List any additional documents which are intended to form part of the Contract Documents)

None



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GENERAL CONDITIONS

ARTICLE 6 GENERAL PROVISIONS

6.1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement with Conditions of the Contract (General Supplemental and other Conditions) Drawings Specifications Addenda issued prior to the execution of this Agreement other documents listed in this Agreement and Modifications issued after execution of this Agreement. A Modification is (1) a written amendment to the Contract signed by both parties (2) a Change Order (3) a Construction Change Directive or (4) a written order for a minor change in the Work issued by the Architect. The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary and what is required by one shall be as binding as if required by all. Performance by the Contractor shall be required to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

6.2 THE CONTRACT

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations representations or agreements either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Architect and Contractor (2) between the Owner and a Subcontractor or sub subcontractor (3) between the Owner and Architect or (4) between any persons or entities other than the Owner and Contractor.

6.3 THE WORK

The term "Work" means the construction and services required by the Contract Documents whether completed or partially completed and includes all other labor materials equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

6.4 EXECUTION OF THE CONTRACT

Execution of the Contract by the Contractor is a representation that the Contractor has visited the site become generally familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.

6.5 OWNERSHIP AND USE OF ARCHITECT'S DRAWINGS SPECIFICATIONS AND OTHER INSTRUMENTS OF SERVICE

The Drawings Specifications and other documents including those in electronic form prepared by the Architect and the Architect's consultants are Instruments of Service through which the Work to be executed by the Contractor is described. The Contractor may retain one record set. Neither the Contractor nor any Subcontractor sub subcontractor or material or equipment supplier shall own or claim a copyright in the Drawings Specifications and other documents prepared by the Architect or the Architect's consultants and unless otherwise indicated the Architect and the Architect's consultants shall be deemed the authors of them and will retain all common law statutory and other reserved rights in addition to the copyrights. All copies of them except the Contractor's record set shall be returned or suitably accounted for to the Architect on request upon completion of the Work. The Drawings Specifications and other documents prepared by the Architect and the Architect's consultants and copies thereof furnished to the Contractor are for use solely with respect to this Project. They are not to be used by the Contractor or any Subcontractor sub subcontractor or material or equipment supplier on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner Architect and the Architect's consultants. The Contractor Subcontractors



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8.1.2 Any design errors or omissions noted by the Contractor during this review shall be reported promptly to the Architect but it is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional unless otherwise specifically provided in the Contract Documents.

8.2 SUPERVISION AND CONSTRUCTION PROCEDURES

8.2.1 The Contractor shall supervise and direct the Work using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall be fully and solely responsible for the jobsite safety thereof unless the Contractor gives timely written notice to the Owner and Architect that such means, methods, techniques, sequences or procedures may not be safe.

8.2.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees and other persons or entities performing portions of the Work for or on behalf of the Contractor or any of its Subcontractors.

8.3 LABOR AND MATERIALS

8.3.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

8.3.2 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

8.3.3 The Contractor shall deliver, handle, store and install materials in accordance with manufacturers' instructions.

8.3.4 The Contractor may make substitutions only with the consent of the Owner after evaluation by the Architect and in accordance with a Change Order.

8.4 WARRANTY

The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted and that the Work will conform with the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation or normal wear and tear and normal usage.

8.5 TAXES

The Contractor shall pay sales, consumer use and other similar taxes which are legally enacted when bids are received or negotiations concluded.



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8.13 INDEMNIFICATION

8.13.1 To the fullest extent permitted by law and to the extent claims, damages, losses or expenses are not covered by Project Management Protective Liability insurance purchased by the Contractor in accordance with Paragraph 16, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Paragraph 8.13.

8.13.2 In claims against any person or entity indemnified under this Paragraph 8.13 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under Subparagraph 8.13.1 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

ARTICLE 9 ARCHITECT'S ADMINISTRATION OF THE CONTRACT

9.1 The Architect will provide administration of the Contract and will be an Owner's representative (1) during construction, (2) until final payment is due and (3) with the Owner's concurrence, from time to time during the one year period for correction of Work described in Paragraph 17.

9.2 The Architect, as a representative of the Owner, will visit the site at intervals appropriate to the stage of the Contractor's operations (1) to become generally familiar with and to keep the Owner informed about the progress and quality of the portion of the Work completed, (2) to endeavor to guard the Owner against defects and deficiencies in the Work, and (3) to determine in general if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will neither have control over or charge of, nor be responsible for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, except as provided in Subparagraph 8.2.1.

9.3 The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of and will not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

9.4 Based on the Architect's evaluations of the Work and of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

9.5 The Architect will have authority to reject Work that does not conform to the Contract Documents.



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such arbitration arises unless it is shown at the time the demand for arbitration is filed that (1) such person or entity is substantially involved in a common question of fact or law (2) the presence of such person or entity is required if complete relief is to be accorded in the arbitration (3) the interest or responsibility of such person or entity in the matter is not insubstantial and (4) such person or entity is not the Architect or any of the Architect's employees or consultants. The agreement herein among the parties to the Agreement and any other written agreement to arbitrate referred to herein shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

9.11 CLAIMS FOR CONSEQUENTIAL DAMAGES

The Contractor and Owner waive claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes:

- 1) damages incurred by the Owner for rental expenses for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- 2) damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable without limitation to all consequential damages due to either party's termination in accordance with Article 19. Nothing contained in this Paragraph 9.11 shall be deemed to preclude an award of liquidated direct damages when applicable in accordance with the requirements of the Contract Documents.

ARTICLE 10 SUBCONTRACTORS

10.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site.

10.2 Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor as soon as practicable after award of the Contract shall furnish in writing to the Owner through the Architect the names of the Subcontractors for each of the principal portions of the Work. The Contractor shall not contract with any Subcontractor to whom the Owner or Architect has made reasonable and timely objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

10.3 Contracts between the Contractor and Subcontractors shall (1) require each Subcontractor to the extent of the Work to be performed by the Subcontractor to be bound to the Contractor by the terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety, of the Subcontractor's Work which the Contractor by the Contract Documents assumes toward the Owner and Architect, and (2) allow the Subcontractor the benefit of all rights, remedies and redress afforded to the Contractor by these Contract Documents.



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ARTICLE 11 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS

11.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces and to award separate contracts in connection with other portions

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ARTICLE 14 PAYMENTS AND COMPLETION

14.1 APPLICATIONS FOR PAYMENT

14.1.1 Payments shall be made as provided in Article 4 of this Agreement. Applications for Payment shall be in a form satisfactory to the Architect.

14.1.2 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall to the best of the Contractor's knowledge, information and belief be free and clear of liens, claims, security interests or other encumbrances adverse to the Owner's interests.

14.2 CERTIFICATES FOR PAYMENT

14.2.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Architect determines is properly due, or notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in whole or in part as provided in Subparagraph 14.2.3.

14.2.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner based on the Architect's evaluations of the Work and the data comprising the Application for Payment that the Work has progressed to the point indicated and that, to the best of the Architect's knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion and to specific qualifications expressed by the Architect. The issuance of a Certificate for Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

14.2.3 The Architect may withhold a Certificate for Payment in whole or in part to the extent reasonably necessary to protect the Owner if, in the Architect's opinion, the representations to the Owner required by Subparagraph 14.2.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Subparagraph 14.2.1. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Subparagraph 8.2.2, because of:

1. defective Work not remedied
2. third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Contractor
3. failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment
4. reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum
5. damage to the Owner or another contractor



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materials and equipment for which a lien could be filed or a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien including costs and reasonable attorneys' fees.

14.5.3 The making of final payment shall constitute a waiver of claims by the Owner except those arising from:

1. liens, claims, security interests or encumbrances arising out of the Contract and unsettled;
2. failure of the Work to comply with the requirements of the Contract Documents; or
3. terms of special warranties required by the Contract Documents.

14.5.4 Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 15 PROTECTION OF PERSONS AND PROPERTY

15.1 SAFETY PRECAUTIONS AND PROGRAMS

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall take reasonable precautions for safety of and shall provide reasonable protection to prevent damage, injury or loss to:

1. employees on the Work and other persons who may be affected thereby;
2. the Work and materials and equipment to be incorporated therein; and
3. other property at the site or adjacent thereto.

The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons and property and their protection from damage, injury or loss. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, a Subcontractor, a sub-subcontractor or anyone directly or indirectly employed by any of them or by anyone for whose acts they may be liable and for which the Contractor is responsible under Subparagraphs 15.1.1 and 15.1.3 except for damage or loss attributable to acts or omissions of the Owner or Architect or by anyone for whose acts either of them may be liable and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Paragraph 8.13.

15.2 HAZARDOUS MATERIALS

15.2.1 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance including but not limited to asbestos or polychlorinated biphenyl (PCB) encountered on the site by the Contractor, the Contractor shall upon recognizing the condition immediately stop Work in the affected area and report the condition to the Owner and Architect in writing. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. The Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Contractor's reasonable additional costs of shutdown, delay and start-up which adjustments shall be accomplished as provided in Article 12 of this Agreement.

15.2.2 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants and agents and employees of any of them from and against claims, damages, losses and expenses including but not limited to attorneys' fees arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in



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property insurance on an all risk policy form including builder's risk in the amount of the initial Contract Sum plus the value of subsequent modifications and cost of materials supplied and installed by others comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance until final payment has been made as provided in Paragraph 14.5 or until no person or entity other than the Owner has an insurable interest in the property required by this Paragraph 16.4 to be covered whichever is later. This insurance shall include interests of the Owner, the Contractor, Subcontractors and sub-subcontractors in the Project.

16.4.2 The Owner shall file a copy of each policy with the Contractor before an exposure to loss may occur. Each policy shall contain a provision that the policy will not be canceled or allowed to expire and that its limits will not be reduced until at least 30 days prior written notice has been given to the Contractor.

16.5 WAIVERS OF SUBROGATION

16.5.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other and (2) the Architect, Architect's consultants, separate contractors described in Article 11, if any, and any of their subcontractors, sub-subcontractors, agents and employees for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to Paragraph 16.4 or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Contractor, as appropriate, shall require of the Architect, Architect's consultants, separate contractors described in Article 11, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers, each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

16.5.2 A loss insured under the Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds as their interests may appear, subject to requirements of any applicable mortgagee clause. The Contractor shall pay Subcontractors their just shares of insurance proceeds received by the Contractor and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their sub-subcontractors in similar manner.

ARTICLE 17 CORRECTION OF WORK

17.1 The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, whether discovered before or after Substantial Completion, and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

17.2 In addition to the Contractor's obligations under Paragraph 8.4, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Subparagraph 14.4.2, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it.



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Contract and recover from the Owner payment for Work executed and for proven loss with respect to materials equipment tools and construction equipment and machinery including reasonable overhead profit and damages applicable to the Project

19.2 TERMINATION BY THE OWNER

19.2.1 The Owner may terminate the Contract if the Contractor

- 1 persistently or repeatedly refuses or fails to supply enough properly skilled workers or proper materials
- 2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors
- 3 persistently disregards laws ordinances or rules regulations or orders of a public authority having jurisdiction or
- 4 otherwise is guilty of substantial breach of a provision of the Contract Documents

19.2.2 When any of the above reasons exists the Owner upon certification by the Architect that sufficient cause exists to justify such action may without prejudice to any other remedy the Owner may have and after giving the Contractor seven days written notice terminate the Contract and take possession of the site and of all materials equipment tools and construction equipment and machinery thereon owned by the Contractor and may finish the Work by whatever reasonable method the Owner may deem expedient Upon request of the Contractor the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work

19.2.3 When the Owner terminates the Contract for one of the reasons stated in Subparagraph 19.2.1 the Contractor shall not be entitled to receive further payment until the Work is finished

19.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work including compensation for the Architect's services and expenses made necessary thereby and other damages incurred by the Owner and not expressly waived such excess shall be paid to the Contractor If such costs and damages exceed the unpaid balance the Contractor shall pay the difference to the Owner The amount to be paid to the Contractor or Owner as the case may be shall be certified by the Architect upon application and this obligation for payment shall survive termination of the Contract.



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ARTICLE 20 OTHER CONDITIONS OR PROVISIONS

Continuation of Page 3, Article 4 1 1 Progress Payments

Status of Project Completion Retainage to be Held

0% to 49% complete	10%
50% to 99% complete	5%
100% complete	maximum of 2% to be held until written approvals are received from the governing authorities

Continuation of Page 4, Article 4 2 2 - Final Payment

Final payment shall be due and payable thirty (30) days from the date the contractor receives verbal and/or written approvals from the appropriate governmental authorities. Payment shall not be withheld due to delays in obtaining final written approvals caused by others.

Other Provisions

The term Architect as used in this agreement shall specifically refer to the consulting engineer.

The owner and/or the consulting engineer shall be responsible for inspecting and approving the installation and location of all water and sewer services. The contractor shall not be responsible for correcting problems associated with services after final payment is received. The owner shall be financially responsible for any damages to the work included in this contract which are caused by other contractors and/or subcontractors not contracted by Newman Construction Inc.

This Agreement entered into as of the day and year first written above


OWNER (Signature)


CONTRACTOR (Signature)

~~Stephen E. Lipscomb member~~
(Printed name and title)

~~Jimmy Newman president~~
(Printed name and title)

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Attachment A
CONTRACTOR S PROPOSAL

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9/26/01

THE COURTYARDS AT ROLLING CREEK PHASE I
Project # M 1007

This page revised

10/10/01 and

Streets

10/11/01

Item #	Item	Quantity	Unit	Unit Price	Extended Price
1	Clearing and Grubbing Road R.O.W. ~~Closing Utility Enclosures~~ <i>SED</i>	476	AC	30.00	14,280.00
2	Strip, Store & Replace Topsoil	LS	LS	48.00	4,800.00
3	Grading Mass/Fine	LS	LS	95,000.00	95,000.00
4	Concrete Key	1	EA	250.00	250.00
5	Silt Fence	1160	LF	3.00	3,480.00
6	Mud Mat at Entrance	1	LS	500.00	500.00
7	Curb 18" L Type	2908	LF	7.50	21,810.00
8	Curb 18" Roll Type	6552	LF	5.00	32,760.00
9	Asphalt Paving 1 1/2" <i>SED</i>	12,002	SY	3.25	39,006.50
10	Macadam 6" <i>SED</i>	12,002	SY	5.50	66,611.00
	Traffic Signs				
11	Street Name	3	EA	290.00	870.00
12	Speed Limit	3	EA	220.00	660.00
13	Traffic Circle	3	EA	260.00	780.00
14	Stop	4	EA	220.00	880.00
15	One Way	2	EA	220.00	440.00
16	Yield	1	EA	220.00	220.00
17	Pavement Ends	1	EA	220.00	220.00
18	Dead End	1	EA	220.00	220.00
19	Flowable Fill	1	CY	65.00	65.00
20	Grassing	30	AC	150.00	4,500.00
21	Construction ~~Staking~~ <i>SED</i>	LS	LS	9,800.00	9,800.00
22	Ripped Rock	1	CY	40.00	40.00
23	Blasted Rock	1	CY	50.00	50.00
24	4" PVC Conduit	350	LF	5.00	1,750.00
25	4" Wide Concrete Sidewalk	420	LF	7.50	3,150.00
	Subtotal Streets				302,142.00

Storm Drainage

Item#	Item	Quantity	Unit	Unit Price	Extended Price
1	54" CMP (Aluminum)	250	LF	72.00	18,000.00
2	54" RCP	22	LF	85.00	1,870.00
3	48" RCP	356	LF	63.50	22,606.00
4	24" RCP	523	LF	25.50	13,336.50
5	18" RCP	1388	LF	21.00	29,148.00
6	54" Flared End Section Outlet Grout Rip Rap	1	EA	600.00	600.00
7	48" Flared End Section Outlet Grout Rip Rap	1	EA	500.00	500.00
8	18" CMP (Aluminum)	140	LF	18.00	2,520.00
9	18" Flared End Section	2	EA	650.00	1,300.00
10	Rip Rap & Filter Fabric	77	CY	60.00	4,620.00
11	Underdrains	330	LF	8.50	2,805.00
12	Florida Type Catch Basin	18	EA	1,500.00	27,000.00
13	Junction Box	2	EA	1,250.00	2,500.00
14	Pedestal Type Catch Basin	1	EA	1,400.00	1,400.00
15	Flowable fill as needed	1	CY EA	65.00	65.00
16	Construction Staking	1	LS	1,400.00	1,400.00
17	Grassing	0.59	AC	3,000.00	1,770.00
18	Ripped Rock	1	CY	40.00	40.00
19	Blasted Rock	1	CY	50.00	50.00
	Subtotal Storm Drainage				131,530.50

NEWMAN CONSTRUCTION, INC

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CONTRACTOR S PROPOSAL

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THE COURTYARDS AT ROLLING CREEK PHASE I
Project # M 1007

Water System					
Item#	Item	Quantity	Unit	Unit Price	Extended Price
1	12" DIP <i>SPH 3148</i>	~~2498~~	LF	21.00	66,108.00
2	12" Cross	2	EA	650.00	1,300.00
3	12" x 6" Tee	2	EA	480.00	960.00
4	12" x 12" Tee	1	EA	500.00	500.00
5	Fire Hydrant Tee & Valve	6	EA	1,920.00	11,520.00
6	12" x 8" Reducer	2	EA	320.00	640.00
7	12" 90 Degree Bend (MJ)	2	EA	340.00	680.00
8	12" 22 1/2 Degree Bend (MJ)	3	EA	340.00	1,020.00
9	12" x 4 Reducer	1	EA	300.00	300.00
10	8 x 10" Tapping Sleeve/Valve <i>(TAP FEE) SPH</i>	1	EA	3,600.00	3,600.00
11	8 x 8 Tee	4	EA	350.00	1,400.00
12	8 90 Degree Bend	2	EA	275.00	550.00
13	8 x 4 Reducer	3	EA	180.00	540.00
14	8" Plug	1	EA	100.00	100.00
15	8 Gate Valves	7	EA	740.00	5,180.00
16	8 PVC Pipe	2,316	LF	10.50	24,318.00
17	4 PVC Pipe	1,425	LF	6.00	8,550.00
18	4 Gate Valves	5	EA	400.00	2,000.00
19	2 1/2" Blow Off Assembly	3	EA	450.00	1,350.00
20	3/4 Services Short	34	EA	220.00	7,480.00
21	3/4" Services Long	23	EA	100.00	2,300.00
22	4 Plugs	2	EA	50.00	100.00
23	12" Gate Valve	0	EA	1,380.00	-0-
24	8 DIP	40	LF	15.00	600.00
25	12" x 6" Reducer	1	EA	320.00	320.00
26	Ripped Rock	1	CY	40.00	40.00
27	Blasted Rock	1	CY	50.00	50.00
28	Construction Staking	LS	LS	1,800.00	1,800.00
29	Flowable Fill	1	CY	65.00	65.00
30	Mud Mat @ Brook View Lane	1	LS	500.00	500.00
	Subtotal Water				144,171.00

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CONTRACTOR S PROPOSAL

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THE COURTYARDS AT ROLLING CREEK PHASE I Project # M-1007

Revised

On-Site Sewer

10/11/01

Item #	Item	Quantity	Unit	Unit Price	Extended Price
	8 Gravity Sewer				
1	0-6 Cuts	1 548	LF	12.00	18,576.00
2	6-8 Cuts	1 779	LF	13.00	23,127.00
3	8 10' Cuts	749	LF	15.00	11,235.00
4	10' 12' Cuts	88	LF	17.00	1,496.00
5	DIP Extra	300	LF	8.00	2,400.00
	4 Diameter Manholes				
6	0 6' Cuts	12	EA	1,000.00	12,000.00
7	6 8' Cuts	7	EA	1,100.00	7,700.00
8	8 10' Cuts	2	EA	300.00	2,600.00
9	10 12' Cuts	1	EA	600.00	1,600.00
10	Tie to Existing Manhole	1	EA	500.00	500.00
11	8" Drop	3.5	VF	150.00	525.00
12	Long Service	39	EA	350.00	13,650.00
13	Short Service	18	EA	150.00	2,700.00
14	Flowable fill as needed	1	CY	65.00	65.00
15	Construction Staking	LS	LS	2,250.00	2,250.00
16	Ripped Rock	1	CY	40.00	40.00
17	Blasted Rock	1	CY	50.00	50.00
	Subtotal On-Site Sewer				100,514.00

Off Site Sewer Base Bid 15 & 18 Sewer Main

Item #	Item	Quantity	Unit	Unit Price	Extended Price
	18 Gravity Sewer				
1	0 6' Cuts	653	LF	22.00	14,366.00
2	6 8' Cuts	961	LF	25.00	24,025.00
3	8 10' Cuts	30	LF	28.00	840.00
4	18 DIP Extra	111	LF	35.00	3,885.00
	5 Diameter Manholes				
5	0-6' Cuts	1	EA	1,400.00	1,400.00
6	6-8' Cuts	6	EA	1,600.00	9,600.00
7	Extend Manhole 36" Above Existing Ground	7	EA	700.00	4,900.00
8	Connect to Existing Manhole	1	EA	1,500.00	1,500.00
9	Interior Coating of Manholes	49	VF	125.00	6,125.00
	15 Gravity Sewer				
10	0-6' Cuts	558	LF	17.00	9,486.00
11	6-8' Cuts	428	LF	19.00	8,132.00
12	8 10' Cuts	12	LF	22.00	264.00
	4 Diameter Manholes				
13	0-6' Cuts	1	EA	1,000.00	1,000.00
14	6-8' Cuts	3	EA	1,100.00	3,300.00
15	Extend Manhole 36" Above Existing Ground	4	EA	500.00	2,000.00
16	Interior Coating of Manholes	35	VF	125.00	4,375.00
17	Water Tight Frame & Cover	11	EA	100.00	1,100.00
18	Ripped Rock	1	CY	40.00	40.00
19	Blasted Rock	1	CY	50.00	50.00
20	Construction Staking	1	LS	1,500.00	1,500.00
21	Flowable Fill	1	CY	65.00	65.00
	Subtotal Off Site Sewer				97,953.00

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CONTRACTOR'S PROPOSAL

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THE COURTYARDS AT ROLLING CREEK PHASE I Project # M-1007

Total Streets Sewer Water & Storm Drainage Base Bid

776,311.⁰⁰

All construction staking shall be provided by the Contractor
The Contractor shall verify all quantities prior to bidding

- 1 Inlet Protection 19 EA @ 100.⁰⁰ = 1,900.⁰⁰
- 2 CLEAR off-ROAD pipe R/W 10,400 LF @ 2.⁰⁰ = 20,800.⁰⁰

GRAND Total

799,011.⁰⁰

* SEE ATTACHED NOTES to bid schedule *

OFF-SITE SEWER ALTERNATE BID

Item #	Item	Quantity	Unit	Unit Price	Extended Price
	8 Gravity Sewer				
1	0-6 Cuts	1297	LF	12. ⁰⁰	15,564. ⁰⁰
2	6-8 Cuts	1648	LF	13. ⁰⁰	21,424. ⁰⁰
3	8-10 Cuts	42	LF	15. ⁰⁰	630. ⁰⁰
4	8 DIP Extre	111	LF	8. ⁰⁰	888. ⁰⁰
	4 Diameter Manholes				
5	0-5 Cuts	3	EA	1,000. ⁰⁰	3,000. ⁰⁰
6	6-8 Cuts	9	EA	1,100. ⁰⁰	9,900. ⁰⁰
7	Tie to Existing Manhole	1	EA	500. ⁰⁰	500. ⁰⁰
8	Water Tight Frame & Cover	12	EA	100. ⁰⁰	1,200. ⁰⁰
9	Ripped Rock	1	CY	40. ⁰⁰	40. ⁰⁰
10	Blasted Rock	1	CY	50. ⁰⁰	50. ⁰⁰
11	Construction Staking	LS	LS	1,500. ⁰⁰	1,500. ⁰⁰
12	Flowable Fill	1	CY	65. ⁰⁰	65. ⁰⁰
	Subtotal				54,671. ⁰⁰

NEWMAN CONSTRUCTION, INC

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NOTES TO BID SCHEDULE
COURTYARDS AT ROLLING CREEK

Notes

- 1 Grading includes the following stake streets rough grade streets for utility installation subgrade streets after utility installation test compaction and grade shoulders for temporary seeding Grading includes on site material only (no off site borrow or disposal) and does not include any special stabilization procedures such as those listed below under if required items Decisions concerning these if required items may be referred to a soils engineer at no cost to the contractor Subgrade preparation is limited to scarifying mixing rolling and grading the streets one time and does not guarantee stabilization
- 2 This proposal assumes all portions of the project site are accessible and does not include the clearing construction and/or filling of temporary access roads
- 3 All clearing debris is to be burned on site
- 4 We prefer to use the AIA Standard Form of Agreement Between Owner and Contractor (AIA Document A107) in lieu of the agreement form in the bid package
- 5 Our records show that compaction tests are usually less expensive than flowable fill on large deep utility road crossings and at present this alternate method appears acceptable by Richland County You may want to consider this possibility however the testing costs are not included in our proposal

If required

- 1 Temporary open construction ditches 0 to 6 deep (with no compaction of backfill) @ \$3 00 per LF
- 2 Hay bales @ \$7 00 EA
- 3 Soil cement for street subgrade stabilization at 28 lbs per SY (if > 1000 SY) @ \$4 50 per SY
- 4 Soil cement for street subgrade stabilization at 28 lbs per SY (if < 1000 SY) @ \$5 50 per SY
The use of soil cement may require stripping unsuitable material and replacing it with a material suitable for mixing with cement This would be billed the same as mucking
- 5 Mucking including on site borrow and on site disposal @ \$8 00 per CY
- 6 Mucking including off site borrow and on site disposal @ \$12 50 per CY
- 7 Additional bury for fire hydrants first ½ @ \$250 00 EA each additional ½ @ \$100 00 EA
- 8 Prime @ \$ 50 per SY
- 9 Well pointing will be billed cost plus or a max of \$5 000 00 set up fee plus \$10 00 per LF
- 10 Erosion control items not listed will be billed cost plus or at a negotiated unit price
- 11 Performance and payment bonds @ 1 5% of total

Respectfully Submitted
Newman Construction Inc



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SEL PROPERTIES, LLC
1338 MAIN STREET, SUITE 1200
COLUMBIA, SOUTH CAROLINA 29211

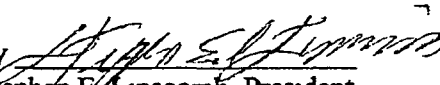
AUTHORIZATION FOR SURVEY,
MARCH 7, 2001

SEL Properties, LLC authorizes Letts Associates, Inc to proceed immediately as of March 7, 2001, with the survey of the Courtyards at Rolling Creek containing approximately 130 acres, as follows

- *Verify boundry of approximately 130 acre parcel
- *Perform work to establish a MSL benchmark onsite
- *Perform topographical survey of app 138 acres, extending to the centerline of highway 176 and including a 25 foot wide overlap onto adjoining property around the project perimeter
- *Profile the centerline of Chapin Road app 600 feet past the project in each direction
- *Prepare a topographical map of the project from field surveys, showing 2 foot contours and showing the 100 year flood plain as scaled from the FEMA map

The price for the above work is \$40,000

SEL PROPERTIES, LLC

By 
Stephen E. Lipscomb, President



3725

May 13 2002

Ms Margie Simkins
Commercial Real Estate Administrative Officer
NBSC
Post Office Box 1457
Columbia South Carolina 29202 1457

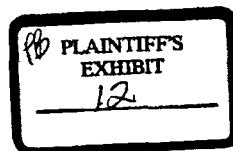
RE The Courtyards at Rolling Creek Phase I
Request for Payment of Pay Application # 5

Dear Ms Simkins

A site visit and a review of Pay Application # 5 was conducted on May 7 2002 with Mr Chad Baltzegar of Letts Associates Inc for the above referenced project All items appeared to be inline with the percent of work completed approximately 73% at time of payment request The pay application did not require any corrections although Change Order # 13 had not been signed by the Owner at the time I initially received the pay application it was sent on May 9 2002 with all required signatures The issue of Blasted Rock / Ripped Rock is now considered to be at approximately 95% complete with a small remainder to be requested for payment according to Mr Chad Baltzegar

Please note that Change Order #13 include additions as well as some reductions to the contract for this pay application To date the contract amount has increased from \$799 011 10 to the current amount of \$972 834 25 This is an overall increase to the original contract amount of \$173 823 15

Based on the site visit and Letts Associates Inc accurately verifying the contract quantities THE LPA GROUP INCORPORATED recommends payment of **\$124,752 84** to the Contractor Please find enclosed copies of reviewed Pay Application # 5 and project photographs taken during our site visit



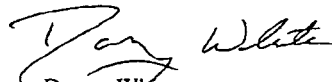
R:\Administration\private\NBSC\The Courtyards\Letters\Simkins\ 13 02 doc

Ms Margie Simkins
NBSC
May 13 2002
Page 2 of 2

If you should have any questions or comments please do not hesitate to contact me

Sincerely

THE LPA GROUP INCORPORATED



Danny White
Project Representative

Enclosures

cc Fred Kicklighter - LPA/Cola.
CR075003 1d

R:\Administration\private\NBSC\The Courtvards\Letters\Simkins\ 17 02 doc

3727

0001661

DEVELOPMENT & MARKETING AGREEMENT

W This Development and Marketing Agreement (Agreement) is made and entered into this
14 day of November 2000 by and between SEL Properties LLC (SEL) Dutch Fork Realty
 LLC (DFR) and Dutch Fork Development Group II LLC (DFDG)

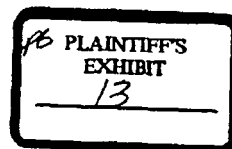
WHEREAS, SEL is the owner of the following described real estate

All that certain piece parcel of tract of land situate lying and being on the northern side of US Highway #176 about 16 miles northwest of the City of Columbia, School District #5 of Richland County near the Town of Peak, in the State of South Carolina, being shown and delineated as tract A containing 122.28 acres on plat prepared for Michael J Mungo by Belter and Smith, Inc Engineers and surveyors dated November 1 1972 recorded in the Office of the Clerk of Court for Richland County in Plat book X at page 2151 said plat being expressly incorporated herein by reference Being more particularly shown and delineated on a plat prepared by Cox & Dinkins Inc for SEL Properties LLC dated September 22 2000 to be recorded in the Richland County ROD

This property is known as Rolling Creek Estates (hereinafter referred to as the Property)

WHEREAS, DFDG has experience in obtaining regulatory approvals developing coordinating the development of and preparation by way of fair market value sales real estate with and without the improvements thereon DFR has experience in the actual marketing and sale of real estate with and without improvements thereon and

WHEREAS, SEL desires to enter into an Agreement with DFDG and DFR which will provide for the development and sale of the property



NEW THEREFORE, for valuable consideration in the form of mutual promises and covenants the parties do agree as follows

1 The Parties

SEL is a South Carolina Limited Liability Company with Stephen E Lipscomb as member/manager, DFDG is a South Carolina Limited Liability Company with Ann F Melton William P Melton, Sr and Donald Owen D' Melton as members/managers, and DFR is a South Carolina Limited Liability Company with Ann F Melton William P Melton, Sr and Donald Owen D Melton as members/managers

This Agreement is based upon certain personal experience and ability of the named individual members/managers of the respective Limited Liability Companies and should Stephen E Lipscomb cease for any reason, being actively associated with SEL or should he be no longer able physically and/or mentally to participate in the development as planned either DFR or DFDG may declare this Agreement to be null void and of no effect For the foregoing reasons should more than one member of DFR and DFDG (namely Ann F Melton, William P Melton Sr and Donald Owen D' Melton) cease for any reason, being actively associated with DFR and DFDG or should they be no longer able physically and/or mentally to participate in the development as planned, SEL may declare this Agreement to be null void and of no effect

2 Infrastructure

SEL shall exercise its best efforts to secure reasonable financing from a conventional lending institution for the purpose of purchasing the property securing engineering studies surveying landscaping and for the costs related to the infrastructure SEL shall have final approval of all costs pertaining to the development of the property

3 Phased Development

The property is to be developed in phases There shall be three (3) Phases of



Development Phase II shall not commence until no less than sixty (60%) percent of the lots in Phase I are sold and Phase III will not commence until no less than sixty (60%) percent of the lots in Phase I and Phase II are sold

4 Development

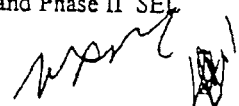
It is the intent of the parties to develop the property as a residential subdivision and to sell the lots at fair market value to the general public. In this regard DFDG will be responsible for the development of the property which responsibilities include but are not limited to obtaining all regulatory permits, devising architectural and design requirements, coordinating with builders and contractors, and coordinating and cooperating with DFR in the sale of the proposed residential lots.

5 Compensation for DFDG

For so long as DFDG is adequately performing under the terms of this Agreement and in accordance with the intent of the parties, SEL shall pay to DFDG the sum of Nine Thousand and no/100 (\$9000 00) dollars per month for a six (6 month period) for a total payment of Fifty-Four Thousand and no/100 (\$54 000 00) dollars during Phase I of the development. The first such monthly payment shall be due and payable the first day of the first month following the letting of the contract for the construction of Phase I and on the first day of each succeeding month for the remaining five (5) months.

Upon the sale of sixty (60%) percent of the lots developed in Phase I, the first month following the letting of the contract for the construction of Phase II, SEL shall pay DFDG Nine Thousand and no/100 (\$9000 00) dollars per month for a total of Six months or a total of Fifty Four Thousand and no/100 (\$54 000 00) dollars for services rendered regarding the Phase II development.

Upon the sale of sixty (60%) percent of the lots developed in Phase I and Phase II, SEL

Handwritten signature and initials in black ink, located at the bottom right of the page.

shall similarly pay DFDG Nine Thousand and no/100 (\$9000 00) dollars per month for a total of Six months or a total of Fifty Four Thousand and no/100 (\$54 000 00) dollars for services rendered regarding the Phase III development

In addition to the foregoing SEL shall pay to DFDG twenty five (25%) percent of the net profits received from the lots sold in Phases I II and III For purposes of this paragraph, net profits shall be defined as The costs of the sale of the lots less any and all expenses and capital contributions sales commissions the Nine Thousand and no/100 (\$9000 00) dollars development fee interest charges including interest on capital contributions made by SEL (which interest shall be that amount as charged by SEL's lender or the prime rate as charged by the National Bank of South Carolina, plus one percentage point whichever amount is lesser

man
5/24
END
In the event the development is not sold in individual lots but is sold "in gross" prior to the ~~beginning~~ of Phase I, the sales price of the entire property upon closing, less the initial land costs interest charged, development costs and professional fees and charges shall be divided sixty (60%) percent SEL and forty (40%) percent DFDG

6 Exclusive Right to Sell

For so long as DFR is adequately performing under the terms of this Agreement and in accordance with the intent of the parties DFR shall be entitled to a real estate commission of ten (10%) percent upon the closing of the sale of developed lots to non-builders DFR shall receive no commission for any lot sale to builders

This exclusive right to sell shall be granted to DFR for a period of five (5) years provided that DFR sells & closes no less than twenty (20%) percent of the lots available for sale per year in each Phase of the development The sale price for each lot shall be approved in advance by SEL Should SEL purchase any one or more lots in the development no commission shall be charged not shall any commission be payable

man
5/24

DFR shall also have the exclusive right to sell new homes constructed in the development at a sales commission not to exceed seven (7) percent. This exclusive right to sell shall be for a period of twelve (12) months after construction is commenced on the home.

Upon the expiration of the exclusive right to sell period for either unimproved or unproved lots, SEL and/or the owner of the lot or lots shall be free to list the same with any realtor of their choice.

All costs of sales, advertising, listing, promotion and sale marketing, offices and agents shall be the responsibility of DFR.

7 Contracts

No contracts, leases or other binding agreements may be entered into by DFDG or DFR which would bind SEL or create any lien or other encumbrance upon the property.

8 Termination

This Agreement shall terminate and be rendered null, void and of no effect upon the earlier occurrence of any one or more of the following events:

- a) The bankruptcy, insolvency or composition of creditors being created for any one or more of the parties hereto, *AT THE OPTION OF THE OTHER PARTY*
- b) The failure of DFDG and DFR to sell at least twenty (20%) percent of the available lots in *any* one year period
- c) The term of 5 years from the date of execution of this contract or
- d) The failure of any party to comply with the terms of this Agreement and/or comply with the intent of the parties
- e) Upon written notification of any one party to the other

9 Upon Termination

Upon termination, DFDG and DFR will have no further rights to compensation and/or

commission and shall peacefully vacate the premises

10 Arbitration

Any disputes arising between the parties which cannot be resolved among themselves shall be submitted to binding arbitration in accordance with the South Carolina Uniform Arbitration Act

11 Attorneys Fees and Costs

Should disputes arising under this Agreement result in litigation judicial or quasi-judicial proceedings the party prevailing shall be entitled to an award of reasonable attorneys fees and costs

12 Entire Agreement

This represents the entire Agreement between the parties superceding all prior verbal or written agreements and the same shall not be modified amended or changed except by a writing signed by all parties hereto

IN WITNESS WHEREOF we affix our hands and seals the year and date first set forth above

SEL Properties, LLC

By _____

Stephen E Lipscomb

Its _____

Dutch Fork Realty LLC

By _____

Its _____

Dutch Fork Development Group II LLC

By _____



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Business Filings Division

Information for **DUTCH FORK DEVELOPMENT GROUP II, LLC**

[Check Ch](#)

Note*** This online database was last updated on 02/16/2005 see our Disclaimer

DOMESTIC / FOREIGN Domestic
 STATUS Good Standing
 STATE OF INCORPORATION / SOUTH CAROLINA
 ORGANIZATION For Profit

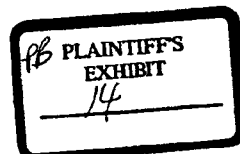
REGISTERED AGENT INFORMATION

REGISTERED AGENT NAME ANN FRAZIER MELTON
 ADDRESS 322 S CONGRESS ST
 CITY WINNSBORO
 STATE SC
 ZIP 29180 0000
 SECOND ADDRESS

FILE DATE 05/18/1998
 EFFECTIVE DATE 05/18/1998
 DISSOLVED DATE 01/01/2027

CORPORATION HISTORY RECORDS			
Code	File Date	Comment	
LLC ANNUAL REPORT	04/01/2003	LLC ANNUAL REPORT 2003/CH AGT ADD TYE 12/31	
LLC ANNUAL REPORT	08/06/2002	ANNUAL REPORT 2002 (TYE 12/31)	
LLC ANNUAL REPORT	05/07/2001	ANNUAL REPORT 1999/CH AGT/ADD	
LLC ANNUAL REPORT	05/07/2001	ANNUAL REPORT 2000	
LLC ANNUAL REPORT	05/07/2001	ANNUAL REPORT 2001	
DOMESTIC LIMITED LIABILITY COMPANY	05/18/1998	DOMESTIC LIMITED LIABILITY COMPANY (1/1/2027)	

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http://webprod.cio.sc.gov/SCSOSWeb/registeredAgentDetail.do?CORPID=290260+++++ 2/16/2005

3734

0001668



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[Search](#)

Office of the South Carolina Secretary of State

Business Filings Division

Information for

DUTCH FORK REALTY, LLC

[Check Ch](#)

Note*** This online database was last updated on 02/16/2005 see our Disclaimer

DOMESTIC / FOREIGN

Domestic

STATUS

Good Standing

STATE OF INCORPORATION /
ORGANIZATION

SOUTH CAROLINA

For Profit

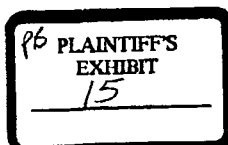
REGISTERED AGENT INFORMATION

REGISTERED AGENT NAME	ANN FRAZIER MELTON
ADDRESS	322 S CONGRESS ST
CITY	WINNSBORO
STATE	SC
ZIP	29180 0000
SECOND ADDRESS	

FILE DATE	05/18/1998
EFFECTIVE DATE	05/18/1998
DISSOLVED DATE	01/01/2027

CORPORATION HISTORY RECORDS			
Code	File Date	Comment	
LLC ANNUAL REPORT	04/17/2003	LLC ANNUAL REPORT 2002 TYE 12/31	
LLC ANNUAL REPORT	04/01/2003	LLC ANNUAL REPORT 2003/CH AGT TYE 12/31	
AMENDMENT(DOMESTIC)	05/21/2001	ANNUAL REPORT 1999	
AMENDMENT(DOMESTIC)	05/21/2001	ANNUAL REPORT 2000	
AMENDMENT(DOMESTIC)	05/21/2001	ANNUAL REPORT 2001	
DOMESTIC LIMITED LIABILITY COMPANY	05/18/1998	DOMESTIC LIMITED LIABILITY COMPANY (1/1/2027)	

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3735

0001669



Regal Award Winners

Dutch Fork

Development Group



List of services to be provided by Dutch Fork Development Group

We will be responsible for obtaining any and all licenses, permits, permissions etc that are required for the development of the subdivision. This will include but is not limited to

- 1 Zoning Changes if necessary
- 2 Planning Commission approval
- 3 Water System Permits
- 4 Sanitary Sewer System Permits
- 5 Storm Drainage System Permits
- 6 State Highway or County Road approval including entrance(s)
- 7 Environmental Studies necessary to comply with DHEC

DFDG will be responsible for submitting all initial applications and following through the process and reviews for final approval.

DFDG will be responsible for hiring and coordinating with a certified design engineer to provide the design and lay out of the entire subdivision including individual lots, entrances, roads, common areas, sidewalks, plus all infrastructure to include sanitary sewer system, water system and storm drainage system. Also to include lay out and infrastructure design for the Amenity Package. DFDG will also be responsible for coordinating the installation of underground electric service, natural gas service and cable TV.

The engineer will be responsible to DFDG for providing the following

- 1 The Boundary Survey
- 2 Topographic Survey
- 3 Construction Documents

This will include complete construction drawings and specifications consisting of grading, drainage, roads, water system, sanitary sewer system and erosion control. We will submit plans to reviewing agencies and obtain their approvals.

Office (803) 749 9100 or (803) 635 6427 Fax (803) 635 5515
2000 Dutch Fork Development Group, Inc. South Carolina 29063



3736

4 As-Built Drawings

Upon completion of construction, we will provide as-built drawings as required.

As-Built Water System

This will meet the requirements of County or Municipal Water & Sewer Commission and DHEC.

As-Built Sanitary Sewer System

This will meet the requirements of the Sewer Commission and DHEC

As-Built Roads & Storm Drainage

This will meet the requirements of Florence County Public Works

5 Lot Staking

Lot staking will need to be provided prior to a bonded or final plat being recorded.

6 Preliminary Plat

This plat will be prepared prior to lot staking and after the construction documents

7 Bonded Plat or Final Plat

This plat will be provided for final approvals

DFDG will provide and record covenants and restrictions, architectural review board guidelines, and rules and by laws for the homeowner's association.

DFDG will work through the Engineers to bid out the necessary contracts for construction of all infrastructure. Construction companies will be responsible directly to the engineer and the engineer directly to DFDG

DFDG will work directly with builders concerning any problems or assistance that may be needed.

LAW OFFICES
LEWIS BABCOCK & HAWKINS LLP
POST OFFICE BOX 11208
COLUMBIA SOUTH CAROLINA 29211
TELEPHONE 803/771-8000
FAX 803/733-3534
E MAIL ACL@LBHLAW.COM

A. CAMDEN LEWIS

STREET ADDRESS
1513 HAMPTON STREET
COLUMBIA SOUTH CAROLINA
29201

May 28, 2004

Dutch Fork Realty, LLC
322 S Congress Street
Winnsboro, South Carolina 29180

Dutch Fork Development Group II, LLC
322 S Congress Street
Winnsboro South Carolina 29180

RE Development and Marketing Agreement between SEL Properties, LLC (SEL) and Dutch Fork Realty, LLC (DFR) and Dutch Fork Development Group, II, LLC (DFDG)

TO WHOM IT MAY CONCERN

The above-referenced Development and Marketing Agreement is now void due to the breach of said Agreement by both DFR and DFDG. The breaches are clear in that under Paragraph 4 of the Agreement in that DFDG did not properly perform its functions as to that paragraph. Specifically, there have been numerous road problems and budget problems throughout the development.

Finally Paragraph 8 (Termination) states the Agreement shall be rendered null and void and of no effect upon

"The failure of DFDG and DFR to sell at least twenty (20%) percent of the available lots in any one year period."

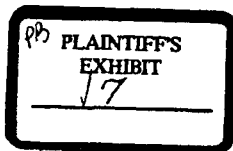
This sales requirement has not met done through the years the contract has been in existence. Therefore, under that paragraph alone, this contract is null and void.

If you have any questions, or if you want to have your attorney contact me please feel free to do so

Sincerely yours,

LEWIS, BABCOCK & HAWKINS, LLP

A Camden Lewis



ACL/kc
cc Mr Stephen Lipscomb

3738

0001672

From Ronnie Colson
To Margie Simkins
Date 8/19/03 5:29PM
Subject Re SEL

He took me out to the development yesterday and we discussed the situation. There is more to this but in a nutshell Dutch Fork Realty company (the Meltons) has a contract to sell 2 lots per month. Well you know what has been sold. Their contract expires the 22nd of August. I am meeting with Stephen again on Thursday the 28th (because I am on vacation) and the realty company and will bring everybody up to speed then. They have sold 3 spec homes out there and there is one being built by a purchaser and 2 more specs are going up. The contractor is coming back out to fix the road situation also. I will update you more later.

>>> Margie Simkins 08/19/03 04:51PM >>>
Ronnie

any news on the Sel lot releases?

>>> Ronnie Colson 07/21/03 07:59AM >>>
I will follow up on this. I am working on something else for Stephen.

>>> Margie Simkins 07/18/03 09:48AM >>>
I just wanted to update you on the status of the lot closings on this loan.

As of July there are four remaining months on this loan. The balance is \$1739.100. The 8th and last lot release was received on May 5, 2003. According to the CL-1 repayment schedule we need 2 lot releases per month to pay the loan as agreed. The loan began November 2001. 2 releases per month would total 40 lot releases to date less the 8 releases received for a deficit of 32 releases. This deficit equates to \$1276.800.

Has anyone heard of any future lot releases and if so how soon should we be expecting them?



LETTS ASSOCIATES, INC

CIVIL ENGINEERING DESIGN & CONSULTING



August 12 2002

Danny White Project Representative
The LPA Group Incorporated
700 Huger Street
Columbia, SC 29250

Re. The Courtyards at Rolling Creek-Phase I
Pay Application #8
M-1007

Dear Mr White

This letter is written to clarify change order #17 as shown on pay application #8 for the Courtyards at Rolling Creek, Phase I

The pavement section of 1 1/2" asphalt paving and 6" macadam did not meet Richland County's minimum pavement section. The pavement section was changed from 1 1/2" asphalt paving and 6" macadam, to 5 1/4" full depth asphalt. Newman Construction, Inc. submitted a request for change order for 5 1/4" full depth asphalt. \$44,407.40 was added to the contract price of \$39,006.00 and \$66,611.10 for 1 1/2" asphalt paving and 6" macadam respectively. Therefore the new contract price for 5 1/4" full depth asphalt is \$150,025.00.

Approximately 4 or 75.68% of the 5 1/4" full depth asphalt section has been installed.

Please call if you have any questions.

Sincerely,

Johnny T. Johnson, P.E.

JTJ/mw

cc Billy Melton
Jimmy Newman
Steve Lipscomb

PLAINTIFF'S
EXHIBIT

19

Memo

NBSC

Date 8/16/02
To File
From Margie Simkins
Subject SEL Properties
Loan # 04553982750 Note # 004

I am in receipt of the latest project inspection report from Danny White dated August 14 2002. This report is based on Pay Application #8 and his review was conducted August 9 2002. Danny reports the following:

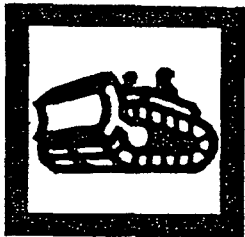
- 1 All items appear to be in line with the percentage of work completed at approximately 93% at the time of the payment request.
- 2 Danny reports the surface course of asphalt still has not been completed.
- 3 Danny further reports that some of the pay items requested for payment on this application are for 100% billing of partial payment items from previous pay applications.
- 4 Danny states that change order #17 is an increase to the original contract which changes the type of base material used for the roadway portion of the project. He has sent a letter from Letts Associates describing this work. The current pay application is requesting 24.2% payment of this change order.
- 5 Danny reports that the contract amount has increased from \$799,011.10 to the current amount of \$1,025,924.15. This is an overall increase to the original contract amount of \$226,913.05.
- 6 Danny approves payment of the current AIA in the amount of \$124,176.78.
- 7 It needs to be determined whether this should be the last project inspection that Danny makes to this site or whether one more inspection will be needed.

To Document the File

MJS:mmm

cc Wade King





NEWMAN CONSTRUCTION, INC

500 MYRTLE BEACH HWY • SUMTER SOUTH CAROLINA 29153 (803) 775 2385

October 22 2001

Mr Steve Lipscombe
Rolling Creek
c/o Dutch Fork Realty
120 Willow Creek Dr
Irmo S C 29063

Re Courtyards at Rolling Creek

Dear Mr Lipscombe

As requested we offer the following suggestions and/or comments in an effort to lower the cost of this project

1	Change paving specifications if possible to 6 SABC and 1½ asphalt surface in lieu of 8 SABC and 2 asphalt surface	Deduct	\$27 000 00
2	Adjust street grades and stockpile excess dirt if any on phase 2 street at edge of phase 1	Deduct	\$12 000 00
3	Omit seeding of off-road water and sewer pipe rights of way	Deduct	\$ 9 400 00
4	Omit 48 and 54" flared end sections and add grout to np rap	Deduct	\$ 4 400 00
5	Use filter fabric over basins in conjunction with retention area in lieu of silt fence for inlet protection	Deduct	\$ 950 00
	Total of Above Possible Deducts		<u>\$53,750.00</u>

In addition to the above

1	We are working on a deduct for the interior coating of off site manholes (current information is inadequate)	
2	We offer the following detail of rock excavation by quantity	
	<u>Blasted Rock</u>	<u>Ripped Rock</u>
	0 to 100 CY @ \$100 00/CY	0 to 100 CY @ \$ 75 00/CY
	100 to 1 000 CY @ \$ 75 00/CY	100 to 1 000 CY @ \$ 50 00/CY
	1 000 or more CY @ \$ 50 00/CY	1 000 or more CY @ \$ 25 00/CY
3	As a clarification of our bid we included the use of class III tongue and groove RCP	

Thank you for your consideration of our bid

Sincerely


Jimmy Newman
president



3742

{ For premier development
un's Short cut }

P

LETTS ASSOCIATES, INC

CIVIL ENGINEERING DESIGN & CONSULTING



October 12, 2001

FAXED MESSAGE TO 735-7033

Gordon Green
Richland County Public Works
400 Powell Road
Columbia, SC 29203

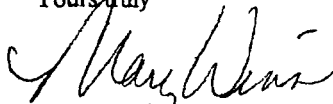
Re The Courtyards at Rolling Creek
M-1007

Dear Mr. Green,

Per our conversation today we have changed the above referenced plans to show 8 1/2 macadam on the detail page in the Pavement Section. We will also inform the selected bidder for this project of the change. We are enclosing a copy of that detail for your records.

If you have any questions please contact our office

Yours truly


Mary E. Winn
Administrative Assistant

Mw/mw

Enclosure



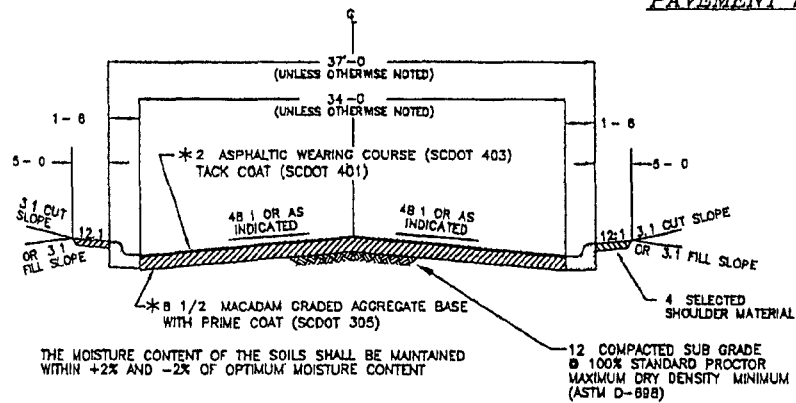
Post it* Fax Note	7671	Date	10/12/01	# of pages	2
To	Gordon Green	From	Mary		
Co./Dept		Co.	Letts		
Phone #		Phone #	798-4562		
Fax #		Fax #			

P O Box 212327 • 1343 Garner Lane Suite 200 • Columbia, SC 29221 2327 Telephone (803) 798-4562 • Facsimile (803) 798 1678

3744

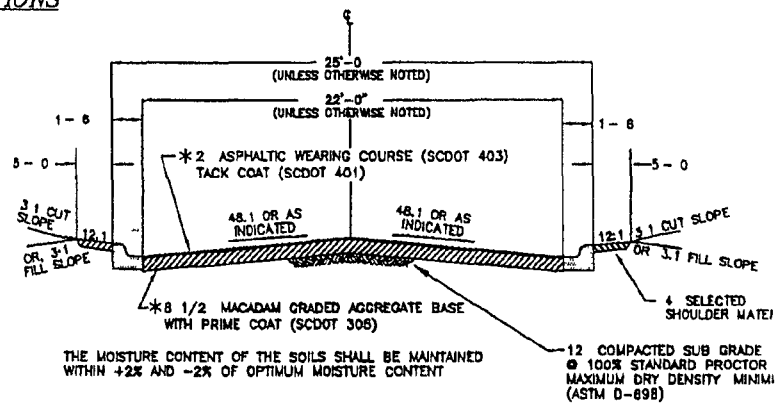
0001678

PAVEMENT SECTIONS



37' COLLECTOR CROSS SECTION

NOT TO SCALE



25' STREET CROSS SECTION

NOT TO SCALE

* NOTE THE PAVEMENT DESIGN WILL BE DETERMINED BY FIELD TESTING AND PROVIDED TO RICHLAND COUNTY FOR APPROVAL PRIOR TO CONSTRUCTION

Memo

NBSC

Date January 11 2002
To File
From Margie Simkins *msf*
Subject SEL Properties
Loan #

This memo is to document the file relative to the budget and disbursements to date

This loan closed on November 19 2001 at which time NBSC funded \$1 259 098 70 on our new \$2 001 375 loan Funds were disbursed to pay off the existing land loan of \$803 477 76 fund the interest reserve of \$250 000 and soft costs totaling \$205 620 94 That left a loan budget to fund of \$742,276 30

The budget received in January 2002 reflects the following

Construction Contract	\$799,011
Engineering	\$ 30,000
Landscaping	\$ 65 261
Rock Contingency	\$ 45 000
Interest Reserve	\$250 000
Land Acquisition	\$800 000
Origination Fee to NBSC	\$ 12,013

Other than NBSC's fee, the budget does not allow for the soft costs paid at closing Ronnie Colson has asked the author to contact the developer and get a revised budget. This was requested on January 11, 2002

In addition, NBSC has received 2 pay applications containing the following change orders

Change Order #1	+ 1,105 00
Change Order #2	+54 249 50

\$45 000 of change order #2 is covered in the rock contingency line item of the budget. This leaves \$10,354 50 to be funded by either the owner or the loan.

Also, the soft costs funded at closing need to come from some line item not yet identified

Presently, AIA #2 shows Off-Site Sewer at 123 12% complete. This has been brought to the attention of the developer who states the engineer needs to review the application before a final revised one is submitted to the bank for payment.

1224



3746

0001680

The total amount which needs to be identified in the budget is

Closing Soft Costs	\$205,620 94	
Interest paid on land payoff	3 477 76	
Commitment Fee	-12 013 75	
Total Soft Costs		\$197,084 95
Change Order #1	1 105 00	
Change Order #2	54,249 50	
Rock Contingency	-45 000 00	
		<u>\$ 10,354 50</u>
Total		\$207 439 45

A meeting is being scheduled for the week of January 14 2002 between the owner, developer, account officer and author to discuss these issues

To document the file

cc Ronnie Colson

11/19

BORROWER STATEMENT
SEL PROPERTIES, LLC
NOVEMBER 19 2001

Loan Amount

\$2 001 575 00

Less Expenses

Commitment Fee to NSBC	\$ 12 013 75
Title Exam (2) to LBH	500 00
Title Insurance Commitment to LBH	150 00
Title Insurance Premium to LBH	2 516 00
2001 Taxes to Richland County	7 039 75
Atty Fees to Ellis Lawhorne	2 000 00
Atty Fee to LBH	4 500 00
Recording Fees to Richland County	100 00
Letts Associates (Reim SEL)	173 165 44
Richland County P&D (Reim SEL)	855 00
CK Home Plans (Reim SEL)	<u>2 781 00</u>

TOTAL DISBURSEMENT AT CLOSING \$205 620 94

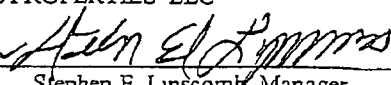
PAYOFF TO NBSC (Intrabank Transfer) \$803 477 76

INTEREST RESERVE \$250 000 00

BALANCE TO DRAW \$742 276 30

SEL PROPERTIES LLC

By


Stephen E Lipscomb Manager

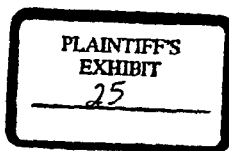
PLAINTIFF'S
EXHIBIT

24

THE COURTYARDS AT ROLLING CREEK
BUDGET PHASE ONE

INFRASTRUCTURE-----	\$799 011 -
COMMITMENRT TO NBSC-----	\$12013
TITLE EXAM (2) TO LBH-----	\$500
TITLE INS COMMITMENT TO LBH-----	\$150
TITLE INS PREMIUM TO LBH-----	\$2 516 -
201 TAXES RICHLAND CO-----	\$7039
ATTY FEES ELLIS LAWHORNE-----	\$2000
ATTY FEE TO LBH-----	\$4500
RECORDING FEE RICHLAND CO-----	\$100
ENGINEERING - LETTS ASSOCIATES-----	\$150,000
RICHLAND CO PLAN AND DEV-----	\$855
C K HOME PLANS-----	\$2781
INTEREST RESERVE-----	\$250 000
PAY OFF LAND ACQUISITION-----	\$803 477 -
CONTINGENCIES (INCLUDES ROCK)-----	\$75000
LANDSCAPING-----	\$35 000

TOTAL \$ 2 144 942



Memo

NBSC

Date 1/30/02
To File
From Margie Simkins
Subject SEL Properties
Loan # 004

This memo is to document the meeting held on January 14 2002 between the owner, Mr Steve Lipscomb the developer Mr Billy Melton the account officer Ronnie Colson, the project inspector Mr Danny White and myself

During this meeting, it was discussed that applications # 1 and # 2 of the AIA were both submitted with errors NBSC and our project inspector requested that revised AIAs be submitted prior to funding The revised AIA #1 was received corrected and that application was paid in the amount of \$68 067 97 on January 23 2002 However pay application #2 was still incorrect and another revision was requested The corrected revised AIA #2 was received on January 29 2002 and once appropriate lien waivers are signed, this AIA will be funded in the amount of \$154 513 15

During the January 14 2002 meeting it was determined by the account officer and the owner that, once the budget for the AIA contract is fully funded, the owner will begin to pay the remaining funds due on the contract

After the meeting disbursed, the account officer discussed sources of income held by the owner which could be used to cover the cost overruns Subsequently a hold was put on account # 494553982703 which has a balance of approximately \$22 000 available for funding on the SEL Properties loan In addition, it appears that the \$250 000 interest reserve may have excess funds which could also be used to cover cost overruns If the loan was fully funded over a 24 month period at a rate of 5.75% (the current rate) then \$230 000 would be sufficient to cover the interest Lot releases are expected to begin as soon as the construction is completed, thus reducing the principal balance well before the two year maturity date In addition the borrower is in the process of selling a portion of the undeveloped acreage The proceeds from this sale would be applied directly to the principal balance of the loan

After funding the second AIA, the amount of funds left to fund on the construction contract is \$622 496 98 and the balance left in the loan budget is \$562 925 22 for a shortfall of \$59 571 65 As of today the sources outlined above should be sufficient to cover the cost overruns without the borrower having to come out of pocket for additional expenses

To Document the File

MJS/mm

cc Ronnie Colson
Wade V King
Culver Choate



3750

0001684

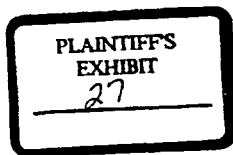
Margie Simkins SEL

From Margie Simkins
To Ronnie Colson
Subject SEL

I have pay app #8 for the period ending 6/30/02. The draw is \$124,176.78. Can you talk to Mr. Lipscomb and see when we can get this \$\$ and from where? Thanks

In the meantime, Danny White, the project inspector, is trying to get with the engineer to get some items cleared up on the AIA. He feels he may need a new one submitted because of how change order 17 is represented.

Once I hear back from Danny, I will order the title update. It should be today or tomorrow.



From Margie Simkins
To Ronnie Colson
Date 3/11/02 2 19PM
Subject SEL Properties

Hi Ronnie

This is your monthly update on SEL. We funded the 3rd draw request today in the amount of \$171 696 25. I have the 4th draw from the contractor but it has not gone through proper channels yet. However, I wanted to bring to your attention that the 4th draw shows \$59 882 in NEW change orders bringing the total change order amount to \$157 775. The contract sum is now \$956 785.

\$117 000 in change orders is for blasted/nipped rock. The other change orders are for various items. The change orders extend the project completion time by 38 days as of this draw.

Also, this is the last month that the borrower pays interest. We will begin using the interest reserve category to pay the April 1, 2002 invoice.

Finally, if we pay draw #4 as requested, the balance to finish in the budget will be \$140 651 (less whatever the project inspectors bill is for March). At this pace, after the 5th draw, Mr. Lipscomb will need begin paying the remaining draw requests.

Let me know if you have any questions. Thanks, Margie

Wade, do I need to hold funds to pay the project inspector?

CC Wade King



3752

0001686

Memo

NBSC

Date February 6 2002
To Credit File
From Millicent Munn *MM*
Subject SEL Properties, LLC
Loan No No 004

Hope Defer with Jimmy Knight's office called today and said that the satisfied mortgage on the \$800,000.00 Note 1 we paid off on November 19, 2001 when we uploaded our new loan had never been received by them. She also said that they would not be able to do anything else as far as title endorsements until this has been taken care of.

I called Teresa Jones, Sumter CLO, and was informed that the mortgage was mailed to Tom Runge on December 4, 2001. Suzanne Berkheimer, assistant to Tom Runge, stated that Mr. Runge forwarded the mortgage to Jimmy Knight as soon as he received it. I called Hope and left a voice mail for her explaining that the mortgage should have been in her office by the middle of December, 2001, and to call me if she had any questions.

To document the file



3753

0001687

Memo

NBSC

Date 1/29/02
To File
From Margie Simkins *MS*
Subject SEL Properties
Loan # 0 Note # 004

I am in receipt of the first project inspection report from Danny White of the LPA Group dated January 24 2002 Danny reports the following

- 1 All pay items appear to be in line with the percentage of work completed at the time of his site visit however the pay item for blasted rock exceeds the contract amount and Danny reports that it was apparent that there will be considerable amount of funds needed for rock removal due to the excavation needed for the installation of the underground water sewer and storm drainage systems Danny reports that a more accurate estimate for the percentage of dollars needed to complete the ripped rock could be determined as the project progresses
- 2 Danny reports that the blasted rock change order was changed by Rex Maxheimer with Letts Associates Inc and reduced from the original amount of 662 77 cubic yards to 574 64 cubic yards For accounting reasons this revision cannot be shown until AIA #2 Therefore Danny approves payment of the current AIA in the amount of \$68 657 97 providing the 88 01 cubic yards is deducted from the blasted rock quantity on pay application #2

To Document the File

MJS/mm

- cc Wade King -



3754

0001688

LOAN NAME	FUNDED TO CUSTOMER
SEL Properties	\$157,513.15
DRAW REQUEST #	N/A
DATE RECEIVED	TOTAL FUNDED \$154,513.15
PAY AMOUNT	DATE FUNDED 2/20/02
DATE	POST CLOSING ITEMS
DRAW ITEMS	
✓ Fax AIA to Project inspector with last month's spread	Foundation Survey
✓ Title endorsement received from last month?	
1/23 Order Title Update	
Ary exceptions needed before funding?	
X AIA "Are the remaining funds in NBSC's construction/site work budgets sufficient to pay the AIA balances?"	
✓ "Signature of General Contractor"	
✓ "Signature of Architect-Engineer"	
✓ "Lien Waivers?"	
✓ "Retainage %"	
✓ Change Orders #3 (\$2,424.50)	
"Copy of Change Order(s)" #3 1105.06	
Payment & Performance Bond(s)	
(Get it change accordingly)	
✓ Is insurance in place? 10-1-02 - American Contract	
General Liability 4-01-02 - Dutch Fork Dev	
Builder's Risk	
Property	
Flood	
1/4 Interest paid current or being advanced? - 1 esc draw - begin	FINAL DRAW ITEMS
1/30 Received project inspection approval? to pay at mtg	As Built Survey
Project inspection memo to file? filed in file	Permanent Insurance
Title Update received? from separate mem	Final Lien Waivers
Title Memo to file? 1/5/02 no -	Certificate of Occupancy
Check 226 screen for sufficient funds and expiration closing draw	Final Title Endorsement
of commitment	Post Construction Estoppels & SNDAs
✓ Proper Loan Officer approval (signed ticket)	
Upload advance	
Inform Customer of loan being funded	
Update draw spread	

PLAINTIFF'S
EXHIBIT
31

* Budget for construction will be short - Borrower to put eq. into loan at the end of project

* AIA#2 needs corrected - stored materials pt 1 on AIA#1 are shown by
on this AIA - need to be cut out

Lover on 2 line items - they need to be shown as Ctg orders
w/air of this - an action 11/23 - + Danny White relayed this to the
manager 11/23/21. - waiting for new/revised AIA #2

31

Memo

NBSC

Date 3/26/02
To File
From Margie Simkins *ms*
Subject SEL Properties
Loan e # 004

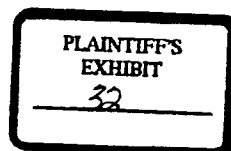
I am in receipt of the 3rd site visit report from our project inspector, Danny White of The LPA Group. Danny reports the following:

1. Danny visited the site on March 4, 2002 and, after making corrections to pay application #3, he reports that all items appear to be in line with the percentage of work completed at the time of the payment request.
2. Danny notes that the blasted rock / ripped rock is still unclear at this time. He states that although most of the excavation work has been completed, there are still some water and sewer facilities to be constructed that may necessitate additional removal.
3. Danny states that Mr. David Lovelady with Newman Construction, Inc. stated that the construction was on schedule at this time.
4. Relative to change orders #4-8, Danny reports that these change orders increase the contract to \$896,902.80, an overall increase to the original contract of \$97,891.70.
5. Danny approves payment to the contractor in the amount of \$171,696.25.

To Document the File

MJS/mm

cc: Wade King



3756

0001690

NBSC

0001691

From Margie Simkins
To Ronnie Colson
Date 3/11/02 2:19PM
Subject SEL Properties

Hi Ronnie

This is your monthly update on SEL. We funded the 3rd draw request today in the amount of \$171,696.25. I have the 4th draw from the contractor but it has not gone through proper channels yet. However, I wanted to bring to your attention that the 4th draw shows \$59,882 in NEW change orders bringing the total change order amount to \$157,775. The contract sum is now \$956,785.

\$117,000 in change orders is for blasted/nipped rock. The other change orders are for various items. The change orders extend the project completion time by 38 days as of this draw.

Also, this is the last month that the borrower pays interest. We will begin using the interest reserve category to pay the April 1, 2002 invoice.

Finally, if we pay draw #4 as requested, the balance to finish in the budget will be \$140,651 (less whatever the project inspectors bill is for March). At this pace, after the 5th draw, Mr. Lipscomb will need begin paying the remaining draw requests.

Let me know if you have any questions. Thanks, Margie

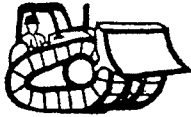
Wade, do I need to hold funds to pay the project inspector?

CC Wade King



3758

0001692



R-1002

NEWMAN CONSTRUCTION, INC.
500 MYRTLE BEACH HWY • SUMTER SC 29153-5014

August 19 2002

Mr W P Melton
S E L Properties LLC
c/o Realty Associates
P O Box 510
Winnsboro SC 29180

Re Rolling Creek Subdivision – Phase 4 (20 Lots)

Dear Mr Melton

We have enclosed is a copy of the letter we received from Richland County regarding their inspection of the roads and storm drainage system for your records

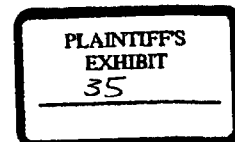
Sincerely

NEWMAN CONSTRUCTION INC

Darlene V Ivey

Darlene V Ivey
Comptroller

cc Rick Maxheimer
Steve Lipscomb



PHONE (803) 775-2385 • FAX (803) 775 1040
GRADING PAVING • UTILITIES

3759

0001693



RICHLAND COUNTY
Department of Public Works
Ballentine Office
1009 Bickley Road
Irmo South Carolina 29063
Voice (803) 749-9346 Facsimile (803) 749 1620

August 7 2002

Re Rolling Creek Phase 4

Dear Mr Newman

I made an inspection in the Rolling Creek Subdivision Phase 4 I found the pavement and curb to be in good condition The catch basins and outlet pipe were clean and in good condition The shoulders had been graded and sloped and were in good condition At some later date a complete final inspection will be performed at your request.

If you have any questions please contact me at 749-9346

Sincerely

A handwritten signature in cursive script, appearing to read "Stevan L. Amick".

Stevan L. Amick
Associate Engineer

3760

0001694

GS₂ ENGINEERING & ENVIRONMENTAL CONSULTANTS, INC

Columbia Main Office
7 Clusters Court
Columbia SC 29210
(Office) (803) 750-1510
(Fax) (803) 750-0773

Charleston Office
1716 Pineview Road Suite D
Charleston SC 29407
(Office) (843) 763-4093
(Fax) (843) 763-4094

Bluffton Field Office
PO Box 2143
Bluffton, SC 29910
(Office) (843) 837-8688

October 10 2001

Letts Associates Inc
P O Box 212327
Columbia South Carolina 29221

Attention Mr Rick Maxheimer, P E

Reference **Report of Subsurface Exploration for Pavement Recommendations
The Courtyards at Rolling Creek
U S Hwy 176 (Broad River Road)
Richland County, South Carolina
Project No 01-645**

Dear Mr Maxheimer

This report presents our pavement recommendations for The Courtyards at Rolling Creek in Richland County South Carolina. Information obtained from our subsurface exploration has been used to evaluate the existing site conditions for the use of developing design parameters for the proposed development. This report was performed in general accordance with our proposal No P370-01.

Recommendations detailed in this report are specific to the soil conditions in the immediate vicinity of the boring locations for this particular project. This report does not include any environmental assessment of soils, surface water or groundwater, the determination of wetlands, the determination of noise impact, the assessment of air quality, the identification of cultural resources, and the identification of endangered species. These services are beyond the scope of services for pavement recommendations.

PROJECT INFORMATION

Site Location

The site is located approximately two miles northwest of the intersection of I-26 and U S Hwy 176 (Broad River Road) on the north side of U S Hwy 176 in Richland County South Carolina. The location of the site relative to nearby streets is shown in the "Site Location Map" Figure 1 in Appendix A.



Site Description

At the time of our visit the entire proposed phase of the development was heavily wooded with mature pine and hardwood trees. Several dry creeks beds were noted throughout the site with rock exposed at depths of about 3 to 4 feet below surrounding ground surface. Also a power line was observed running adjacent to U S Hwy 176 (Broad River Road). Access was gained to the site from U S Hwy 176.

Site Topography

The topography in the vicinity of the site consists of a series of steep ridges and natural troughs. More specifically the proposed subdivision appears to be located along the side and toes slopes of a small ridge in Richland County South Carolina. Ground surface elevations across the site appear to range from about 328 to 404 feet mean sea level. Surface runoff in the vicinity of the site appears to drain to the on-site tributaries of Boyd Branch and eventually to the east and south. General topographic information was obtained from the USGS Chapin and Richtex topographic quadrangles. Figure 1 in Appendix A. Detailed topographic information was obtained from the Grading and Drainage Plan provided by Letts Associates Inc. dated September 14, 2001.

Proposed Development

We understand that the subdivision is planned to consist of approximately 200 +/- lots with about 4200 linear feet of paved drives. Anticipated traffic volumes were not available at the time of this exploration but have been assumed and are presented in the Pavement Thickness Recommendations section of this report.

SUMMARY

Thirteen hand augered soil borings were performed to refusal depths of 8 inches to 1 1/2 feet along the proposed roadway alignment. The borings were performed at the approximate locations shown on the "Boring Location Plan" Figure 2 in Appendix A.

Topsoil encountered at the boring locations was on the order of 1 inch in thickness. Below the topsoil the borings encountered typical residual Piedmont soils consisting of fine sandy silts with rock fragments to refusal depths.

The on-site soils appear to be generally suited to support the proposed structure and for use as structural fill provided the recommendations made in this report are followed. Ripping of PWR and very stiff residual soils will likely be necessary at relatively shallow depths.



SITE CONDITIONS

Site Geology

The site is located in the Piedmont Physiographic Province of South Carolina near the Carolina Slate Belt. Weathering of the underlying igneous and metamorphic rocks formed the soils of this region. The resulting residual formations are highly variable in composition and thickness with considerable variations in depth to bedrock over relatively short horizontal distances. The transition from residual soil to the underlying parent material may be gradual with a zone of very hard soil and partially weathered rock containing large boulders or lenses of hard rock existing above the bedrock.

According to the USDA Soil Survey of Richland County, South Carolina, the near surface soils in the vicinity of the site belong to the Altavista, Georgeville, and Nason soils series. The Nason soils consist of deep, well drained, moderately permeable soils that formed in residuum weathered from the Carolina slate that are found on broad and narrow upland ridges and on side slopes in the Piedmont province. The Georgeville soils consist of deep, well drained, moderately permeable soils that formed in residuum weathered from Carolina slate and are found on uplands in the Piedmont province. The Altavista soils consist of deep, moderately permeable, moderately well drained soils that formed in loamy sediment on terraces of streams and are found in the Slate Belt of the Piedmont province.

Soil Conditions

The subsurface conditions within the proposed roadway alignment were explored with thirteen (13) hand augered soil borings with Dynamic Cone Penetrometer (DCP) tests at regular intervals to refusal depths ranging between 8 inches and 1-1/2 feet. The approximate boring locations are shown on the Boring Location Plan, Figure 2 in Appendix A. The borings were located in the field by measuring, pacing, and estimating right angles from existing site features.

The subsurface conditions encountered at the boring locations are detailed on the attached "Hand Boring Logs." These logs represent our interpretation of the subsurface conditions at the boring locations based on our visual and textural examination of the recovered soil samples. The horizontal lines in the Soil Description column of the boring logs represent an approximate interface between various soil strata. It is important to understand that these horizontal lines represent an estimated depth of soil variance where as the actual soil change may be gradual.

Topsoil encountered at the boring locations was on the order of 1 inch in thickness. The soils encountered in the borings conducted in the roadway area consisted of sandy silts mixed with shale and quartz fragments. DCP values observed in these soils ranged from 16 to 25+ blows per increment. It is important to note that the diameter of the rocks encountered increased with depth and it is believed that the borings refused due to size and hardness of the rocks.



Groundwater

Free groundwater was not encountered in the borings at the time of boring or twenty-four hours after the time of boring. However, Boyd Branch was observed to be present on-site with some pockets of standing water observed. It is likely that the water observed was perched and not true groundwater. Groundwater levels are dependent on many factors and can experience seasonal fluctuations and various other fluctuations due to precipitation, construction activities, and many other factors.

CONCLUSIONS AND RECOMMENDATIONS

The borings performed during this exploration indicate that the existing site soils appear suitable for the proposed development, provided the soil conditions at the site do not vary greatly from those encountered in our borings and that our recommendations presented in the following sections of this report are followed.

Fine-grained soils such as those found at the surface of this site are typically sensitive to variations in moisture content with a relatively narrow range of workable moisture contents. Therefore, close control of moisture content will probably be necessary during grading and fill placement operations. In addition, the soils at this site may become difficult to work during periods of wet weather. Grading operations under wet conditions may result in deterioration of otherwise suitable soil conditions or of previously placed and properly compacted fill.

For this site, it is anticipated that an average of 1 to 3 feet of workable soil will be available for grading prior to encountering solid rock. Below these depths, ripping of the partially weathered rock and the hard to very hard residual soil layers will likely be necessary. Piedmont rock formations typically weather in a block-like structure with lenses and boulders of harder, more durable rock sometimes existing above the intact bedrock. Therefore, the likelihood of encountering intact sections of sound rock increases with the depth of excavation. During grading operations, it is likely that solid boulders will be encountered. These boulders should be broken-up into diameters no greater than 6 inches, mixed with soil, and placed at the bottom of the deepest fill sections. Due to the inconsistent nature of this type of fill material, it may be inefficient and costly to perform the standard compaction tests. Therefore, we would recommend that the fill sections containing this rock be proof-rolled by our personnel. In addition, to present a more uniform bearing strata, it will be necessary to place an 18 inch thick layer of homogenous soil at the surface in the pavement areas. Where finished subgrade lies within 18 inches of the existing ground surface, it may be necessary to rework the exposed soils in order to remove encountered rock boulders.

Also, some dewatering and stabilization of wet soils may be required where the roadway is planned to cross Boyd Branch. The necessity for these remedial activities should be assessed during grading operations by the geotechnical engineer or a qualified engineering technician.



Site Preparation

Any vegetation and organic laden soils should be removed from structurally loaded or fill areas and wasted off site or in areas to be landscaped prior to placement of structural fills

It is likely that the removal of the existing trees and their associated root mat within the pavement areas will result in the creation of large voids making the surrounding grades uneven

Upon completion of the removal of any vegetation and organic soils and the regrading of the near-surface soils the proposed cut sections of the building should be carefully inspected and proofrolled to detect locally yielding soils. Proofrolling should be performed with a loaded 15 to 20 ton tandem-axle dump truck (or equivalent) and observed by a qualified geotechnical engineer. The truck should make at least four passes over each section of the exposed soils.

Any localized areas of yielding soft and/or saturated soils identified during the proofroll will need to be densified in place or undercut and the removed soil replaced with properly compacted fill. All fill should be monitored and placed in general accordance with the recommendations presented in the structural fill section of this report.

Water Management

The exposed soils and recently placed fill soils should be well drained to minimize the accumulation of stormwater runoff. If the exposed subgrade soils are not as anticipated or become excessively wet, the geotechnical engineer should be consulted.

The on-site soils appear to be susceptible to extensive erosion. Therefore proper erosion control (silt fences, grassing, etc.) should be established shortly upon achieving finished grades. Some reworking of eroded soil sections may be necessary prior to applying pavement sections.

Structural Fill

All fill should be placed in general accordance with the recommendations made in the following paragraphs of this section.

Prior to the placement of fill soils, representative soil samples should be obtained and tested to determine their classification and compaction characteristics. Optimum fill material should be free of debris and any fibrous organic material or organic soils and should have a Plasticity Index (PI) less than 25. We recommend that fibrous organic material found in the fill materials be no more than 5 percent by weight. Compaction characteristics of the fill soils should be determined using the laboratory Standard Proctor density test, ASTM D698, "Moisture-Density Relations of Soils and Soil-Aggregate Mixtures Using 5.5-lb Rammer and 12-in Drop".

Fill material should be placed in no more than 8 inch thick lifts, loose measurement, and within 2 percent of the optimum moisture content determined by ASTM D698. All fill material placed



beneath pavement areas should be compacted in accordance with requirements set forth in the South Carolina Department of Transportation Standard Specifications for Highway Construction - Edition of 2000 Macadam or coquina base course if used should be compacted to 100% of the modified proctor maximum dry density

Placement of the fill material should be observed and tested by a geotechnical engineer or qualified engineering technician as placement of the fill progresses Compaction testing should be performed at a minimum frequency of three tests per lift per 2500 square feet.

Pavement Thickness Recommendations

Based on the soil types laboratory grain size testing results and consistencies encountered and our experience with similar projects we have assumed a design CBR value of 5 for the silt encountered at the site

For the pavements the average daily traffic volume was assumed to consist of 1000 two-axle vehicles plus 2 light duty trucks The pavement was designed using the Asphalt Institute's Thickness Design for Asphalt Pavements for Highways and Streets (MS-1)

Based on the subgrade conditions and anticipated traffic loads the following pavement sections are recommended for the light duty pavement sections

Full-Depth Asphalt Pavement

- 2-1/2 SCDOT Hot Laid Asphalt Concrete Surface Course - Type 3
- 3-1/2 SCDOT Hot Laid Asphalt Concrete Binder Course
- 18" Stabilized Subgrade Soils (i.e. excavation or densification in-place) as determined by our staff during grading operations

Or

Aggregate Based Pavement

- 2-1/2" SCDOT Hot Laid Asphalt Concrete Surface Course - Type 3
- 6" SCDOT Graded Aggregate Base Course
- 18" Stabilized Subgrade Soils (i.e. excavation or densification in-place) as determined by our staff during grading operations

All pavements should be constructed in accordance with the applicable sections of the South Carolina Department of Transportation Standard Specifications for Highway Construction - Edition of 2000 and addendums The asphalt mixes should include hydrated lime as an anti-strip agent



BASIS FOR RECOMMENDATIONS

The recommendations presented in this report are based on our understanding of the project information our interpretation of the data obtained during our exploration and our experience with similar soil and project conditions. The Dynamic Cone Penetrometer (DCP) values obtained at the boring locations have been used to estimate existing soil conditions at this specific site. Regardless of the thoroughness of this exploration it is possible that the soil conditions intermediate of the borings vary from the soil conditions encountered at the boring locations. Therefore it will be necessary for a geotechnical engineer or qualified engineering technician to be present during grading operations in order to evaluate and document that the anticipated design conditions actually exist.

If the design requirements change or if there is any additional information which needs to be addressed please inform us so that we may review our conclusions and recommendations and make any necessary modifications.

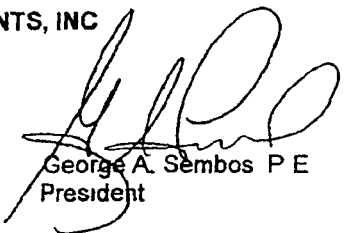
CLOSING

Once again we appreciate the opportunity to provide your geotechnical consulting needs. If there are any questions concerning our recommendations or if additional information becomes available please contact us at 803/750-1510.

Sincerely,

GS₂ ENGINEERING & ENVIRONMENTAL CONSULTANTS, INC

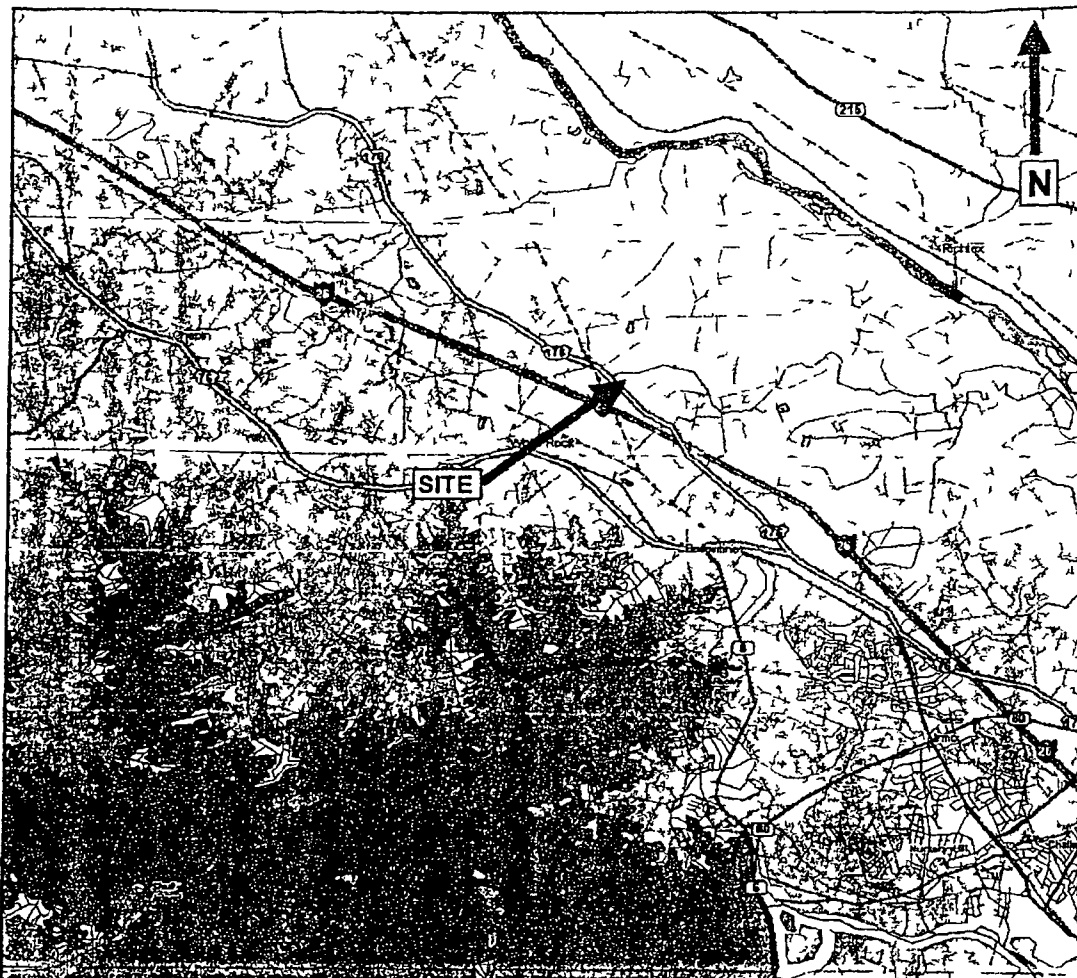

David G. Fancher
Project Manager


George A. Sembos P E
President


GS₂ ENGINEERING &
ENVIRONMENTAL CONSULTANTS INC.

APPENDIX A

Figures



TopoQuads Copyright © 1999 DeLorme Yarmouth, ME 04098

1:3368 ft Scale 1:125,000 Details 10-6 Datum WGS84

Source DeLorme dated 1999

Prepared By/Date *DS* 1/10/01
 Checked By/Date *CS* 1/10/01

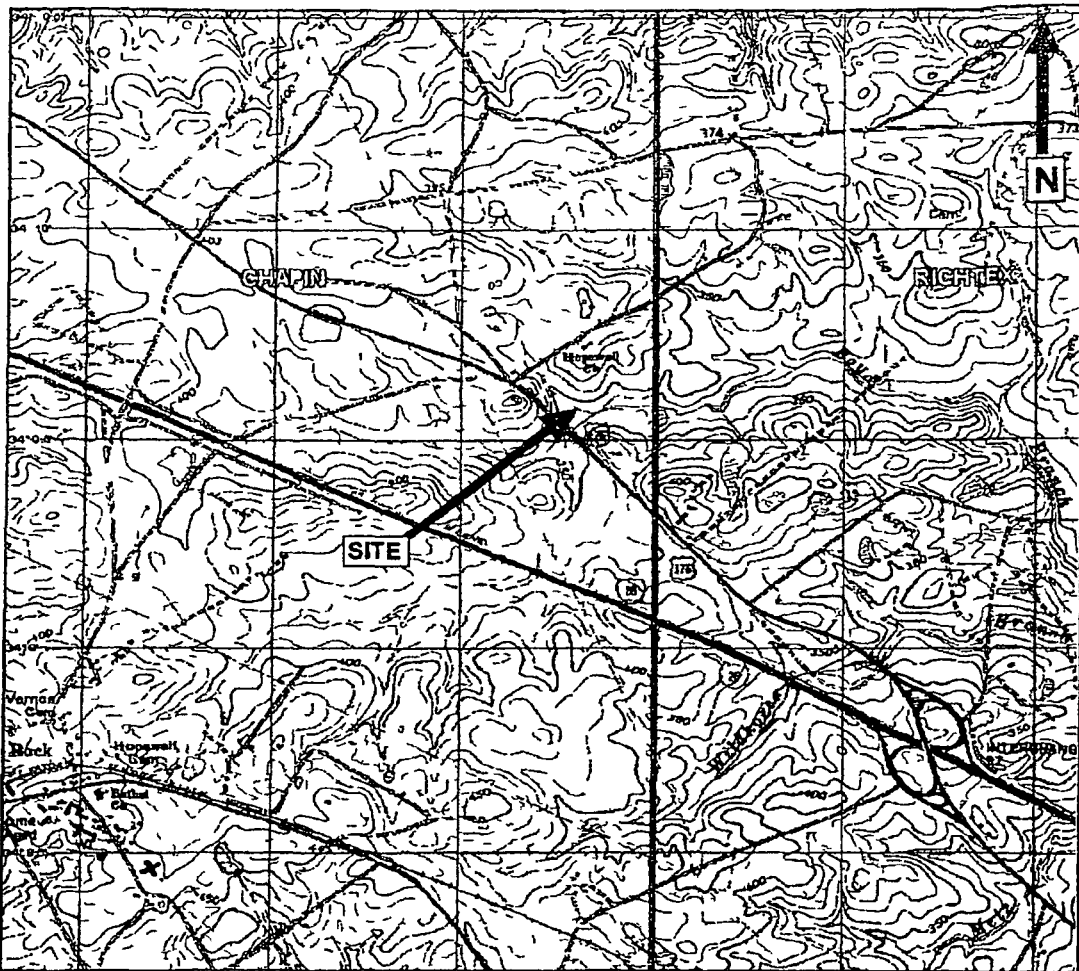
GS₂ ENGINEERING &
 ENVIRONMENTAL CONSULTANTS INC

Site Location Map
 The Courtyards at Rolling Creek
 U S Hwy 176 (Broad River Road)
 Richland County South Carolina

Letts Associates Inc
 P O Box 212327
 Columbia South Carolina 29221

Scale
 1 inch = 10 000 feet

Figure 1



Topo-Quads Copyright © 1999 DeLorme, Yarmouth, ME 04096 Source Data USGS

750 25 Scale 1:25,000 Detail 1:50,000 Datum WGS84

Source USGS Topographic Maps, Chapin and Richtex Quadrangles
presented by DeLorme, dated 1999

Prepared By/Date  1/10/01
Checked By/Date  1/10/01

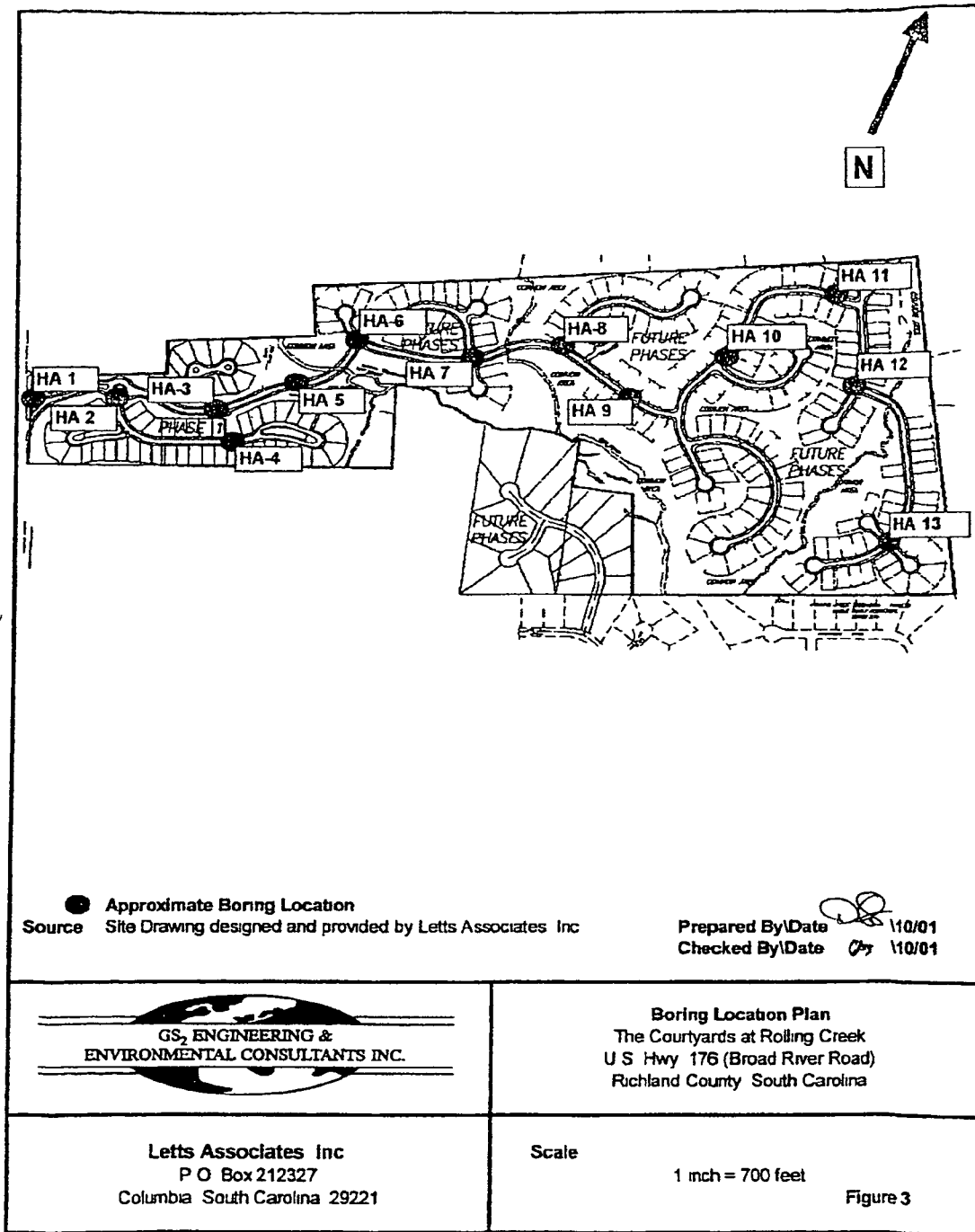

GS₂ ENGINEERING &
ENVIRONMENTAL CONSULTANTS INC

Topographic Map
The Courtyards at Rolling Creek
U S Hwy 176 (Broad River Road)
Richland County South Carolina

Letts Associates Inc
P O Box 212327
Columbia South Carolina 29221

Scale
1 inch = 1974 feet

Figure 2



APPENDIX B

Boring Logs

GS₂ ENGINEERING & ENVIRONMENTAL CONSULTANTS, INC

BORING LOG KEY

The color/pattern soil description detailed below appears in the remarks section of the BORING LOGS in Appendix B of this report

<u>COLOR/PATTERN</u>	<u>PRIMARY SOIL TYPE</u>	<u>DESCRIPTION</u>
	TOPSOILS	Topsoils typically combine a mixture of soils and organic materials. Topsoils are typically recognized through texture and odor.
	SANDS	Sands are considered to be a granular soil type with no cohesive properties. Grain sizes are categorized as fine (falls between 0.075 and 0.420 mm in diameter), medium (falls between 0.420 and 2 mm in diameter) or coarse (falls between 2 and 4.75 mm in diameter).
	SILTS	Silt grain sizes typically fall between 0.002 and 0.075 mm in diameter. The Atterberg's limits for silts typically plot below the A-Line on a Plasticity Chart. Silts are typically distinguished as having a Low Plasticity (P _I is between 0 and 22) or as having a High Plasticity (P _I is between 22 and 59). Silts exhibit some cohesive properties.
	CLAYS	Clay grain sizes typically are smaller 0.002 mm in diameter. The Atterberg's limits for clays typically plot on or above the A-Line on a Plasticity Chart. Clays are typically distinguished as having a Low Plasticity (P _I is between 0 and 22) or as having a High Plasticity (P _I is between 22 and 59). Clays exhibit strong cohesive properties.

Note: The above detailed colors/patterns are indicative of the predominant soil type observed in the indicated soil strata at the Hand Boring locations for the subject site. Secondary soil types are touched upon in the Soil Description column of the BORING LOGS. All soil descriptions are based on visual and textural properties observed in the recovered soils. No laboratory tests were performed on the soils described in this report.

GS₂ ENGINEERING & ENVIRONMENTAL CONSULTANTS, INC**HAND BORING LOG**Project Name The Courtyards at Rolling CreekBoring Number HA-1Project Number 01-645Date of Test: October 9, 2001

Depth (feet)	Soil Description	Depth of Test	Blow Counts			Remarks
			1st	2nd	3rd	
	TOPSOIL (1 inch)	0	16	25+	-	
1	Tan fine sandy SILT with rock fragments	1	25+	-	-	
2	Boring refused at 1 1/2 feet					
3						
4						
5						
6						
7						
8						
9						
10						

Depth of Boring 1-1/2 FeetLocation of Boring See Boring Location PlanDepth of Groundwater TOB None PresentMethod of drilling Hand AugerDepth of Groundwater 24 hrs N/APerformed By D. Fancher/A. Redfern

Note: The Blow Counts given above are recorded for a seating interval of 2 inches followed by two 1 3/4 inches intervals using a Dynamic Cone Penetrometer. The Dynamic Cone Penetrometer consists two major elements the conical point which is driven by a manually operated 15 pound slide hammer which falls a distance of 20 inches.

GS, ENGINEERING & ENVIRONMENTAL CONSULTANTS, INC**HAND BORING LOG**Project Name The Courtyards at Rolling CreekBoring Number HA 2Project Number 01-645Date of Test October 9, 2001

Depth (feet)	Soil Description	Depth of Test	Blow Counts			Remarks
			1st	2nd	3rd	
1	TOPSOIL (1 inch)	0	25+		-	
	Tan fine sandy SILT with rock fragments	1	25+			
	Boring refused at 1 foot.					
2						
3						
4						
5						
6						
7						
8						
9						
10						

Depth of Boring 1 FootLocation of Boring See Boring Location PlanDepth of Groundwater TOB None PresentMethod of drilling Hand AugerDepth of Groundwater 24 hrs N/APerformed By D Fancher/A Redfern

Note: The Blow Counts given above are recorded for a seating interval of 2 inches followed by two 1 3/4 inches intervals using a Dynamic Cone Penetrometer. The Dynamic Cone Penetrometer consists two major elements the conical point which is driven by a manually operated 15 pound slide hammer which falls a distance of 20 inches.

GS₂ ENGINEERING & ENVIRONMENTAL CONSULTANTS, INC**HAND BORING LOG**Project Name The Courtyards at Rolling CreekBoring Number HA-3Project Number 01-645Date of Test. October 9, 2001

Depth (feet)	Soil Description	Depth of Test	Blow Counts			Remarks
			1st	2nd	3rd	
	TOPSOIL (1 inch)	0	25+		-	
1	Tan fine sandy SILT with rock fragments	1	25+		-	
2	Boring refused at 1 foot.					
3						
4						
5						
6						
7						
8						
9						
10						

Depth of Boring 1 FootLocation of Boring. See Boring Location PlanDepth of Groundwater TOB None PresentMethod of drilling Hand AugerDepth of Groundwater 24 hrs. N/APerformed By D. Fancher/A. Redfern

Note: The Blow Counts given above are recorded for a seating interval of 2 inches followed by two 1 3/4 inches intervals using a Dynamic Cone Penetrometer. The Dynamic Cone Penetrometer consists two major elements the conical point which is driven by a manually operated 15 pound slide hammer which falls a distance of 20 inches

GS₂ ENGINEERING & ENVIRONMENTAL CONSULTANTS, INC**HAND BORING LOG**Project Name The Courtyards at Rolling CreekBoring Number HA-4Project Number 01-645Date of Test October 9, 2001

Depth (feet)	Soil Description	Depth of Test	Blow Counts			Remarks
			1st	2nd	3rd	
1	TOPSOIL (1 inch)	0	25+	-		
	Red silty fine sandy CLAY with rock fragments	1	25+	-		
	Red and white silty fine sandy CLAY with rock fragments					
2	Boring refused at 1 1/2 feet					
3						
4						
5						
6						
7						
8						
9						
10						

Depth of Boring 1 1/2 FeetLocation of Boring See Boring Location PlanDepth of Groundwater TOB None PresentMethod of drilling Hand AugerDepth of Groundwater 24 hrs N/APerformed By D Fancher/A Redfern

Note: The Blow Counts given above are recorded for a seating interval of 2 inches followed by two 1 3/4 inches intervals using a Dynamic Cone Penetrometer. The Dynamic Cone Penetrometer consists two major elements the conical point which is driven by a manually operated 15 pound slide hammer which falls a distance of 20 inches

GS₂ ENGINEERING & ENVIRONMENTAL CONSULTANTS, INC**HAND BORING LOG**Project Name The Courtyards at Rolling CreekBoring Number HA-5Project Number 01-645Date of Test October 9, 2001

Depth (feet)	Soil Description	Depth of Test	Blow Counts			Remarks
			1st	2nd	3rd	
1	TOPSOIL (1 inch)	0	22	25+		
	Tan fine sandy SILT with rock fragments.	1	25+	-		
2	Boring refused at 1 1/2 feet.					
3						
4						
5						
6						
7						
8						
9						
10						

Depth of Boring 1-1/2 FeetLocation of Boring See Boring Location PlanDepth of Groundwater TOB None PresentMethod of drilling Hand AugerDepth of Groundwater 24 hrs. N/APerformed By D. Fancher/A. Redfern

Note: The Blow Counts given above are recorded for a seating interval of 2 inches followed by two 1 3/4 inches intervals using a Dynamic Cone Penetrometer. The Dynamic Cone Penetrometer consists two major elements the conical point which is driven by a manually operated 15 pound slide hammer which falls a distance of 20 inches

GS₂ ENGINEERING & ENVIRONMENTAL CONSULTANTS, INC

HAND BORING LOG

Project Name The Courtyards at Rolling Creek

Boring Number HA-6

Project Number 01-645

Date of Test October 9, 2001

Depth (feet)	Soil Description	Depth of Test	Blow Counts			Remarks
			1st	2nd	3rd	
1	TOPSOIL (1 inch)	0	25+	-		
	Tan fine sandy SILT with rock fragments	8	25+			
2	Boring refused at 8 inches					
3						
4						
5						
6						
7						
8						
9						
10						

Depth of Boring 8 inches

Location of Boring See Boring Location Plan

Depth of Groundwater TOB None Present

Method of drilling Hand Auger

Depth of Groundwater 24 hrs. N/A

Performed By D. Fancher/A. Redfern

Note: The Blow Counts given above are recorded for a seating interval of 2 inches followed by two 1-3/4 inches intervals using a Dynamic Cone Penetrometer. The Dynamic Cone Penetrometer consists two major elements the conical point which is driven by a manually operated 15 pound slide hammer which falls a distance of 20 inches

GS, ENGINEERING & ENVIRONMENTAL CONSULTANTS, INC**HAND BORING LOG**Project Name The Courtyards at Rolling CreekBoring Number HA-7Project Number 01-645Date of Test October 9, 2001

Depth (feet)	Soil Description	Depth of Test	Blow Counts			Remarks
			1st	2nd	3rd	
	TOPSOIL (1 inch)	0	25+	-	-	
1	Tan fine sandy SILT with rock fragments	1	25+	-	-	
2	Boring refused at 1 foot.					
3						
4						
5						
6						
7						
8						
9						
10						

Depth of Boring 1 FootLocation of Boring See Boring Location PlanDepth of Groundwater TOB None PresentMethod of drilling Hand AugerDepth of Groundwater 24 hrs N/APerformed By D. Fancher/A. Redfern

Note: The Blow Counts given above are recorded for a seating interval of 2 inches followed by two 1-3/4 inches intervals using a Dynamic Cone Penetrometer. The Dynamic Cone Penetrometer consists two major elements the conical point which is driven by a manually operated 15 pound slide hammer which falls a distance of 20 inches.

GS, ENGINEERING & ENVIRONMENTAL CONSULTANTS, INC

HAND BORING LOG

Project Name The Courtyards at Rolling Creek

Boring Number HA-8

Project Number 01-645

Date of Test: October 9, 2001

Depth (feet)	Soil Description	Depth of Test	Blow Counts			Remarks
			1st	2nd	3rd	
	TOPSOIL (3 inches)	0	12	12	15	
1	Tan fine sandy SILT with rock fragments	1	25+	-		
2	Boring refused at 1 foot.					
3						
4						
5						
6						
7						
8						
9						
10						

Depth of Boring 1 Foot

Location of Boring See Boring Location Plan

Depth of Groundwater TOB None Present

Method of drilling Hand Auger

Depth of Groundwater 24 hrs N/A

Performed By D Fancher/A Redfern

Note: The Blow Counts given above are recorded for a seating interval of 2 inches followed by two 1-3/4 inches intervals using a Dynamic Cone Penetrometer. The Dynamic Cone Penetrometer consists two major elements the conical point which is driven by a manually operated 15 pound slide hammer which falls a distance of 20 inches.

GS₂ ENGINEERING & ENVIRONMENTAL CONSULTANTS, INC**HAND BORING LOG**Project Name The Courtyards at Rolling CreekBoring Number HA-9Project Number 01-645Date of Test October 9, 2001

Depth (feet)	Soil Description	Depth of Test	Blow Counts			Remarks
			1st	2nd	3rd	
1	TOPSOIL (1 inch)	0	9	8	8	
	Tan fine sandy SILT with rock fragments	1	25+		-	
2	Boring refused at 1-1/2 feet.					
3						
4						
5						
6						
7						
8						
9						
10						

Depth of Boring 1 1/2 FeetLocation of Boring See Boring Location PlanDepth of Groundwater TOB None PresentMethod of drilling Hand AugerDepth of Groundwater 24 hrs. N/APerformed By D. Fancher/A. Redfern

Note: The Blow Counts given above are recorded for a seating interval of 2 inches followed by two 1 3/4 inches intervals using a Dynamic Cone Penetrometer. The Dynamic Cone Penetrometer consists two major elements the conical point which is driven by a manually operated 15 pound slide hammer which falls a distance of 20 inches.

GS, ENGINEERING & ENVIRONMENTAL CONSULTANTS, INC**HAND BORING LOG**Project Name The Courtyards at Rolling CreekBoring Number HA 10Project Number 01-645Date of Test October 9, 2001

Depth (feet)	Soil Description	Depth of Test	Blow Counts			Remarks
			1st	2nd	3rd	
1	TOPSOIL (1 inch)	0	8	7	7	
	Tan fine sandy SILT with rock fragments	1	25+			
2	Boring refused at 1 1/2 feet.					
3						
4						
5						
6						
7						
8						
9						
10						

Depth of Boring 1 1/2 FeetLocation of Boring See Boring Location PlanDepth of Groundwater TOB None PresentMethod of drilling Hand AugerDepth of Groundwater 24 hrs N/APerformed By D. Fancher/A. Redfern

Note: The Blow Counts given above are recorded for a seating interval of 2 inches followed by two 1 3/4 inches intervals using a Dynamic Cone Penetrometer. The Dynamic Cone Penetrometer consists two major elements the conical point which is driven by a manually operated 15 pound slide hammer which falls a distance of 20 inches.

GS₂ ENGINEERING & ENVIRONMENTAL CONSULTANTS, INC**HAND BORING LOG**Project Name The Courtyards at Rolling CreekBoring Number HA 11Project Number 01-645Date of Test October 9, 2001

Depth (feet)	Soil Description	Depth of Test	Blow Counts			Remarks
			1st	2nd	3rd	
	TOPSOIL (1 inch)	0	5	7	25+	
1	Tan fine sandy SILT with rock fragments	1	25+	-		
2	Boring refused at 1 foot.					
3						
4						
5						
6						
7						
8						
9						
10						

Depth of Boring 1 FootLocation of Boring See Boring Location PlanDepth of Groundwater TOB None PresentMethod of drilling Hand AugerDepth of Groundwater 24 hrs N/APerformed By D Fancher/A Redfern

Note: The Blow Counts given above are recorded for a seating interval of 2 inches followed by two 1 3/4 inches intervals using a Dynamic Cone Penetrometer. The Dynamic Cone Penetrometer consists two major elements the conical point which is driven by a manually operated 15 pound slide hammer which falls a distance of 20 inches.

GS, ENGINEERING & ENVIRONMENTAL CONSULTANTS, INC

HAND BORING LOG

Project Name The Courtyards at Rolling Creek

Boring Number HA-12

Project Number 01-645

Date of Test October 9, 2001

Depth (feet)	Soil Description	Depth of Test	Blow Counts			Remarks
			1st	2nd	3rd	
1	TOPSOIL (1 inch)	0	7	4	4	
	Tan fine sandy SILT with rock fragments	1	25+	-	-	
2	Boring refused at 1 foot.					
3						
4						
5						
6						
7						
8						
9						
10						

Depth of Boring 1 Foot

Location of Boring See Boring Location Plan

Depth of Groundwater TOB None Present

Method of drilling Hand Auger

Depth of Groundwater 24 hrs N/A

Performed By D. Fancher/A. Redfern

Note: The Blow Counts given above are recorded for a seating interval of 2 inches followed by two 1 3/4 inches intervals using a Dynamic Cone Penetrometer. The Dynamic Cone Penetrometer consists two major elements the conical point which is driven by a manually operated 15 pound slide hammer which falls a distance of 20 inches

GS₂ ENGINEERING & ENVIRONMENTAL CONSULTANTS, INC

HAND BORING LOG

Project Name The Courtyards at Rolling Creek

Boring Number HA 13

Project Number 01-645

Date of Test October 9, 2001

Depth (feet)	Soil Description	Depth of Test	Blow Counts			Remarks
			1st	2nd	3rd	
1	TOPSOIL (1 inch)	0	25+		-	
	Tan fine sandy SILT with rock fragments	1	25+			
2	Boring refused at 1 foot.					
3						
4						
5						
6						
7						
8						
9						
10						

Depth of Boring 1 Foot

Location of Boring See Boring Location Plan

Depth of Groundwater TOB None Present

Method of drilling Hand Auger

Depth of Groundwater 24 hrs N/A

Performed By D. Fancher/A. Redfern

Note: The Blow Counts given above are recorded for a seating interval of 2 inches, followed by two 1 3/4 inches intervals using a Dynamic Cone Penetrometer. The Dynamic Cone Penetrometer consists two major elements the conical point which is driven by a manually operated 15 pound slide hammer which falls a distance of 20 inches.

*P*ALMETTO CONSULTING ENGINEERING GROUP, INC
Civil Engineering Design & Consulting

June 2 2004

Mr Steve Lipscomb
§
Columbia, SC 29201

Re Courtyards at Rolling Creek
M 1007
Courtyards at Rolling Creek Revisions/Extras
M-1007M

Dear Mr Lipscomb

As requested, I offer this brief explanation of our fees for services rendered on the
Courtyards at Rolling Creek

Courtyards at Rolling Creek
Contract Fee \$196,875.00
Services Rendered

- Design and permitting of 262 lots and the construction of Phase One
- Drainage study (not required for all developments)
- Land planning - the land plan provided approximately 100 additional lots more than the original land plan which was prepared by another engineering company
- The land plan was designed to utilize the higher ground in the project, minimize the number of creek crossings and create a green space, which aided sales.
- The original land plan prepared by others had two crossings over Boyd Branch. Our land plan has only one crossing of Boyd Branch which saved the developer approximately \$100,000.00. Our land plan also allowed for the creation of larger lots in Rolling Creek Phase IV.
- We met with the presidents of the homeowners associations and the district representative prior to the zoning board of adjustments hearing. As a direct result of our efforts, the zoning variance was unanimously approved with no objections from the local home owners or the homeowners associations.
- Of the \$196,875.00 dollar fee, \$40,000.00 went to Associated A & E for a boundary topo of the entire site and lot staking and platting of Phase One.

C:\My Documents\M 1007 Court Yards\Lipscomb 060204.doc

PCEG

PO Box 712327 1343 Garner Lane Suite 200 Columbia, SC 29221-2327
(803) 798-4562 Fax (803) 798-1679



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Page Two
Courtyards at Rolling Creek
June 2 2004

Courtyards at Rolling Creek
M 1007M
Revisions/Extras

- Mr Lipscomb requested that the land plan for Phase Two be revised to create more lots in Phase Two and not increase the density throughout the project. This required to re-land plan Phase Two and revising the roads, water sewer and drainage systems for approximately 73 lots. We also moved the cabana/pool and which required us to prepare an additional site plan
- Our firm also paid for many of the permitting fees, printing and color plots which were ultimately reimbursed to us by you as an extra to the contract.

I hope this information will be helpful Please call if you wish to discuss this further in person

Sincerely



Mary E. Wilson
Office Manager

cc D Melton



July 28 2003

Mr W P Melton
Post Office Box 510
Winnsboro South Carolina 29180

Re Rolling Creek Phase IV
Roadway Evaluation
Richland County South Carolina

Dear Mr Melton

As requested by Mr Rick Maxheimer of Palmetto Consulting Engineering Group, Inc. a representative of Professional Service Industries, Inc met at the above site on July 25, 2003. The purpose of this meeting was to assess the failure of several pavement sections within the subdivision. The overall assessment of the failures of the pavement appears to be associated with drainage characteristics or unsatisfactory subgrade conditions of the site. We also looked at several other areas of the pavements to assess their overall performance.

Below are listed our representative s observations.

- 1 There is infiltration of surface water from rain adjacent sprinkler systems and drainage runoff into the subgrade of the pavement sections.
- 2 Infiltration at this site is a process of excess surface moisture entering into the areas under the pavement and curb and gutter structures. This infiltration proceeds into the subgrade below the existing asphalt binder material and results in a loosening or softening of the subgrade soils.
- 3 The loading applied to the asphalt binder material by construction traffic has contributed to cracking the asphalt pavement immediately above the loosened subgrade.
- 4 The cracking of the asphalt pavement then allows for more infiltration of moisture which results in acceleration of the pavement and subgrade deterioration.

It is recommended that the following steps be taken to identify and repair the extent of deteriorated pavement and subgrade. We further recommend that a representative of PSI observe all tasks.

W P Melton
Rolling Creek Subdivision Phase IV
07/28/03

- 1 Delineate the extent of the asphalt pavement to be removed. Use a saw to cut through the pavement to establish a smooth line. The area delineated should be at least one foot larger in dimension from the area showing deterioration. Areas adjacent to curb and gutter sections should be cut flush against the front face of the gutter.
- 2 Remove the asphalt and expose the subgrade. A representative of PSI should then probe the area of subgrade to identify unsuitable subgrade to be removed.
- 3 Remove unsuitable subgrade. Evaluate the conditions of the area excavated to determine a method of remedy.

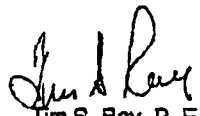
Methods of remedy will depend on site-specific observations. In general the remedies may include the following:

- 1 Move sprinkler systems away from the back of and below the curb and gutter section to reduce the potential for infiltration of moisture from these systems into the subgrade soils. This remedy could include a system of underdrain associated with the sprinkler system to move the moisture away from the subgrade soil to another area by tapping into existing drainage systems.
- 2 An interceptor drain could be installed at the roadside face of the curb and gutter to move moisture away from infiltrating the subgrade soil and draining to an existing drainage outlet.
- 3 Subgrade soil removed would be replaced with either suitable soil compacted tested and proof rolled, or flowable fill concrete to the elevation of the plan subgrade subgrade.
- 4 Replace asphalt with required depth of new binder material. Tack coat is recommended for the saw cut edges of asphalt and the second lift of binder.

Our final observation is that all elements of the pavement and drainage structures were constructed as specified in the plans. The subgrade was compacted according to specifications, and pavements were constructed as specified. The cores delivered to our office this am indicate sufficient thickness of the two lifts of asphalt binder. Our review of the plans and test results indicated that all construction items were accomplished as specified.

If I can be of further assistance, do not hesitate to call me.

Sincerely,
Professional Service Industries Inc.


Tim S. Ray P.E.
Senior Engineer



W. P. Melton
Rolling Creek Subdivision Phase IV
07/28/03

3790

0001724

M1067

ALLEN G FOLLINE Jr. P.E.
President

September 17, 2003



ALLEN FOLLINE
ASSOCIATES

Engineering/Construction
Consultants

4700 Devereaux Road
Columbia, SC 29205

Telephone
803/782 2010

Dutch Fork Development Group
3911 Kilbourne Road
Columbia, SC 29205

Attn: Mr. Steve Lipscomb

RE Engineering Site Visit
Rolling Creek Subdivision — Phase 4
The Courtyards at Rolling Creek — Phase 1
Richland County, South Carolina
File No 03-0957 and 03-0957A

Gentlemen

As requested, the writer has visited the referenced projects on 9 and 10 September, 2003. The purpose of these visits was to evaluate roadway pavement at each project with particular emphasis to the areas where the pavement has deteriorated. These sites (adjacent to each other) are located in the Piedmont Geological Province, just northeast of the 'Fall Line' (demarcation between the Piedmont and Coastal Plain Provinces). Typically, the subsurface profile in this area consists of reddish-brown slightly sandy clayey silt or silty clay soils underlain (often near the surface) by crystalline bedrock. These silt clay soils are moderately plastic and sensitive to loss of stability when exposed to moisture. The near surface rock formations are normally fractured and often have groundwater in the cracks flowing from higher elevations to lower elevations. The presence of groundwater in the fractured rock is unpredictable as the rock surface is uneven. Based on our observations, the failed pavement (base course of the full depth asphalt-surface course has not yet been placed) is the result of unstable subgrade soils due to excessive moisture from water migration under the pavement. The source of water is a combination of recent heavy rains, on-site irrigation and groundwater. To help cut off water migration under the pavement, we recommend "French" drains be installed either behind the curb or on the inside of the curb that gravity drain to outlet facilities. The "French" drains should be installed to a minimum depth of 30 inches below the pavement surface. These drains should be located adjacent to the roadway curb line wherever the adjacent ground surface slopes down to the roadway as well as around the perimeter of islands between roadways. There are existing paved areas that have not begun to deteriorate that are located lower than the

PLAINTIFF'S
EXHIBIT

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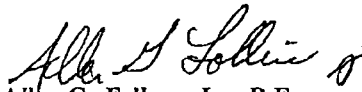
Dutch Fork Development Group
September 17, 2003
Page Two

adjacent ground surface, however, these paved areas have not had heavy construction traffic and lawn irrigation that will occur when residential development is complete. We have traversed the entire roadway construction for each project with the grading contractor and have noted all areas that need "French" drains. Some of these areas (particularly Rolling Creek — Phase 4 and the entrance to The Courtyards at Rolling Creek — Phase 1) already have "French" drains installed. The areas where the pavement has deteriorated can be repaired after the drains have been installed a few months, the subgrade soils have dried and the subgrade has been successfully proofrolled. Final paving of the surface course can be done after the repairs are made and construction traffic is substantially complete.

If you have any questions regarding this report or if we can be of further service, please do not hesitate to contact us.

Very truly yours,

ALLEN FOLLINE ASSOCIATES


Allen G. Folline, Jr., P.E.
President

AGF/gl

cc Dutch Fork Development Group
Post Office Box 510
Winnsboro, SC 29180
Attn: Mr. Billy Melton

Palmetto Consulting Engineering Group, Inc.
1343 Garner Lane, Suite 200
Columbia, SC 29210
Attn: Mr. Chad Baltzegar

3792

0001726

GS₂ ENGINEERING & ENVIRONMENTAL CONSULTANTS, INC

Columbia Main Office
7 Clusters Court
Columbia SC 29210
(Office) (803) 750 1510
(Fax) (803) 750-0773

Charleston Office
1718 Pineview Rd Suite D
Charleston SC 29407
(Office) (843) 763-4093
(Fax) (843) 763-4094

Bluffton Field Office
P O Box 2143
Bluffton SC 29910
(Office) (843) 338 1128

July 1 2003

W P Melton
P O Box 510
Winnsboro, South Carolina 29180

Attention Mr Billy Melton

Reference Letter of Pavement Remediation Recommendations
The Courtyards of Rolling Creek Subdivision
Boyd Branch Crossing
Peak, South Carolina
GS2 Project Number 03-1048

Dear Mr Melton

This letter presents our pavement remediation recommendations for an existing section of the partially constructed Boyd Branch Crossing at the entrance to The Courtyards of Rolling Creek Subdivision that currently shows signs of failure. Subgrade information obtained from our original Report of Subsurface Exploration for Pavement Recommendations dated October 10 2001 and our recent hand augers were used to evaluate the existing conditions for the use of determining the causes of failure and to develop remedial recommendations for the damaged pavements. This work was performed in general accordance with industry standards.

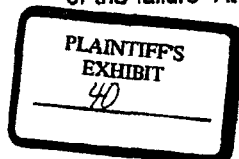
PROJECT INFORMATION

Site Location/Description

The site of The Courtyards at Rolling Creek Subdivision is located approximately two miles northwest of the intersection of I-26 and U S Highway 178 (Broad River Road) along the northern side of U S Highway 178 near Peak South Carolina.

Development Information

At the time of our original exploration we understood that The Courtyards at Rolling Creek Subdivision was to include approximately 200 lots with about 4 200 linear feet of paved drives. It was reported that an irrigation system was installed on both sides of Boyd Branch Crossing in the vicinity of the failure. At the time of our latest site visit, the roadway appeared to be paved with several



PAGE 02

GS2 ENGINEERING

07/10/2003 13 25 0037500773

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houses under construction. Furthermore, a roughly 100-foot stretch of Boyd Creek Crossing spanning both lanes) was noted to show extensive signs of failure that includes rutting, cracking, and settlement. This section of roadway is the subject of this letter and was further explored with our findings and recommendations summarized in the following sections of this report.

SITE SOIL CONDITIONS

Soil Conditions

The subsurface soils were investigated with 8 hand augered soil borings with Dynamic Cone Penetrometer (DCP) tests conducted at regular intervals to a depth of 5 feet below the finished grade of the existing roadway. The approximate hand auger boring locations are shown on the Boring Location Plan, Figure 1. The borings were located in the field by spacing them throughout the deteriorated area of the roadway.

The borings generally encountered typical residual Piedmont soils consisting of clays and silts. The soils encountered in the borings exhibited DCP blow counts on the order of 1 to 25+ blows per increment (bpi). It is important to note that borings HA-1, HA-2, HA-3, HA-5, and HA-6 encountered auger refusal at depths ranging from 8 inches to 3-1/2 feet below the existing ground.

Groundwater

Free groundwater was encountered in borings HA-3 and HA-8 at the time of drilling. Groundwater levels are dependent on many factors and can experience seasonal fluctuations and various other fluctuations due to precipitation, construction activities, and many other factors.

CONCLUSIONS

The borings performed during our original and this most recent exploration indicate that the existing soils used as subgrade for the pavements are suitable for this application, provided these soils are not subjected to perched groundwater or ponded stormwater. However, from observations made during our site visits and the hand borings, we have determined that stormwater has likely infiltrated the adjacent upgradient properties and collected below the ground surface as perched groundwater, and likely saturated the subgrade soils within this portion of Boyd Creek Crossing. The on-site soil, when subjected to wheel loading in a wet condition, becomes unstable with deflection of the subgrade, the most common cause of pavement failure. This pavement failure typically shows as alligator cracking and other forms of cracking, with the opening in the impervious asphalt leading to the introduction of additional stormwater to the underlying subgrade, effectively compounding the failure.



Additionally it appears that a full depth asphalt section was chosen for the roadway. From our original report, we recommended that full depth asphalt have a thickness of 2-1/2' of SCDOT Hot Laid Asphaltic Concrete Surface Course - Type 3 underlain by 3-1/2" of SCDOT Hot Laid Asphaltic Concrete Binder Course with 18" of stabilized subgrade soils. However the existing asphalt section was noted to have an insufficient thickness of asphalt with an estimated range of thickness to be roughly 1-3/4" to 3' of asphalt in-place. From the curb/asphalt interface it appears that the asphalt section was to be constructed in two phases, with roughly 1-1/4" to 1-1/2' of asphalt to be laid as a surface layer after construction traffic loads subside yielding and estimated total thickness to range from between 3' to 4 1/2'. This insufficient asphalt thickness when subjected to construction traffic, especially with the presence of oversaturated subgrade soils similar to those at this site, is not sufficient and will cause the rapid degradation of the asphalt itself.

A reduced asphalt section greatly reduces the service life of a pavement, and with the noted reduction at this site it is likely that additional failures will occur before the closure of the design life. Additionally with the recent increase in rain and the presence of the relatively untraveled roadways within other portions of the subdivision it is likely that other areas of failing subgrade will manifest when subjected to wheel loads especially with a reduced asphalt section.

RECOMMENDATIONS

Rerouting of shallow perched stormwater will be required along the upgradient portions of the roadway prior to the commencement of remedial grading activities at the site. The following grading and construction remedial activities recommended are to be made to the failed pavement sections.

Additionally we recommend that additional assessments of the in-place pavements be made within other portions of the subdivision for the identification of potential problem areas and additional remedial recommendations.

Groundwater and Stormwater Management

The adjacent perched groundwater should be collected and diverted from the subgrade soils utilizing a French drain or series of French drains installed along the upgradient portion of the roadway. Additionally the French drain should be extended from 6" below ground surface to a depth of 2 feet below the bottom of the curbing, and capped with a granular fill material. See our attached detail for proper construction. Furthermore the civil site designer should be consulted to determine proper outlets for the establishment of adequate gravity drainage of the French drain.

Our personnel should be consulted during the time of construction of the drain to verify proper drainage of the subgrade has been achieved with an adequate drying time of the subgrade soils anticipated to be several weeks. Furthermore the need for roadway underdrains in areas of higher elevation and more concentrated water flow should be determined during grading activities.



Additionally the exposed subgrade soils and recently placed fill soils should be well drained to minimize the accumulation of stormwater runoff. If the exposed subgrade soils are not as anticipated or become excessively wet the geotechnical engineer should be consulted.

Site Preparation

Upon capturing any perched groundwater within the vicinity of the roadway, the existing damaged asphalt should be stripped and wasted off site. Additionally the upper 12 inches of subgrade soils should be overexcavated and the base of the excavation densified in place. Upon completion of the stripping and overexcavating activities the newly exposed subgrade soils should be carefully inspected and proofrolled in order to detect locally yielding soils. Proofrolling should be performed with a twenty ton rubber-tired tandem axle vehicle or similarly loaded vehicles or construction equipment and should be observed by a qualified geotechnical engineer. The designated vehicle should make at least four passes over each section of the exposed subgrade soils with a final proofroll recommended to be performed within 24 hours of pavement construction. If inclement weather or if the proofroll fails to yield favorable results within this 24-hour window then reworking of the subgrade soils may be required to achieve a suitable subgrade.

Any localized areas of yielding soft/loose and/or saturated soils identified during proofrolling will need to be densified in place or undercut and the removed soil replaced with properly compacted fill. All fill should be monitored and placed in general accordance with the recommendations presented in the structural fill section of this report.

Structural Fill

Upon achieving a stable platform to place fill within the roadbed structural fill may be placed to subgrade elevation. As previously mentioned the on site soils will require close control during placement. Additionally the clayey and silty soils found at this site might become difficult to move and/or compact if the moisture content is excessive. Therefore these soils should be kept at +1 to -3 percent of the soil's optimum moisture content.

Prior to the placement of fill soils representative soil samples should be obtained and tested to determine their classification and compaction characteristics. Optimum fill material should be free of debris and any fibrous organic material or organic soils and should have a Plasticity Index (PI) less than 15. We recommend that fibrous organic material found in the fill materials be no more than 5 percent by weight. Compaction characteristics of the fill soils should be determined using the laboratory Standard Proctor density test ASTM D698 "Moisture Density Relations of Soils and Soil-Aggregate Mixtures Using 5.5 lb Rammer and 12-in Drop".

Fill material should be placed in no more than 8-inch thick lifts, loose measurement, and within +1 to -3 percent of the optimum moisture content determined by ASTM D698. Fills placed as pavement subgrade and five feet beyond the back-of-curb perimeter should be compacted to a minimum 95 percent of the laboratory Standard Proctor maximum dry density (ASTM D698) as required by Richland County.



Placement of the fill material should be observed and tested by a geotechnical engineer or qualified engineering technician as placement of the fill progresses. Compaction testing should be performed at a minimum frequency of one test per lift per 200 linear feet of fill placed per lane of roadway.

Pavement Thickness Recommendations

For the areas of failed asphalt we recommend that the previously recommended aggregate based pavement section be used. This pavement section was originally calculated with an assumed design California Bearing Ratio (CBR) value of 5 for subgrade support of the flexible pavements.

Again we have assumed that the total traffic design loading will consist of 1000 cars per day and 2 delivery type/garbage type trucks per day. From this information we estimate a total traffic loading of an equivalent single axle loading (ESAL) for the roadway to consist of 50 passes per day of an 18-kip equivalent axle load over a life span of 20 years. These traffic volumes do not account for construction traffic therefore proper roadway construction staging techniques should be used or the pavement thicknesses should be recalculated with respect to this traffic.

Our thickness analyses for flexible pavements were performed in general accordance with the Asphalt Institute's "Thickness Design for Asphalt Pavements for Highways and Streets (MS-1)". Based on the above assumptions we recommend the following pavement sections over the prepared subgrade.

Road Type	Layers	Material	Thickness (inches)
			Asphalt/Stone Base
Secondary	a	Asphaltic concrete Surface course	2 1/2"
	b	Aggregate base course	6
	c	Prepared Subbase	6

If the surface course is placed in 2 lifts with the first lift utilized during the construction phase then an additional 1" (i.e. 2 lifts equaling 1-3/4" each) needs to be added to the thicknesses represented above.

The asphalt surface course should conform to the South Carolina Department of Transportation (SCDOT) Standard Specification Section 403 for Type 1 Hot Laid Asphalt Concrete Surface Course. The binder material should conform to SCDOT Standard Specification Section 402.

The base course material should be a Graded Aggregate Base Course (GABC) conforming to SCDOT Standard Specification Section 305. Additionally the base course should be compacted to 100 percent of the Modified Proctor (ASTM D 1557) maximum dry density with the GABC inspected at each location for verification of in-place thickness.

Related civil site design factors such as subgrade drainage, shoulder support, cross-sectional configurations, surface elevations, and environmental factors that will significantly affect the service life must be included in the preparation of the construction drawings and specifications. Normal periodic maintenance will be required.



Placement of the Asphalt Surface course and GABC materials should be observed and tested by a geotechnical engineer or qualified engineering technician as placement of these materials progresses. Compaction testing should be performed at a minimum frequency of one test per lift per 200 linear feet of material placed per lane of roadway.

BASIS FOR RECOMMENDATIONS

The recommendations presented in this letter are based on our understanding of the project information, our interpretation of the data obtained from our original report and during our inspections, and our experience with similar soil and project conditions. Regardless of the thoroughness of this investigation, it is possible that the soil conditions intermediate of the borings vary from the soil conditions encountered at the boring locations. Therefore, it will be necessary for a geotechnical engineer or qualified engineering technician to be present during grading and paving operations in order to evaluate and document that the anticipated design conditions actually exist.

Furthermore, the findings associated with the assessment of the site do not include any environmental assessment of soils, surface water or groundwater, the determination of wetlands, the determination of noise impact, the assessment of air quality, the identification of cultural resources, and the identification of endangered species. These services are beyond the scope of services of this letter.

CLOSING

Once again we appreciate the opportunity to provide our services for your geotechnical consulting needs. If there are any questions concerning our recommendations or if additional information becomes available, please contact us at (803) 750-1510.

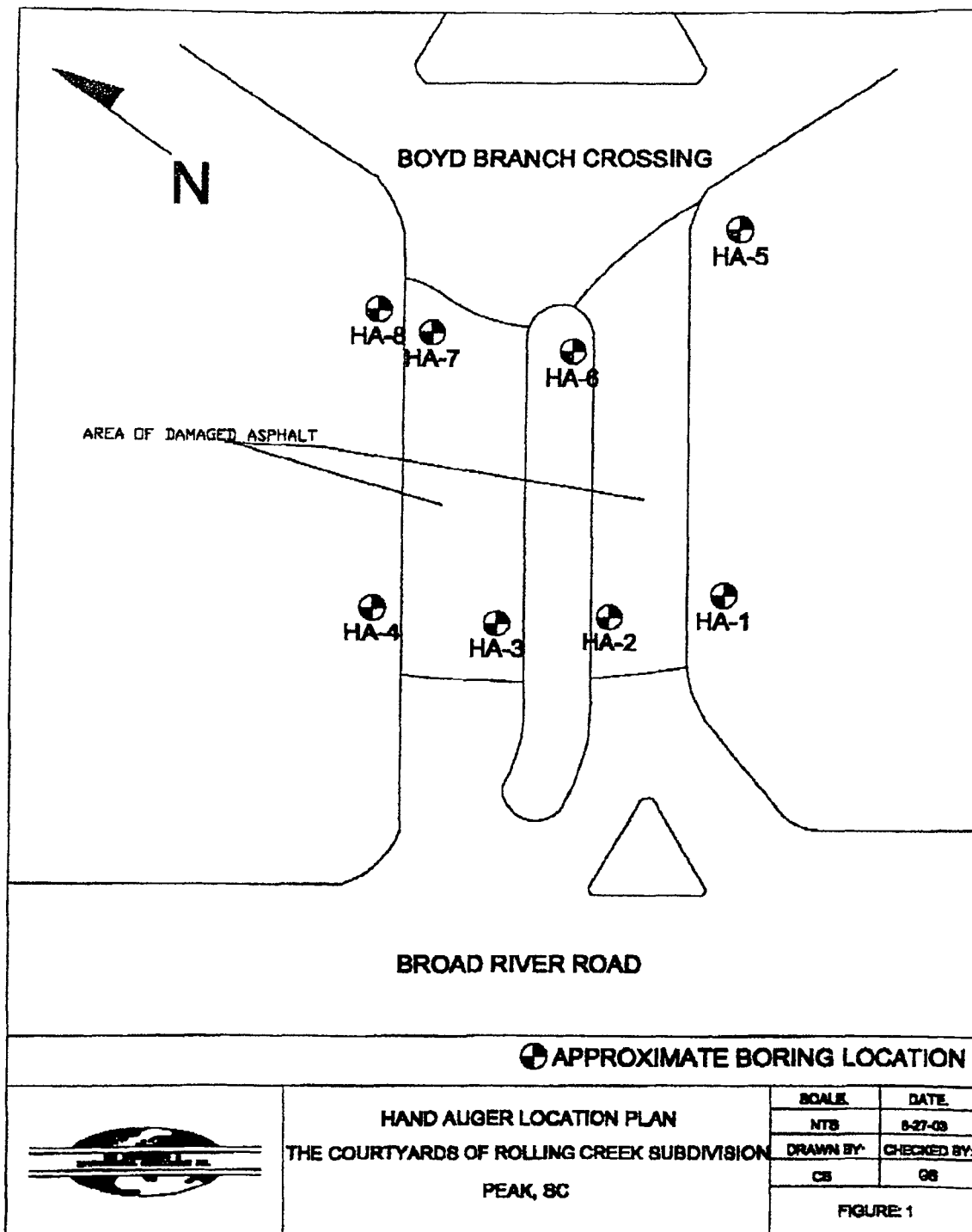
Sincerely,

GS₂ ENGINEERING & ENVIRONMENTAL CONSULTANTS, INC

Robert C. Bruerton EIT
Staff Geotechnical Professional

George A. Sambos P.E.
Senior Engineer, President





GS, ENGINEERING & ENVIRONMENTAL CONSULTANTS, INC

HAND BORING LOG

Project Name The Courtyards of Rolling Creek

Boring Number HA_1

Project Number 03-1048

Date of Test: June 24, 2003

Depth		Soil Description	Depth of Test	Blow Counts		
From	To			1st	2nd	3rd
0	3	TOPSOIL	0	15	17	15
			1			
3	6	Orangish brown Fien toMeldum Sandy CLAY (CL)	3			
			5			
6"		Auger Refusal at 6 inches				

Method of drilling: Hand Auger Performed By GS2 Engineering

Depth of Groudwater T O B not encountered Location of Boring: see Location Plan

Depth of Groundwater 24 hrs not available

Signature _____ Staff Geotechnical Professional

GS, ENGINEERING & ENVIRONMENTAL CONSULTANTS, INC

HAND BORING LOG

Project Name The Courtyards of Rolling Creek

Boring Number HA2

Project Number 03-1048

Date of Test June 24, 2003

[illegible]

GS, ENGINEERING & ENVIRONMENTAL CONSULTANTS, INC

HAND BORING LOG

Project Name The Courtyards of Rolling Creek

Boring Number HA-3

Project Number 03 1048

Date of Test. June 24, 2003

Depth		Soil Description	Depth of Test	Blow Counts		
From	To			1st	2nd	3rd
0	1	Reddish-orange Silty CLAY (CL ML)	0	11	13	12
			1	12	15	15
1	3-1/2'	Tan Clayey SILT (MH)	3	18	25+	
			5			
3-1/2		Auger Refusal at 3-1/2 feet				

Method of drilling Hand Auger Performed By: GS2 Engineering

Depth of Groundwater T O B not encountered Location of Boring: see Location Plan

Depth of Groundwater 24 hrs not available

Signature _____ Staff Geotechnical Professional

GS, ENGINEERING & ENVIRONMENTAL CONSULTANTS, INC

HAND BORING LOG

Project Name The Courtyards of Rolling Creek

Boring Number HA-4

Project Number 03-1048

Date of Test. June 24, 2003

[illegible]

GS2 ENGINEERING & ENVIRONMENTAL CONSULTANTS, INC

HAND BORING LOG

Project Name The Courtyards of Rolling Creek

Boring Number HA-5

Project Number 03-1048

Date of Test. June 24, 2003

Depth		Soil Description	Depth of Test	Blow Counts		
From	To			1st	2nd	3rd
0	2	TOPSOIL	0			
			1			
2	6"	Orangish-brown Silty CLAY (CL ML)	3'			
			5'			
6"		Auger Refusal at 6 inches				

Method of drilling <u>Hand Auger</u>	Performed By <u>GS2 Engineering</u>
Depth of Groundwater T O B <u>not encountered</u>	Location of Boring <u>see Location Plan</u>
Depth of Groundwater 24 hrs <u>not available</u>	
Signature _____	
Staff Geotechnical Professional	

GS, ENGINEERING & ENVIRONMENTAL CONSULTANTS, INC

HAND BORING LOG

Project Name The Courtyards of Rolling Creek

Boring Number HA-6

Project Number 03-1048

Date of Test: June 24, 2003

Depth		Soil Description	Depth of Test	Blow Counts		
From	To			1st	2nd	3rd
0	1	Brown Silty CLAY (CL ML)	0	15	18	14
			1			
1		Auger Refusal at 1 foot	3			
			5			

Method of drilling <u>Hand Auger</u>	Performed By <u>GS2 Engineering</u>
Depth of Groundwater T O B <u>not encountered</u>	Location of Boring <u>see Location Plan</u>
Depth of Groundwater 24 hrs <u>not available</u>	
Signature _____ Staff Geotechnical Professional	

GS, ENGINEERING & ENVIRONMENTAL CONSULTANTS, INC

HAND BORING LOG

Project Name The Courtyards of Rolling Creek

Boring Number HA7

Project Number 03-1048

Date of Test June 24, 2003

Depth		Soil Description	Depth of Test	Blow Counts		
From	To			1st	2nd	3rd
0	6	Tan CLAY (CL)	0	8	11	10
			1	25+		
6"	5	Reddish-orange Fine to Medium Sandy CLAY (CL) (possible fill)	3	11	15	14
			5	8	12	10
5'		Boring Terminated at 5 feet.				

Method of drilling Hand Auger

Depth of Groundwater T O B not encountered

Depth of Groundwater 24 hrs not available

Performed By GS2 Engineering

Location of Boring see Location Plan

Signature _____

Staff Geotechnical Professional

GS, ENGINEERING & ENVIRONMENTAL CONSULTANTS, INC

HAND BORING LOG

Project Name The Courtyards of Rolling Creek

Boring Number HA-8

Project Number 03 1048

Date of Test June 24, 2003

Depth		Soil Description	Depth of Test	Blow Counts		
From	To			1st	2nd	3rd
0	2 1/2	Mottled Brown and Red Silty CLAY (CL-ML)	0	11	13	18
			1	6	4	6
2 1/2	3-1/2	Mottled Brown and Tan Silty SAND (SM)	3	2	1	3
			5'	4	4	4
3-1/2	4-1/4	Tan Medium SAND (SP)				
4 1/4	5'	Dark Brown Fine to Medium Sandy CLAY (CL)				
5'		Boring Terminated at 5 feet				

Method of drilling <u>Hand Auger</u>	Performed By <u>GS2 Engineering</u>
Depth of Groundwater T O B <u>3 feet</u>	Location of Boring <u>see Location Plan</u>
Depth of Groundwater 24 hrs <u>not available</u>	
Signature _____ Staff Geotechnical Professional	

M1007

PLAINTIFF'S
EXHIBIT

41

RICHLAND COUNTY, SOUTH CAROLINA
PLANNING & DEVELOPMENT SERVICES DEPARTMENT
Land Development Division
P O Box 192, Columbia, SC 29202
Ph. 803-576-2162 Fax 803-576-2181

July 31, 2002

Mr W P Melton
Courtyards @ Rolling Creek
P O Box 510
Winnsboro SC 29180

Post it* Fax Note	7671	Date	7/31	# of pages	1
To	Mary Wynn	From	Carl Goelme		
Co./Dept.		Co			
Phone #		Phone #			
Fax #	798-1678	Fax #			

RE RC Project # SD-01-239 - Courtyards @ Rolling Creek - Preliminary Plans
TMS # 02600-04-02

Dear Mr Melton

Billy

You have requested guidance regarding what steps are required to pull building permits and sell lots in the subject project. The current project status is described below:

- 1) On June 6, 2001, the BZA approved the project as a cluster housing development. This designation simply means that the residences can be grouped to provide open space areas.
- 2) John Hicks has issued an extension of the BZA approval of the cluster housing development to permit additional time to address the various development issues described herein. The extension will expire on June 6 2003.
- 3) In this regard, you need to specify in writing to the Department what the setbacks for each lot will be, they can vary lots by lot, and put the resulting building envelopes on the plat presented for recording.
- 4) You must also identify in writing to the Department, the maximum percent of the lot that will be covered by buildings, it can also vary lot by lot. Unless otherwise provided, the total lot coverage will be limited to 25 percent.
- 5) The Planning Commission approved the preliminary plans for this project on January 7, 2002. The approval is subject to the conditions identified in the staff January 7, 2002 staff report and any other Specific Conditions identified by the Commission. These conditions were identified in my letter dated January 11, 2002.
- 6) One of the Specific Conditions is that the City of Columbia must approve all plats **PRIOR** to being stamped for recording for projects where the City provides water and/or sewer service. The Department has NOT received such notification from the City.
- 7) Another Specific Condition is that all plats presented for recording must include the building envelopes on each lot. The plat dated June 20, 2002 does not include the building envelopes.
- 8) Another condition is that the flood elevation issue must be resolved in consultation with Harry Reed (ph # 576-2150). In this regard, you have the following options.
 - a. You may use the flood elevation on the existing FIRM maps to lay out the lots. If you choose this option, you must submit a new signed and sealed plat for Harry's approval showing the existing flood elevations. Be sure to put a new date on the material so that it can be clearly distinguished from the June 20, 2002 plat.

b You may petition FEMA to establish a new flood elevation line that supports the lot layout on the June 20 2002 plat This step requires engineering documentation and may take four to six months to achieve. The June 20, 2002 plat cannot be approved without satisfactory completion of this step Please coordinate this process with Harry

In summary, all of the conditions of the Planning Commission approval have not yet been satisfied. Therefore, no building permits will be issued until satisfactory completion of ALL the matters identified above has occurred.

It is the Department's understanding that lots cannot be sold until the plat is recorded. If you choose to bond the project, in whole or in part, you must coordinate that process with Gordon Greene (ph. 576-2413) in the County Engineer's office. Chapter 26-22.70 (c) of the County Code prohibits issuing a Certificate of Occupancy until the Final Plat is approved and a copy of the recorded plat is received by the Department.

I hope this letter clarifies the current status of the project and clarifies the remaining steps that must be completed. If you have any questions regarding this matter, please contact me at 803 576-2162, or E-Mail at carlgosline@richlandonline.com,

Sincerely,



Carl D. Gosline, AICP
Land Development Administrator

Copy To Rich Maxheimer, Letts Associates

From Margie Simkins
To Ronnie Colson
Subject SEL

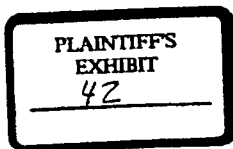
Steve Lipscomb just called and said they can't start selling lots until they get a bond for 125% of \$67 262
Typically NBSC does NOT issue bonds anymore for 3 reasons

- 1 there isn't \$\$ in the budget for it,
2. we do not make any money on a bond and
- 3 they are difficult to track

Therefore we issue letters of credit instead We can track these they are not part of the budget, and best of all we get a fee

I told Mr Lipscomb that you would call him back and discuss this with him

Let me know if I can be of any help Thanks- Margie



03 13 002 09 13 803-791-1551 LETS ASSOCIATES INC
ASSOCIATED E & S

PAGE 02



ASSOCIATED E & S, INC

800 Violet Street PO Box 4287
West Columbia SC 29171
(803) 791 1550

September 19 2002

Mr D Melton
Dutch Fork Development Group
206 Cedar View Drive
Irmo SC 29063

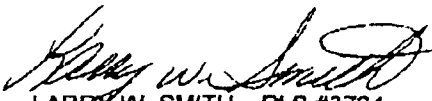
Project The Courtyards of Rolling Creek

Dear Rick

Our proposal to reset all property corners on rear lot lines calculate and draft new bonded plat would be \$3 200 00

This does not include resetting any road irons that may have been knocked out during construction

Sincerely


LARRY W SMITH PLS #3724
ASSOCIATED E & S, INC

Accepted By

Date

cc Bill Melton
Steve Lipscomb

LWS/dns



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Courtyard Phase I Lot Sales

June 2002 – June 2003

20% of 57 lots = 11 4 lots (57 is maximum number of lots in Phase I)

20% of 48 lots = 9 6 lots (9 lots in flood plain – unavailable until FEMA approved)

20% of 35 lots = 7 lots (13 additional lots off market b/c reserved for Steve's use)

Total Lots Closed = 7 lots

July 2002 – July 2003

20% of 57 lots = 11 4 lots (57 is maximum number of lots in Phase I)

20% of 48 lots = 9 6 lots (9 lots in flood plain – unavailable until FEMA approved)

20% of 35 lots = 7 lots (13 additional lots off market b/c reserved for Steve s use)

Total Lots Closed = 9 lots

August 2002 – August 2003

20 % of 55 lots = 11 4 lots (57 is maximum number of lots in Phase I)

20% of 46 lots = 9 2 lots (9 lots in flood plain – unavailable until FEMA approved)

20% of 33 lots = 6 6 lots (13 additional lots off market b/c reserved for Steve's use)

Total Lots Closed = 7 lots

September 2002 – September 2003

20 % of 57 lots = 11 4 lots (57 is maximum number of lots in Phase I)

20% of 46 lots = 9.2 lots (9 lots in flood plain – unavailable until FEMA approved)

20% of 33 lots = 6 6 lots (13 additional lots off market b/c reserved for Steve s use)

Total Lots Closed = 11 lots



October 2002 – October 2003

20 % of 54 lots = **10 8 lots** (3 lots closed prior to October 2002)

20% of 45 lots = 9 lots (9 lots in flood plain – unavailable until FEMA approved)

20% of 32 lots = 6 4 lots (13 additional lots off market b/c reserved for Steve s use)

Total Lots Closed = **14 lots** / Total To Date = 17 lots

November 2002 – November 2003

20 % of 54 lots = **10 8 lots** (3 lots closed prior to November 2002)

20% of 45 lots = 9 lots (9 lots in flood plain – unavailable until FEMA approved)

20% of 32 lots = 6 4 lots (13 additional lots off market b/c reserved for Steve s use)

Total Lots Closed = **15 lots** / Total To Date = 18 lots

December 2002 – December 2003

20 % of 54 lots = **10 8 lots** (3 lots closed prior to December 2002)

20% of 45 lots = 9 lots (9 lots in flood plain – unavailable until FEMA approved)

20% of 32 lots = 6 4 lots (13 additional lots off market b/c reserved for Steve s use)

Total Lots Closed = **15 lots** / Total To Date = 18 lots

January 2003 – January 2004

20 % of 53 lots = **10 6 lots** (4 lots closed prior to January 2003)

20% of 44 lots = 8 8 lots (9 lots in flood plain – unavailable until FEMA approved)

20% of 31 lots = 6 2 lots (13 additional lots off market b/c reserved for Steve s use)

Total Lots Closed = **14 lots** / Total To Date = 18 lots

February 2003 – February 2004

20 % of 53 lots = **10 6 lots** (4 lots closed prior to February 2003)

20% of 44 lots = 8 8 lots (9 lots in flood plain – unavailable until FEMA approved)

20% of 31 lots = 6 2 lots (13 additional lots off market b/c reserved for Steve s use)

Total Lots Closed = **15 lots** / Total To Date = 19 lots

March 2003 – March 2004

20 % of 52 lots = **10 4 lots** (5 lots closed prior to March 2003)

20% of 43 lots = 8 6 lots (9 lots in flood plain – unavailable until FEMA approved)

20% of 30 lots = 6 lots (13 additional lots off market b/c reserved for Steve s use)

Total Lots Closed = **16** / Total To Date = 21 lots

April 2003 – April 2004

20 % of 52 lots = **10 4 lots** (5 lots closed prior to April 2003)

20% of 43 lots = 8 6 lots (9 lots in flood plain – unavailable until FEMA approved)

20% of 30 lots = 6 lots (13 additional lots off market b/c reserved for Steve s use)

Total Lots Closed = **17** / Total To Date = 22 lots

May 2003 – May 2004

20 % of 52 lots = **10 4 lots** (5 lots closed prior to May 2003)

20% of 43 lots = 8 6 lots (9 lots in flood plain – unavailable until FEMA approved on 5/12/03)

20% of 30 lots = 6 lots (13 additional lots off market b/c reserved for Steve s use)

Total Lots Closed = **22** / Total To Date = 27 lots

**PALMETTO CONSULTING
ENGINEERING GROUP, INC**

(Formerly LETTS Associates, Inc.)

1343 Garner Lane Suite 200
P O Box 212327
Columbia, SC 29221

Invoice

Date	Invoice #
7/19/2003	2003 1009

Bill To
SEL Properties LLC Steven Lipscomb 925 Brookwood Drive Columbia, SC 29201

Terms	Project Name		
Due on Receipt	M 1007M Courtyards at Rolling Creek Extra		
Description		Qty	Amount
Engineering Technician @ \$56/Hr		7 5	420 00
Project Management @ \$100/Hr		4	400 00
13 lot grading plan on site visit Tel-cons with D Melton, meet with Mr and Mrs Melton Tel cons with Mr Lipscomb preliminary grading plan for 13 lots prepare pads recommended to client to use crawl space/not slabs			
PLAINTIFF'S EXHIBIT 45			
		Total	\$820 00

Phone #	Fax #
(803) 798-4562	(803) 798 1678

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0001750

Jan 20 06 11 03a DM
01/20/2006 09 03 7879193

803 749 9100

P 2

LIP

PAGE 01

Jan 18 06 04 21p DM

803 749 9100

P 1



Dutch Fork

Development Group



ROLLING
CREEK

- 1 SEL Properties agrees to relocate the retaining wall currently located within the property line of Lot 34 - 200 Savannah Branch Trail Immo SC. The retaining wall is to be reconstructed and relocated in the storm drain right of way off of the property on Lot 34.
- 2 The common area between Lots 33 & 34 is to be cleaned up and landscaped by SEL Properties prior to completion of construction on Lot 34. Once this has been done the area is to be maintained by the Courtyards @ Rolling Creek Home Owners Association.

SEL Properties

By

Dated

[Signature] *into Part of Lot sale*
1-20-2005

D Melton

Dutch Fork Development Group

By

Date

[Signature]
1-20-06

Office (803) 749-9100 or (803) 635-6427 Fax (803) 635 5515
206 Cedar View Drive Immo, South Carolina 29063



3817

0001751

0001752

ORIGINAL DOCUMENT PRINTED ON CHEMICAL REACTIVE PAPER WITH MICROPRINTED BORDER. SEE REVERSE SIDE FOR COMPLETE SECURITY FEATURES.

Courtyards at Rolling Creek LLC PO Box 11641 Columbia SC 29211 1641	NBSC Columbia SC 29201	466
Pay to the Order of Dutch Fork Development	67 119/539	
Dutch Fork Development	Exactly Two Thousand Nine Hundred Thirty Three and 00/100 ***** Dollars	11/22/2004 \$* 2 933 00
Memo site dev costs Phase IV	<i>Stephen E. L. Jones</i>	

THIS DOCUMENT CONTAINS HEAT SENSITIVE INK. TOUCH OR PRESS HERE - NO IMAGE DISAPPEARS WITH HEAT.

Record of Payment

Check 466

Payee Dutch Fork Development

11/22/2004

per Steve's instructions to get more info later

2 933 00



3818

CRC NBSC 5401

site dev costs Phase IV

\$ 2 933 00

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Courtyards at Rolling Creek LLC
PO Box 11641
Columbia SC 29211 1641

NBSC
Columbia SC 29201

468

67 119/539

Pay to the Order of Melton D

11/22/2004

Melton D
209 Coventry Lakes Drive
Lexington SC 29072

Exactly
Two Hundred and 00/100
Dollars

\$ *200 00*

Memo reimbursement

Stephen Earl Lipscomb

THIS DOCUMENT CONTAINS HEAT SENSITIVE INK. TOUCH OR PRESS HERE - NO IMAGE DISAPPEARS WITH HEAT.

Record of Payment

Check 468

Payee Melton, D

11/22/2004

to get more info later

200 00



CRC NBSC 5401

reimbursement

\$ 200 00

3819

0001753

Courtyards at Rolling Creek, LLC
PO Box 11641
Columbia SC 29211 1641

NBSC
Columbia SC 29201

467

Pay to the Order of Dutch Fork Development

67 119/539

11/22/2004

Dutch Fork Development

Exactly

Five Hundred and 00/100 ** ** ***** **
***** ** ***** ** ** **
Dollars

\$ 500 00

Memo escrow deposit reimbursement

Stephen E. L. P. 11/22/04

THIS DOCUMENT CONTAINS HEAT SENSITIVE INK. TOUCH OR PRESS HERE - RED IMAGE DISAPPEARS WITH HEAT.

Record of Payment

Check 467

Payee Dutch Fork Development

11/22/2004

not taken from hud

500 00

PLAINTIFF'S
EXHIBIT

49

CRC NBSC 5401

escrow deposit reimbursement

\$ 500 00

0001754

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August 13 2004

Mr Stephen Lipscomb
S E L Properties LLC

Care of D Melton

Irmo SC 29063

Reference Site Visit Observations
Rolling Creek Roads
Richland County South Carolina
S&ME Project No 1611 04-195

PLAINTIFF'S
EXHIBIT

50

Dear Mr Lipscomb

As requested a representative of S&ME Inc met with a representative of Newman Construction at the above referenced site The purpose of our visit was to gain information about where underdrains had been placed and about repair procedures previously used We also walked the alignment of Dutchfork Creek Trail Dutchfork Branch Court and the entrance portion of Boyd Branch Crossing to the traffic circle

The surfacing of all three roads has undergone noticeable deterioration since our field work conducted in May 2004 Along Dutchfork Creek Trail additional deterioration was noted at the edges of previously undercut areas at the cul-de-sac and along portions of the road that had not previously shown surface damage The surface of Dutchfork Branch Court shows areas of cracking, rutting and shippage of the asphalt surface

At Boyd Branch Crossing the areas that were previously repaired from curb to curb appear in relatively good condition However in areas that were not previously repaired and where previous repairs span only a portion of the total road width additional deterioration has occurred This deterioration generally takes the form of cracking and rutting with shippage of the asphalt surface occurring in the traffic circle and near the exit onto US Hwy 176

It is our opinion that underdrainage needs to be extended to include the entire alignment of each of the three roads At Dutchfork Creek Trail and Dutchfork Branch Court the

S&ME Inc
134 Suber Road
Columbia South Carolina 29210

(803) 561 9024
(803) 561 9177 fax
www.sietric.com

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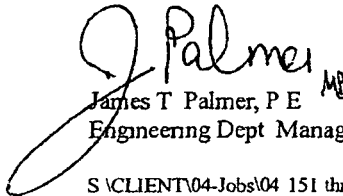
alignment needs to be cut to grade to allow pavement section thickness as recommended in our report dated May 24 2004. Once the surface is cut to grade the subgrade material needs to be evaluated and stabilized as required. After evaluation and stabilization of the subgrade placement of the pavement section can commence. At Boyd Branch Crossing it may be possible to leave the portions of previously repaired sections that extend from curb to curb in place with the understanding that without information about tests or observations conducted during placement of the repair sections we have no knowledge of the subgrade condition or pavement section other than what can be observed from the surface. In the remaining portions of Boyd Branch Crossing, repairs should proceed as recommended for Dutchfork Creek Trail.

As an alternate to the recommendations provided in our report you may wish to look into the use of reclaiming equipment (equipment that mixes existing asphalt and soil with cement to form the base material for asphalt surfacing) to prepare the roadway for asphalt surfacing. It is our understanding that this process has been used with success in the Irmo area.

Also other than performing the proofrolling, we have completed our scope of work as described in our proposal 1611-3322 04 dated January 12 2004. We can perform future work such as consulting and testing during construction under the terms and conditions of our previous agreement for the unit rates included in our proposal 1611-3322 04. Any services performed will be against retainer paid prior to the start of work.

If you have questions regarding this letter or if we can be of further service please call

Sincerely
S&ME Inc


James T. Palmer, P.E.
Engineering Dept. Manager


Marty Baltzegar, P.E.
Branch Manager

S:\CLIENT\04-Jobs\04 151 thru 04 200\04 195\August 13 Letter.doc

PROPOSAL



Clearing • Grading • Asphalt Paving

500 Frontage Rd
Gaston SC 29053
(803) 791 8457
Fax (803) 791 3655
cbginc@direcway.com

Dutch Fork Development Group LLC
206 Cedar View Drive
Irmo SC 29063
Attention Mr D Melton

Phone 803 957 1004
Fax 803 749 9100
Project: Rolling Creek Subdivision

Date July 22 2005

We hereby submit specifications and estimates for:

- 1) Base Bid - Asphalt Paving on a prepared sub base fine graded and compacted to + or - 1/8
 - A) Sweep and tack existing road in preparation for surface course
 - B) Provide 1 1/2 (compacted thickness) of type 1 asphaltic cement surface course on approximately 9 489 s.y

We propose hereby to furnish material and labor complete in accordance with above specifications in the sum of **FIFTY SIX THOUSAND SIX HUNDRED TWENTY NINE DOLLARS AND NINETEEN CENTS (\$56,629.19)** This price includes one mobilization. If county testing is required there will be an additional fee of \$1,500.00 per day. All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from the above specifications involving extra cost will be executed only upon written orders and will become an extra charge over and above the estimate. All agreements are contingent upon strikes accidents or delays beyond our control. CBG Inc. can charge as necessary to compact and/or fine grade the sub-grade and/or sub base materials with the acceptance of a signed change order. Otherwise we will provide all equipment labor and materials required to place the specified asphalt thicknesses and accept no responsibility for sub grade and/or sub base failures. This proposal is only valid for (30) days. However if accepted CBG inc. will honor the following price until December 2005. Thereafter CBG Inc. reserves the right to adjust the price due to possible material increases.

Acceptance of Proposal - The above prices specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified.

Authorized signature _____

CBG Inc

Acceptance signature _____

Date of acceptance. _____





Dutch Fork

Development Group



September 13 2004

This letter is to inform the homeowners of Rolling Creek that Steve Lipscomb with SEL Properties and I met with a Richland county engineer and our contractors on September 10 to determine the procedure and time to correct the damaged roads in Phase IV. The engineer and contractors recommended that several engineering tests be completed before proceeding. The time frame for completion of the tests is 9 to 28 days. Upon completion of the tests and once Richland county grants approval, our contractors can begin the repair immediately. I will keep you informed as things develop.

Sincerely,



Office (803) 749-9100 or (803) 635 6427 * Fax (803) 635-5515
206 Cedar View Drive Irmo South Carolina 29063

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ORIGINAL DOCUMENT PRINTED ON CHEMICAL REACTIVE PAPER WITH MICROPRINTED BORDER - SEE REVERSE SIDE FOR COMPLETE SECURITY FEATURES

K & L Contracting LLC P O Box 11641 Columbia SC 29211 1641	BB&T Branch Banking and Trust 1901 Assembly Street Columbia SC 29201	3324
Pay to the Order of D Melton	67 160 532/26801	3/8/2005
D Melton Dutch Fork Realty 206 Cedar View Dr Irmo SC 29063	Exactly Eight Hundred Thirty and 86/100 Dollars	\$ 830 86
Memo 103 Summer Branch Lane	<i>Stephen Earl L. Pearson</i>	

THIS DOCUMENT CONTAINS HEAT SENSITIVE INK. TOUCH OR PRESS HERE - RED IMAGE DISAPPEARS WITH HEAT.

3324 0532016071 5123942827

Record of Payment

Check 3324

Payee D Melton

3/8/2005

Rent on Mobile Office
June 04 December 04

830 86

PLAINTIFF'S
EXHIBIT

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K&L BB&T 2827

103 Summer Branch Lane

\$ 830 86

S. J. Scott

ASPHALT PAVING & MAINTENANCE CO INC

361 BRADLEY DRIVE WEST COLUMBIA SC 29170
803 796-0851 803 356 2135 FAX 803 951 2310



TO Dutch Fork Development Group
S E L Properties
c/o Ms Ann Frazier Melton
P O Box 510
Winnsboro, S C 29180

DATE July 15, 2005

Requested by Steve Lipscomb

RE Phase IV Rolling Creek Subdivision
Asphalt Paving & Maintenance Co Inc proposed to accomplish the following work and to furnish all labor materials and equipment required therefor Phase IV Rolling Creek Subdivision

Description of work and price

Dutchfork Creek Trail and Dutchfork Branch Court

Clean, tack and resurface 2 streets level with existing curb and gutter

Note One area in cul-de-sac 80' x 25' will be removed and patched by placing 6" of asphalt binder material
Asphalt Paving & Maintenance Co Inc will not be held responsible for any failure to pavement which may occur during or after paving has been completed

Price \$ 51,520 00

Terms Net in full 10 days



Prices are firm through August 30, 2005 After this date aggregates and bitumen are subject to escalation based on current published prices at the time of this offer Any increase in these published prices will be passed on to you for any work accomplished after the above date Additional conditions are on the other side of this page

If you wish us to proceed kindly sign and return the original of our offer It will constitute the full and complete agreement between us.

ACCEPTED

BY _____
Signature (Title)

DATE _____

Yours very truly
ASPHALT PAVING &
MAINTENANCE CO INC

John A Scott, Pres
John A Scott, President

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CONDITIONS AND TERMS OF AGREEMENT

- 1 This offer is for acceptance as a whole that is all or none except that you may delete from your acceptance any astensked() items at your option
- 2 Neither this offer or any contract resulting therefrom is assignable by either party without the other's written consent
- 3 Progress and final billings will be made monthly with full payment expected within ten days after invoice date
- 4 Any deviations from the specifications or modification of the terms of this agreement and any extra or incidental work or reductions in work shall be set forth in writing and signed by both parties prior to the making of such change Any increase or decrease in the contract price resulting from such change shall be included in such writing
- 5 We will provide Workman's Compensation Insurance covering our employees and our usual Public Liability and Property Damage Insurance We will also assume responsibility for the collection and payment of Social Security and State Unemployment Taxes applicable to our employees
- 6 We shall be provided with suitable access to the work area If our work is dependent upon or must be undertaken in conjunction with the work of others such work shall be so performed and completed as to permit us to perform our work hereunder in a normal uninterrupted operation
- 7 Unless a time for the performance of our work is specified we shall undertake it in the course of our normal operating schedule We shall not be liable for any failure to undertake or complete the work for causes beyond our control
- 8 We shall not be responsible for any liability resulting from damages to utilities or other facilities or objects buried beneath or to sidewalks driveways or other improvements located within our work area or designated areas of access It is further understood that we shall not be responsible for any damage to or deterioration of any of our work whether completed or in process resulting from any cause or causes beyond our control
- 9 Asphalt Paving & Maintenance Co Inc is relieved of responsibility for failure of stone base asphalt paving or other construction whenever unfavorable conditions exist and Asphalt Paving & Maintenance Co Inc is required by the customer to perform construction contrary to Asphalt Paving & Maintenance Co Inc's written professional judgment
- 10 Prices include all applicable sales taxes
- 11 Unless a lump sum price is to be paid for the foregoing work and is clearly so stated it is understood and agreed that the quantities referred to in this offer are estimated only and that payment shall be made at the state unit prices for the actual quantities of work performed by Asphalt Paving & Maintenance Co Inc as determined upon completion of the work
- 12 This offer may not be withdrawn by us until 30 calendar days after today If we do not have your written acceptance by that date then this offer is automatically withdrawn
- 13 If you request we will provide Payment and Performance Bonds at our cost as an extra charge
- 14 ATTORNEYS FEES — Customer agrees to pay all reasonable attorneys or collection fees plus all other costs and expenses incurred in the collection on this contract if the same is turned over to an attorney or other third party for collection

ASPHALT PAVING & MAINTENANCE CO INC

361 BRADLEY DRIVE WEST COLUMBIA SC 29170
803 796-0851 803 356 2135 FAX 803 951 2310



TO Dutch Fork Development Group
S E L Properties
c/o Ms Ann Frazier Melton
P O Box 510
Winnsboro, s C 29180

DATE July 15, 2005

Asphalt Paving & Maintenance Co Inc proposed to accomplish the following work and to furnish all labor materials and equipment required therefor Courtyard's at Rolling Creek

Description of work and price

Courtyard's at Rolling Creek

Clean, tack and resurface all streets level with existing curb and gutter

Note Six (6) areas in subdivision will be removed and patched with 6" of asphalt binder material Areas are as follows, 10' x 4', 18' x 11', 20' x 5', 11' x 6', 60' x 8' and 31' x 11'

Asphalt Paving & Maintenance Co Inc will not be held responsible for any failure to pavement which may occur during or after paving has been completed

Price \$ 115,500 00

Term Net in full 10 days

Prices are firm through August 15, 2005 After this date aggregates and bitumen are subject to escalation based on current published prices at the time of this offer Any increase in these published prices will be passed on to you for any work accomplished after the above date Additional conditions are on the other side of this page

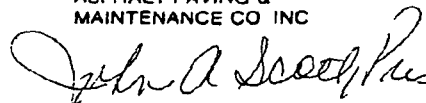
If you wish us to proceed kindly sign and return the original of our offer It will constitute the full and complete agreement between us

ACCEPTED

BY _____
Signature (Title)

DATE _____

Yours very truly
ASPHALT PAVING &
MAINTENANCE CO INC



John A Scott, President

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CONDITIONS AND TERMS OF AGREEMENT

- 1 This offer is for acceptance as a whole that is all or none except that you may delete from your acceptance any asterisked () items at your option
- 2 Neither this offer or any contract resulting therefrom is assignable by either party without the other's written consent
- 3 Progress and final billings will be made monthly with full payment expected within ten days after invoice date
- 4 Any deviations from the specifications or modification of the terms of this agreement and any extra or incidental work or reductions in work shall be set forth in writing and signed by both parties prior to the making of such change. Any increase or decrease in the contract price resulting from such change shall be included in such writing
- 5 We will provide Workman's Compensation Insurance covering our employees and our usual Public Liability and Property Damage Insurance. We will also assume responsibility for the collection and payment of Social Security and State Unemployment Taxes applicable to our employees
- 6 We shall be provided with suitable access to the work area. If our work is dependent upon or must be undertaken in conjunction with the work of others, such work shall be so performed and completed as to permit us to perform our work hereunder in a normal uninterrupted operation
- 7 Unless a time for the performance of our work is specified, we shall undertake it in the course of our normal operating schedule. We shall not be liable for any failure to undertake or complete the work for causes beyond our control
- 8 We shall not be responsible for any liability resulting from damages to utilities or other facilities or objects buried beneath or to sidewalks, driveways or other improvements located within our work area or designated areas of access. It is further understood that we shall not be responsible for any damage to or deterioration of any of our work, whether completed or in process, resulting from any cause or causes beyond our control
- 9 Asphalt Paving & Maintenance Co., Inc. is relieved of responsibility for failure of stone base, asphalt paving or other construction whenever unfavorable conditions exist, and Asphalt Paving & Maintenance Co., Inc. is required by the customer to perform construction contrary to Asphalt Paving & Maintenance Co., Inc.'s written professional judgment
- 10 Prices include all applicable sales taxes
- 11 Unless a lump sum price is to be paid for the foregoing work and is clearly so stated, it is understood and agreed that the quantities referred to in this offer are estimated only and that payment shall be made at the state unit prices for the actual quantities of work performed by Asphalt Paving & Maintenance Co., Inc. as determined upon completion of the work
- 12 This offer may not be withdrawn by us until 30 calendar days after today. If we do not have your written acceptance by that date, then this offer is automatically withdrawn
- 13 If you request, we will provide Payment and Performance Bonds at our cost as an extra charge
- 14 ATTORNEYS FEES — Customer agrees to pay all reasonable attorneys or collection fees, plus all other costs and expenses incurred in the collection on this contract, if the same is turned over to an attorney or other third party for collection

LETTS ASSOCIATES, INC



CIVIL ENGINEERING DESIGN & CONSULTING

FAX# (803) 798-1678

Date April 25, 2002

Time 9 15 AM

Number of pages 6

Fax Number 771-4937

Attention	Stacey Matson
Company	SEL Properties
From	Mary Winn
Subject	Accounts Receivable
PLAINTIFFS EXHIBIT 55	
Stacey, I am enclosing the latest statements for Mr Lipscomb's projects would you please ask him if we could get the past due amounts paid? New invoices will be going out next week Thanks a bunch <i>Mary</i> (Total Past Due \$23,696 40)	
cc	Billy Melton
1343 Garner Lane, Suite 200, Columbia SC 29210 P O Box 212327 Columbia SC 29221 2327 Telephone (803) 798 4562 • Facsimile (803) 798 1678	

3830

0001764

LETTS ASSOCIATES, INC

CIVIL ENGINEERING DESIGN & CONSULTING



October 17 2002

Billy Melton
Dutch Fork Development Group
P O Box 510
Winnsboro SC 29180

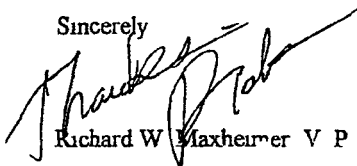
Re The Courtyards at Rolling Creek Phase I
M-1007

Dear Mr Melton

We talked to Newman Construction Co Inc on Wednesday October 16 2002 and they indicated that they have been paid a substantial sum of money for this project, but until they are paid in full they will not provide a \$0-owed Lien Waiver to the City of Columbia or Richland County

If you have any questions please give us a call

Sincerely



Richard W Maxheimer V P

RWM/mw

cc Steve Lipscomb
Jimmy Newman

PLAINTIFF'S
EXHIBIT

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P O Box 212327 • 1343 Garner Lane • Suite 200 • Columbia, SC 29221 2327 • Telephone (803) 798-4562 • Facsimile (803) 798 1678

C:\My Documents\M 1007 Court Yards\Billy Melton.doc

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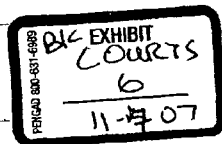
11-7-07

Your Honor,
Please provide us with a
copy of your charge.
We would also like to have a
calculator.

Carolyn B. Emenecker #66

I do not have a copy of the charge
available for you to have. If you need to
rehear a portion of the charge please tell
me what part the calculator is ~~at~~
provided.

Alfred Lee



STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

DEVELOPMENT & MARKETING
AGREEMENT

Mr. [unclear]
14 This Development and Marketing Agreement (Agreement) is made and entered into this day of November, 2000 by and between SEL Properties LLC (SEL) Dutch Fork Realty LLC (DFR) and Dutch Fork Development Group II LLC (DFDG)

WHEREAS, SEL is the owner of the following described real estate

All that certain piece parcel of tract of land, situate, lying and being on the northern side of US Highway #176 about 16 miles northwest of the City of Columbia, School District ~~#6~~ *#5 SF, [unclear]* of Richland County near the Town of Peak, in the State of South Carolina, being shown and delineated as tract 'A' containing 122.28 acres on plat prepared for Michael J Mungo by Belter and Smith, Inc, Engineers and surveyors, dated November 1 1972 recorded in the Office of the Clerk of Court for Richland County in Plat book X at page 2151 said plat being expressly incorporated herein by reference Being more particularly shown and delineated on a plat prepared by Cox & Dinkins, Inc, for SEL Properties LLC dated September 22 2000 to be recorded in the Richland County ROD
TMS# 2600-4-2

This property is known as Rolling Creek Estates (hereinafter referred to as the Property) and

WHEREAS, DFDG has experience in obtaining regulatory approvals developing coordinating the development of and preparation by way of fair market value sales real estate with and without the improvements thereon DFR has experience in the actual marketing and sale of real estate with and without improvements thereon and

WHEREAS, SEL desires to enter into an Agreement with DFDG and DFR which will provide for the development and sale of the property



NEW THEREFORE, for valuable consideration in the form of mutual promises and covenants the parties do agree as follows

1 The Parties.

SEL is a South Carolina Limited Liability Company with Stephen E Lipscomb as member/manager DFDG is a South Carolina Limited Liability Company with Ann F Melton, William P Melton, Sr and Donald Owen 'D' Melton as members/managers and DFR is a South Carolina Limited Liability Company with Ann F Melton, William P Melton, Sr and Donald Owen D Melton as members/managers

This Agreement is based upon certain personal experience and ability of the named individual members/managers of the respective Limited Liability Companies and should Stephen E Lipscomb cease for any reason, being actively associated with SEL or should he be no longer able physically and/or mentally to participate in the development as planned either DFR or DFDG may declare this Agreement to be null void and of no effect For the foregoing reasons, should more than one member of DFR and DFDG (namely Ann F Melton, William P Melton Sr and Donald Owen "D Melton) cease, for any reason, being actively associated with DFR and DFDG or should they be no longer able, physically and/or mentally to participate in the development as planned, SEL may declare this Agreement to be null void and of no effect

2 Infrastructure.

SEL shall exercise its best efforts to secure reasonable financing from a conventional lending institution for the purpose of purchasing the property securing engineering studies surveying landscaping and for the costs related to the infrastructure SEL shall have final approval of all costs pertaining to the development of the property

3 Phased Development

The property is to be developed in phases There shall be three (3) Phases of



Development Phase II shall not commence until no less than sixty (60%) percent of the lots in Phase I are sold and Phase III will not commence until no less than sixty (60%) percent of the lots in Phase I and Phase II are sold

4 Development.

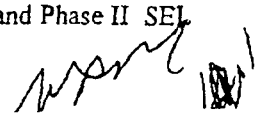
It is the intent of the parties to develop the property as a residential subdivision and to sell the lots at fair market value to the general public In this regard DFDG will be responsible for the development of the property, which responsibilities include, but are not limited to obtaining all regulatory permits, devising architectural and design requirements coordinating with builders and contractors, and coordinating and cooperating with DFR in the sale of the proposed residential lots

5 Compensation for DFDG.

For so long as DFDG is adequately performing under the terms of this Agreement and in accordance with the intent of the parties SEL shall pay to DFDG the sum of Nine Thousand and no/100 (\$9000 00) dollars per month for a six (6 month period) for a total payment of Fifty-Four Thousand and no/100 (\$54 000 00) dollars, during Phase I of the development The first such monthly payment shall be due and payable the first day of the first month following the letting of the contract for the construction of Phase I and on the first day of each succeeding month for the remaining five (5) months

Upon the sale of sixty (60%) percent of the lots developed in Phase I the first month following the letting of the contract for the construction of Phase II, SEL shall pay DFDG Nine Thousand and no/100 (\$9000 00) dollars per month for a total of Six months or a total of Fifty-Four Thousand and no/100 (\$54 000 00) dollars for services rendered regarding the Phase II development

Upon the sale of sixty (60%) percent of the lots developed in Phase I and Phase II SEL



shall similarly pay DFDG Nine Thousand and no/100 (\$9000 00) dollars per month for a total of Six months or a total of Fifty Four Thousand and no/100 (\$54 000 00) dollars for services rendered regarding the Phase III development

In addition to the foregoing SEL shall pay to DFDG twenty-five (25%) percent of the net profits received from the lots sold in Phases I, II and III For purposes of this paragraph, net profits shall be defined as The costs of the sale of the lots less any and all expenses and capital contributions sales commissions, the Nine Thousand and no/100 (\$9000 00) dollars development fee, interest charges, including interest on capital contributions made by SEL (which interest shall be that amount as charged by SEL's lender or the prime rate as charged by the National Bank of South Carolina, plus one percentage point, whichever amount is lesser

upon
in
In the event the development is not sold in individual lots but is sold "in gross" prior to the ~~beginning~~ ^{END} of Phase I, the sales price of the entire property upon closing, less the initial land costs interest charged development costs and professional fees and charges shall be divided sixty (60%) percent SEL and forty (40%) percent DFDG

6 Exclusive Right to Sell

For so long as DFR is adequately performing under the terms of this Agreement and in accordance with the intent of the parties DFR shall be entitled to a real estate commission of ten (10%) percent upon the closing of the sale of developed lots to non-builders DFR shall receive no commission for any lot sale to builders

This exclusive right to sell shall be granted to DFR for a period of five (5) years provided that DFR sells & closes no less than twenty (20%) percent of the lots available for sale per year in each Phase of the development The sale price for each lot shall be approved in advance by SEL Should SEL purchase any one or more lots in the development, not commission shall be charged not shall any commission be payable

[Signature]

DFR shall also have the exclusive right to sell new homes constructed in the development at a sales commission not to exceed seven (7) percent. This exclusive right to sell shall be for a period of twelve (12) months after construction is commenced on the home.

Upon the expiration of the exclusive right to sell period for either unimproved or improved lots, SEL and /or the owner of the lot or lots shall be free to list the same with any realtor of their choice.

All costs of sales, advertising, listing, promotion and sale marketing offices and agents shall be the responsibility of DFR.

7 Contracts

No contracts, leases, or other binding agreements may be entered into by DFDG or DFR which would bind SEL or create any lien or other encumbrance upon the property.

8 Termination

This Agreement shall terminate and be rendered null, void and of no effect upon the earlier occurrence of any one or more of the following events:

- a) The bankruptcy, insolvency or composition of creditors being created for any one or more of the parties hereto, *AT THE OPTION OF THE OTHER PARTY*
- b) The failure of DFDG and DFR to sell at least twenty (20%) percent of the available lots in any one year period
- c) The term of 5 years from the date of execution of this contract, or
- d) The failure of any party to comply with the terms of this Agreement and/or comply with the intent of the parties
- e) Upon written notification of any one party to the other

9 Upon Termination

Upon termination DFDG and DFR will have no further rights to compensation and/or

commission and shall peacefully vacate the premises

10 Arbitration

Any disputes arising between the parties which cannot be resolved among themselves shall be submitted to binding arbitration in accordance with the South Carolina "Uniform Arbitration Act

11 Attorneys Fees and Costs

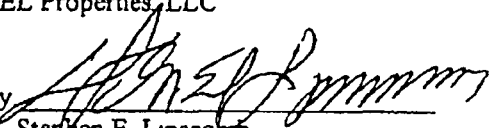
Should disputes arising under this Agreement result in litigation judicial or quasi-judicial proceedings the party prevailing shall be entitled to an award of reasonable attorneys fees and costs

12 Entire Agreement

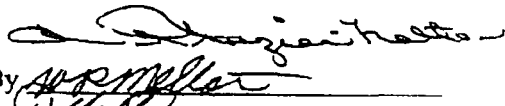
This represents the entire Agreement between the parties superceding all prior verbal or written agreements and the same shall not be modified amended or changed except by a writing signed by all parties hereto

IN WITNESS WHEREOF we affix our hands and seals the year and date first set forth above

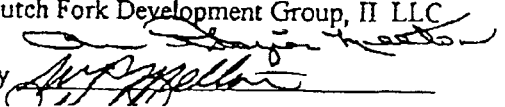
SEL Properties, LLC

By 
Stephen E. Lipscomb
Its

Dutch Fork Realty LLC

By 
Stephen E. Lipscomb
Its

Dutch Fork Development Group, II LLC

By 
Stephen E. Lipscomb
Its

11/02
STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

DEVELOPMENT & MARKETING
AGREEMENT

MD This Development and Marketing Agreement (Agreement) is made and entered into this day of October, 2002, by and between SEL Properties LLC (SEL) Dutch Fork Realty LLC (DFR) and Dutch Fork Development Group II, LLC, (DFDG)

WHEREAS SEL is the owner of the following described real estate

14.9 acres in Richland County, South Carolina known as Rolling Creek Phase 4

WHEREAS, DFDG has experience in obtaining regulatory approvals developing, coordinating the development of and preparation by way of fair market value sales real estate with and without the improvements thereon DFR has experience in the actual marketing and sale of real estate with and without improvements thereon, and

WHEREAS, SEL desires to enter into an Agreement with DFDG and DFR which will provide for the development and sale of the property

NOW THEREFORE for valuable consideration in the form of mutual promises and covenants the parties do agree as follows

1 The Parties

SEL is a South Carolina Limited Liability Company with Stephen E Lipscomb as member/manager, DFDG is a South Carolina Limited Liability Company with Ann F Melton, William P Melton Sr and Donald Owen 'D' Melton as members/managers, and DFR is a South Carolina Limited Liability Company with Ann F Melton, William P Melton, Sr and Donald Owen D Melton as members/managers

This Agreement is based upon certain personal experience and ability of the named individual members/managers of the respective Limited Liability Companies and should Stephen E Lipscomb cease for any reason, being actively associated with SEL or should he be no longer able physically and/or mentally to participate in the development as planned, either DFR or DFDG may declare this Agreement to be null, void and of no effect. For the foregoing reasons, should more than one member of DFR and DFDG (namely Ann F Melton William P Melton Sr and Donald Owen 'D' Melton) cease, for any reason, being actively associated with DFR and DFDG or should they be no longer able, physically and/or mentally to participate in the development as planned, SEL may declare this Agreement to be null, void and of no effect

2 Infrastructure

SEL shall have final approval of all costs pertaining to the development of the Property

3 Development

It is the intent of the parties to develop the property as a residential subdivision and to sell the lots at fair market value to the general public In this regard DFDG will be responsible for the development of the property, which responsibilities include but are not limited to obtaining all regulatory permits devising architectural and design requirements coordinating with builders and contractors and coordinating and cooperating with DFR in the sale of the proposed residential lots

SE
am



In connection with said development DFDG does hereby agree as follow

- a That SEL is granted a easement for ingress egress and utilities to run with the title to the Property over across and through that the portion of the adjoining property of DFDG, said easement being the extension of Dutch Fork Creek Trail and running between Lots 40 and 39 of Rolling Creek to Brook View Lane The easement will be automatically extinguished upon the recording of the deed of conveyance of said Dutch Fork Creek Trail extension to Richland County (which DFDG agrees to do on a timely basis)
- b SEL is hereby granted the rights to tie into and onto the utilities servicing Rolling Creek Subdivision
- c SEL and DFDG do hereby agree to cause the Property to be made subject to the restrictive covenants for Rolling Creek subdivision by recorded amendment to the Rolling Creek restrictions

4 Compensation for DFDG

So long as DFDG is adequately performing under the terms of this Agreement and in accordance with the intent of the parties, SEL shall pay to DFDG the sum of \$2 933 00 from the proceeds from the closing of the sale of the first fifteen (15) lots closed from the Property

In addition to the foregoing, SEL shall pay to DFDG twenty-five (25%) percent of the net profits received from the lots sold For purposes of this paragraph net profits shall be defined as The costs of the sale of the lots less any and all expenses and capital contributions sales commissions, the Two Thousand Nine Hundred Thirty-Three and 00/100 (\$2,933 00) dollars development fee, interest charges, including interest on capital contributions made by SEL (which interest shall be that amount as charged by SEL's lender, or the prime rate as charged by the National Bank of South Carolina plus one percentage point, whichever amount is lesser)

In the event the development is not sold in individual lots but is sold "in gross" the sales price of the entire property upon closing less the initial land costs, interest charged development costs, and professional fees and charges, shall be divided sixty(60%) percent SEL and forty (40%) percent DFDG

5 Exclusive Right to Sell

For so long as DFR is adequately performing under the terms of this Agreement and in accordance with the intent of the parties DFR shall be entitled to a real estate commission of ten (10%) percent upon the closing of the sale of developed lots to non-builders DFR shall receive no commission for any lot sale to builders

This exclusive right to sell be granted to DFR for a period of five (5) years provided that DFR sells & closes no less than twenty (20%) percent of the lots available for sale per year The sale price for each lot shall be approved in advance by SEL Should SEL purchase any one or more lots in the development, no commission shall be charged nor shall any commission be payable

DFR shall also have the exclusive right to sell homes constructed in the development at a sales commission not to exceed seven (7%) percent. This exclusive right to sell shall be for a period of twelve (12) months after construction is commenced on the home.

Upon the expiration of the exclusive right to sell period for either unimproved or improved lots, SEL and/or the owner of the lot or lots shall be free to list the same with any realtor of their choice.

All costs of sales, advertising, listing, promotion and sale marketing offices and agents shall be the responsibility of DFR. Provided however that DFR will not be required to maintain and staff an office on the property so long as it is maintaining and staffing an office on the adjoining property of DFDG (Rolling Creek).

6 Contracts

No contracts, leases or other binding agreements may be entered into by DFDG or SFR which would bind SEL or create any lien or other encumbrance upon the property.

7 Termination

This Agreement shall terminate and be rendered null, void and of no effect upon the earlier occurrence of any one or more of the following events:

- a) The bankruptcy, insolvency or composition or creditors being created for any one or more of the parties hereto, at the option of the other party,
- b) The failure of DFDG and DFR to sell at least twenty (20%) percent of the available lots in any one year period.
- c) The term of 5 years from the date of execution of this contract, or
- d) The failure of any party to comply with the terms of this Agreement and/or comply with the intent of the parties.
- e) Upon written notification of any one party to the other.

8 Upon Termination

Upon termination DFDG and DFR will have no further rights to compensation and/or commission and shall peacefully vacate the premises.

9 Arbitration

Any disputes arising between the parties which cannot be resolved among themselves shall be submitted to binding arbitration in accordance with the South Carolina 'Uniform Arbitration Act'.

10 Attorney's Fees and Costs

Should disputes arising under this Agreement result in litigation, judicial or quasi-judicial proceedings, the party prevailing shall be entitled to an award of reasonable attorney's fees and costs

11 Entire Agreement

This represents the entire Agreement between the parties superceding all prior verbal or written agreements and the same shall not be modified, amended or changed except by a writing signed by all parties hereto

IN WITNESS WHEREOF we affix our hands and seals the year and date first set forth above

SEL Properties, LLC

Rose G. Koch
[Signature]

By [Signature]
Stephen E Lipscomb
Its _____

Dutch Fork Realty, LLC

Rose G. Koch
[Signature]

By [Signature]
Its [Signature]

Dutch Fork Development Group, II, LLC

Rose G. Koch
[Signature]

By [Signature]
Its [Signature]

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

CONTRACT OF SALE

THIS CONTRACT OF SALE is entered into on this 8 day of AUGUST, 2000 by and between the Seller and the Purchaser hereinafter designated for the sale of that certain parcel of real property described on the attached Exhibit A' incorporated herein by reference as a Parcel containing 122 28 acres (hereinafter the "Property" For the purposes of this Contract of Sale the following meanings shall apply

PURCHASER SEL Property LLC.

SELLER ROBERT E CRIPPS, II

WITNESSETH

WHEREAS the SELLER desires to sell and the PURCHASER desires to purchase certain real property presently owned by the SELLER and described in the attached "Exhibit A",

NOW, THEREFORE, KNOW ALL MEN that for and in consideration of the mutual promises and covenants contained herein and earnest money paid by the Purchaser to the Seller of which receipt and sufficiency are hereby acknowledged, the Seller and Purchaser covenant and agree to contract as follows

I PURCHASE PRICE The Seller agrees to sell and transfer the Property to the Purchaser, and the Purchaser agrees to purchase the Property and pay the Seller EIGHT HUNDRED THOUSAND DOLLARS (\$800 000 00) upon the following terms

II EARNEST MONEY Purchaser has simultaneously with the execution of this Contract delivered to the Seller the amount of \$50,000 00 as earnest money deposit, the receipt and sufficiency of which is acknowledged by the Seller The Purchaser specifically acknowledges

LSH

REC, A



that this earnest money shall be non refundable unless Seller is unable to furnish Marketable Title as indicated in Section VII below

III CLOSING The closing shall be held no later than forty five days after execution of this Contract at a time and place designated by the Purchaser within Columbia, South Carolina

IV CLOSING COSTS Purchaser shall be responsible for all closing costs except preparation of the deed, deed stamps, and recording of the necessary releases and/or satisfactions, which are necessary to convey to the Purchaser marketable title

V PRORATIONS All ad valorem property taxes, shall be prorated as of date of closing Purchaser shall be responsible for any Rollback tax liability the Property shall bear

VI ACCESS TO PROPERTY Prior to closing Purchaser may at Purchaser's expense directly or through its agents or representatives, enter upon the Property for the purpose of inspection survey, and other study of the property or as may be necessary or advisable to obtain any permits or approvals, including construction or building permits

VII TITLE Seller shall furnish marketable title to the property In the event that this transactions fails to close due to a wrongful refusal or default on the part of Seller, the parties agree that damages would be difficult to assess, and that return of the earnest money to the Purchaser shall be made by seller as agreed liquidated damages and thereafter, neither the Purchaser nor the Seller shall have any further obligation under this Contract

VIII ALIENATION Seller agrees not to sell, convey, assign, pledge, encumber, lease, or contract to sell convey assign, pledge encumber or release all or any part of the Property nor restrict the use of all or any part of the Property nor take any action in conflict with this Contract and the closing of the purchase and sale contemplated hereby until the termination of this Contract pursuant to its terms

LEV REC, 12

IX This Contract constitutes the sole and entire agreement of the parties and is binding upon the Seller and Purchaser their heirs successors legal representatives principals, and assigns This Contract can only be changed with the written agreement of all parties

IN WITNESS WHEREOF the parties hereto have caused these presents to be executed the day and year first above written

W. R. Melton

PURCHASER

JEL Properties

By *L. J. Lysam B*

Its *Per*

W. R. Melton

SELLER

Robert E. Cripps, II

ROBERT E CRIPPS, II

LJL *REC 12*³

EXHIBIT "A"

All that certain piece, parcel or tract of land situate, lying and being on the northern side of US Highway #176 about 16 miles northwest of the City of Columbia, School District #6 of Richland County near the Town of Peak, in the State of South Carolina, being shown and delineated as tract "A" containing 122 28 acres on plat prepared for Michael J Mungo by Belter and Smith, Inc , Engineers and surveyors, dated November 1, 1972, recorded in Office of Clerk of Court for Richland County in Plat Book X Page 2151, said plat being expressly incorporated herein by reference

DERIVATION Book D 313 Page 436

The mortgagor expressly understands that no timber will be cut or harvested in any manner without the written permission of the mortgagee, Security Service Corp

5/24 REC, R

Instrument: 2000075468

Book/Page: R449 37

Date/Time: 10/6/2000 10:54:34 AM

ATTEST:
A TRUE COPY
[Signature]
R M G

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS that ROBERT E. CRIPPS II (hereinafter called "Grantor") in the State aforesaid for and in consideration of the sum of EIGHT HUNDRED THOUSAND AND NO/100 (\$800 000 00) DOLLARS to me paid by SEL PROPERTIES, LLC (hereinafter called "Grantee") in the State aforesaid (the receipt whereof is hereby acknowledged) have granted bargained sold and released and by these Presents do(as) grant bargain sell and release, unto the said

SEL PROPERTIES, LLC, ITS HEIRS AND ASSIGNS FOREVER.

All that certain piece, parcel or tract of land situate lying and being on the northern side of US Highway #178 about 18 miles northwest of the City of Columbia, School District #8 of Richland County near the Town of Peak, in the State of South Carolina, being shown and delineated as tract "A" containing 122.28 acres, more or less on plat prepared for Michael J. Mungo by Belter and Smith, Inc. Engineers and surveyors dated November 1 1972, recorded in Office of the Clerk of Court for Richland County in Plat Book X at Page 2151 said plat being expressly incorporated herein by reference

Being more particularly shown and delineated on a plat prepared by Cox & Dinkins Inc for SEL Properties LLC dated September 22 2000 to be recorded

TMS# 2600-4-2

Derivation. This being the same property conveyed to Robert R. Cripps II by deed of Security Service Corp. Inc dated March 14 1988 and recorded in the Office of the Register of Deeds for Richland County in Deed Book D0784 at Page 504

Grantee's Address 1105 Pulaski Street
Columbia SC 29201

This conveyance is made subject to all existing easements restrictions rights of way and/or encroachments

TOGETHER with all and singular the Rights Members, Hereditaments and Appurtenances to the said Premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular the said premises before mentioned unto the said SEL PROPERTIES LLC Their Heirs and Assigns forever

And the said ROBERT E. CRIPPS II do hereby bind Themselves and Their Heirs and Assigns to warrant and forever defend all and singular the said premises unto the said SEL PROPERTIES, LLC Their Heirs and Assigns, against Themselves and Their Heirs and Assigns and against every person whomsoever lawfully claiming or to claim the same or any part thereof

PLAINTIFF'S
EXHIBIT

4

tabbier

This document is not to scale

0001781

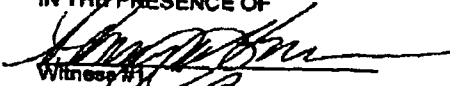
Instrument: 2000075468

Book/Page R449 38

Date/Time: 10/6/2000 10:54:34 AM

WITNESS our Hand(s) and Seal(s) this 22 day of September in the year
of our Lord two thousand (2000)

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF


Witness #1


ROBERT E CRIPPS II

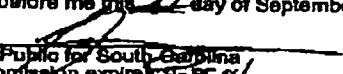

Witness #2

STATE OF SOUTH CAROLINA }
COUNTY OF RICHLAND }

ACKNOWLEDGMENT

I, Samuel E. Knight, Jr., Notary Public for South Carolina do hereby certify
that Robert E. Cripps, II personally appeared before me this day and acknowledged the
due execution of the foregoing deed

Sworn before me this 22 day of September 2000


Notary Public for South Carolina
My commission expires 2-28-01

Richland County RCD

John G. Norris

Instrument: 2002010549

Book/Page R623 443

Date/Time 2/5/2002 4:41:50 PM

4553982750-1

CLO RECD JAN 22 2001

State of South Carolina)

County of RICHLAND)

MORTGAGE OF REAL PROPERTY

THIS MORTGAGE, made this 24 day of OCTOBER, 2000
among SEL PROPERTIES, LLC (hereinafter referred to as Mortgagor)
and THE NATIONAL BANK OF SOUTH CAROLINA (hereinafter referred to as Mortgagee)

WITNESSETH THAT WHEREAS Mortgagor is indebted to Mortgagee for money loaned for which Mortgagor has executed and delivered to Mortgagee one or more applications obligations or agreements (Note(s)) with the original Note being in the principal sum of *EIGHT HUNDRED THOUSAND DOLLARS AND ZERO CENTS Dollars (\$ 800,000.00)

AND WHEREAS to induce the making of said loan/Notes and in consideration of advances made and which may be made by Mortgagee to Mortgagor as evidenced by said various Notes of even date herewith or pursuant to Notes executed in the future Mortgagor has agreed to secure said debt and interest thereon evidenced by said Notes and all renewals and extensions thereof together with (in accordance with Section 29-3-50 Code of Laws of South Carolina 1976 as may be amended) any future advances that may subsequently be made in connection with said Notes or by Mortgagee and all renewals and extensions thereof as well as all other indebtedness of Mortgagor or Mortgagee now due or to become due or hereafter contracted, provided however that the total amount of existing indebtedness and future advances outstanding at any one time may not exceed 200% of the principal amount of the Note or

*EIGHT HUNDRED THOUSAND DOLLARS AND ZERO CENTS Dollars (\$ 800,000.00)
whichever is greater plus or together with interest thereon attorneys fees and court costs and to secure the performance of the undertakings prescribed in the Notes and this Mortgage by the conveyance of the premises hereinafter described Interest on said Notes will be deferred accrued or capitalized.

NOW THEREFORE, in consideration of the aforesaid loan and the sum of Three Dollars (\$3.00) cash in hand paid to Mortgagor the receipt of which is hereby acknowledged, Mortgagor hereby grants sells conveys assigns and releases to Mortgagee its successors and assigns the following described premises located
in Richland County South Carolina.

SEE ATTACHED SCHEDULE A

Book 00623-0443
20020 0540 02057002 841 50.4
Fee \$5.00 County Tax: \$0.00 State Tax: \$0.00

Satisfaction of Mort



2002010549 John G. Morris

Richland County ROD

ATTEST:
A TRUE COPY
Richard W. Radden

John G. Morris

PAID and SATISFIED
THE NATIONAL BANK OF SOUTH CAROLINA
of Sumter S.C.

[Signature] Loan Operations
Officer

WITNESS

[Signature]
DEC 06 2001

Book 00457 1900
20000327 11/07/2000 15 40 02 97
Fee: \$10.00 County Tax: \$0.00 State Tax: \$0.00

Mortgage



2000032974 John G. Morris

Richland County ROD



49- 4553982750-1

Together with all and singular the rights, members hereditaments and appurtenances to said premises belonging or in anywise incident or appertaining including but not limited to all buildings improvements fixtures or appurtenances now or hereafter erected thereon including all apparatus equipment, fixtures or articles whether in single units or centrally controlled, used to supply heat gas air conditioning water light power refrigeration, ventilation or other services and also together with any screens window shades storm doors and windows screen doors awnings stoves and water heaters (all of which are declared to be a part of said real estate whether physically attached thereto or not)

[Signature]



**RICHLAND COUNTY
SOUTH CAROLINA
PLANNING AND DEVELOPMENT SERVICES
P O BOX 192
2020 Hampton Street
Columbia South Carolina 29202**

DIVISION
ADMINISTRATION 929-6097
BUILDING INSP 929-6062
PERMITS 256-0862
PLANNING 929-6078
ZONING/DEVELOP 748-4969

June 18 2001

Mrs Ann Frazier Melton
322 S Congress Street
Winnsboro, SC 29180

**REQUEST FOR A SPECIAL EXCEPTION 01-82SE TO PERMIT CLUSTER HOUSING
IN THE RS-1 ZONING DISTRICT PROPERTY LOCATED ON TMS 02600-04-02
HWY 176 ZONED RS-1 (SINGLE FAMILY RESIDENTIAL)**

Dear Mrs Melton

The Richland County Zoning Board of Adjustment at its meeting on Wednesday, June 6, 2001 APPROVED your above-referenced request to become final upon the approval of the minutes

Please contact this office for information regarding the procedure you should follow to obtain necessary permits to allow you to utilize the property as authorized by the Board and in accordance with other applicable zoning and building regulations Please bring this letter with you when you come for any assistance Pursuant to Article V Section 6 of the By-Laws of the Richland County Zoning Board of Adjustment any order or decision of the Board granting a variance or special exception expires if a building permit or certificate of occupancy for such use is not obtained within 12 months from the date of the decision

If this office can be of further assistance, please do not hesitate to contact us, at the above-named address and telephone number

Sincerely

A handwritten signature in black ink, appearing to read "John W. Hicks", written over a horizontal line.

John W Hicks
Director of Planning Services

JWH/cmt



LETTS ASSOCIATES, INC

CIVIL ENGINEERING DESIGN & CONSULTING



November 8 2001

SENT BY FAX AND US MAIL

James Knight
Lewis Babcock and Hawkins
1513 Hampton Street
Columbia SC 29201

Re The Courtyards at Rolling Creek
M-1007

Dear Mr Knight

Please find enclosed the agency approvals for the water sewer and grading for the
Courtyards at Rolling Creek

Please let us know if you need any additional information

Yours truly

Richard W Maxheimer V P

RWM/mw

Enclosures

cc Billy Melton





**RICHLAND COUNTY
SOUTH CAROLINA**
Department of Public Works Administration & Engineering
400 POWELL ROAD
COLUMBIA SOUTH CAROLINA 29203

Ralph B Pearson P E
County Engineer
(803) 735 7305

TDD# 748-4999
FAX# 735 7033

October 9 2001

Mr Johnny T Johnson P E
Letts Associates Inc
P O Box 212327
Columbia, South Carolina 29221

RE Street Storm Drainage and Sediment and Erosion Control Plans
for The Courtyards at Rolling Creek Phase I
prepared by Letts Associates
dated September 14 2001
RCPD Project #

Dear Mr Johnson

This letter notifies you that the above referenced plans are hereby approved for street, storm drainage and sediment and erosion control, and issuance of a grading permit under the Land Development Regulations for Richland County. **Please be advised that the Planning and Development Services Department must approve the construction plans prior to issuance of any building permit. For further information, please contact Carl Gosline at 929-6079.**

Enclosed please find one copy of the approved plans the permit card and the permit special conditions. The approved copy is for the contractor and shall be available on-site during all phases of construction. You must notify Steve Amick of our inspection office (2) two working days prior to starting any land clearing activity. The address of our office and telephone number is as follows:

Richland County Public Works- Balentine Office
Steve Amick @ (803) 749-9346
1009 Bickley Road
Irmo, S C 29063

Also be advised that other local, state or federal permits may be required for this project. If you have any questions, please contact me at (803) 691-5520.

Sincerely,

A handwritten signature in black ink, appearing to read "Gordon L. Greene", is written over a horizontal line.

Gordon L. Greene
Staff Engineer

Cc Carl Gosline RCPD
Steve Amick RCED
" " Daniel SCDHFC

0001786

RICHLAND COUNTY

OFFICE OF THE COUNTY ENGINEER

GRADING PERMIT

ISSUED TO: DUTCH FORK Dev GROUP
(Owner)

TO PERFORM GRADING & EROSION
CONTROL WORK

AT The Courtyards @ Rolling Creek
(Location)

The owner has agreed to comply with all
applicable rules and regulations of
Richland County and to do no work not
specifically covered by this permit

DATE 10/12/01 **NO.** 08A2 -
P0101

This Card Must Be Conspicuously Posted On
Front Property Line Of Work Site And
Protected From Weather



RICHLAND COUNTY
SOUTH CAROLINA
 Utilities & Services
 3506 Fernandina Rd
 Columbia, South Carolina 29210

Andy H Metts Director
 (803) 401 0050

November 2 2001

Fax (803) 401-0050

Bureau of Water Pollution Control
 S C D H E C
 2600 Bull Street
 Columbia South Carolina 29201
 ATTN D R P Construction Submittal

RE Rolling Creek Courtyards Phase 1

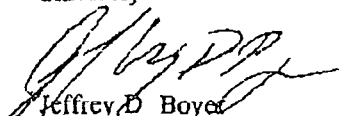
Gentlemen

This letter notifies you that the sanitary sewer plan for Rolling Creek Courtyards Phase 1 prepared by Letts Associates, Incorporated dated September 14 2001 revised through November 1 2001 has been reviewed and approved by this office for construction. Richland County will accept this system for ownership operation and maintenance provided the system is installed in accordance with the approved plans and specifications. Wastewater generated by this project will be treated at the Broad River Regional WWTP under NPDES Permit No. SC0046621.

The attached including the \$75.00 application fee, is being submitted in order to obtain a construction permit from your department. Please issue the permit at your earliest convenience.

If you have any questions please contact me at 401-0050.

Sincerely


 Jeffrey D. Boyce
 Sanitary Engineer

JDB/jbf

Attachment

cc Chris Eversmann Public Works Director

Post It Fax Note	7671	Date	11/5/01	# of pages	2
To	May	From	Geonette		
Co/Dept	Letts	To	R.C. Utilities		
Phone #		Phone #	401-0050		
Fax #	798-1678	Fax #	772-3182		

d j e i c o r r e s p o n d e n t s u b m i t t e d i n d o
 P11

0001788

November 7 2001

Re Proposed Water Main Construction For
The Courtyard at Rolling Creek Letts
Associates Inc Plans Dated September
14 2001 CF #213-22B

South Carolina Department of Health
and Environmental Control
Bureau of Drinking Water Protection
Water Supply Permitting Section
2600 Bull Street
Columbia SC 29201

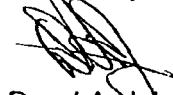
Dear Sir

The referenced project has been examined and is approved for construction
permitting under the Delegated Review Program

Following completion of construction granting of easements and deeding of the
system, the City will accept the proposed water main(s) for ownership operation and
maintenance and provide water service to the referenced project's 57 lots having a
calculated design demand (fire plus coincident) of 780 gpm from System No 4010001

Should you require additional information please feel free to contact Howard Boyd
at 733-8232

Yours very truly



David A Johnson P E
Director of Engineering

HB js W-D-5

Enclosures

CC Mr Johnnie T Johnson P E Letts Associates Inc
Dutch Fork Development Group

COPY

Water Supply Construction Permit

Bureau of Water



Permission is hereby granted to Dutch Fork Development Group
PO Box 510
Winnsboro SC 29180

for the construction of a distribution system in accordance with the construction plans specifications design calculations and the SC DHEC Construction Permit Application signed by Johnny T Johnson Registered Professional Engineer S C Registration Number 4543

Project Name THE COURTYARDS AT ROLLING CREEK PHASE I **County** Richland
Location US Hwy 176

Project Description Installation of approximately 3148 LF of 12" DIP 2316 LF of 8" PVC
1425 LF of 4" PVC seven (7) fire hydrants and all necessary appurtenances to serve 57 lots

Service By The water will be provided by COLUMBIA CITY OF (System Number 4010001)

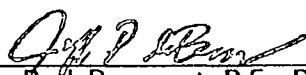
Special Conditions

- 1 This construction permit is being issued based on the technical review being provided by the City of Columbia under the Delegated Review Program. An approval to place in operation will not be granted if there are certain deficiencies that are noted regarding the requirements of R 61-58.
- 2 Any connection to the plug(s) shown must be approved under a separate construction permit excluding individual service connections as defined in Regulation 61-58 Section R 61-58 1(B)(11).
- 3 The fire hydrant(s) shall be flowed tested and the results submitted with the cert letter from the engineer. Adequate flow and residual pressure must be maintained or the hydrant(s) must be removed and replaced with an equivalent blowoff.
- 4 All construction and materials shall conform to the Standard Specifications of the City of Columbia.

In accepting this permit, the owner agrees to the admission of properly authorized persons at all reasonable hours for the purpose of sampling and inspection.

This is a permit for construction only and does not constitute State Department of Health and Environmental Control approval temporary or otherwise to place the system in operation. An Approval to Place in Operation is required and can be obtained following the completion of construction by contacting the EQC Central Midlands District Office at (803) 896 0620. Additional permits may be required prior to construction (e.g. stormwater).

Permit Number 16 529-WS
Date of Issue November 26 2001
Expiration Date Construction must be completed prior to November 27, 2003, or this permit will expire.


Jeffrey P. DeBessonet P.E., Director
Water Facilities Permitting Division

TES(DRP)



Regal Award Winners

Dutch Fork

Development Group



ROLLING
CREEK

List of services to be provided by Dutch Fork Development Group

We will be responsible for obtaining any and all licenses, permits, permissions, etc. that are required for the development of the subdivision. This will include, but is not limited to

- 1 Zoning Changes if necessary
- 2 Planning Commission approval
- 3 Water System Permits
- 4 Sanitary Sewer System Permits
- 5 Storm Drainage System Permits
- 6 State Highway or County Road approval including entrance(s)
- 7 Environmental Studies necessary to comply with DHEC

DFDG will be responsible for submitting all initial applications and following through the process and reviews for final approval.

DFDG will be responsible for hiring and coordinating with a certified design engineer to provide the design and lay out of the entire subdivision including individual lots, entrances, roads, common areas, sidewalks, plus all infrastructure to include sanitary sewer system, water system and storm drainage system. Also to include lay out and infrastructure design for the Amenity Package. DFDG will also be responsible for coordinating the installation of underground electric service, natural gas service and cable TV.

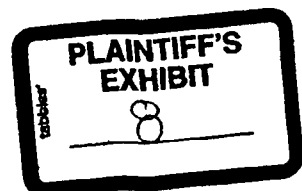
The engineer will be responsible to DFDG for providing the following:

- 1 The Boundary Survey
- 2 Topographic Survey
- 3 Construction Documents

This will include complete construction drawings and specifications consisting of grading, drainage, roads, water system, sanitary sewer system and erosion control. We will submit plans to reviewing agencies and obtain their approvals.

Office (803) 749 9100 or (803) 635 6427 Fax (803) 635 5515

2000 Willow Creek Drive, Inc., South Carolina 29063



4 As-Built Drawings

Upon completion of construction, we will provide as-built drawings as required.

As-Built Water System

This will meet the requirements of County or Municipal Water & Sewer Commission and DHEC.

As-Built Sanitary Sewer System

This will meet the requirements of the Sewer Commission and DHEC.

As-Built Roads & Storm Drainage

This will meet the requirements of Florence County Public Works.

5 Lot Staking

Lot staking will need to be provided prior to a bonded or final plat being recorded.

6 Preliminary Plat

This plat will be prepared prior to lot staking and after the construction documents.

7 Bonded Plat or Final Plat

This plat will be provided for final approvals

DFDG will provide and record covenants and restrictions, architectural review board guidelines, and rules and by laws for the homeowner's association.

DFDG will work through the Engineers to bid out the necessary contracts for construction of all infrastructure. Construction companies will be responsible directly to the engineer and the engineer directly to DFDG

DFDG will work directly with builders concerning any problems or assistance that may be needed.

**THIS CONTRACT IS SUBJECT TO ARBITRATION PURSUANT TO THE PROVISIONS OF
THE SOUTH CAROLINA UNIFORM ABRITRATION ACT, SECTION 15-48-10, ET SEQ, CODE
OF LAWS OF SOUTH CAROLINA, 1976 AS AMENDED**

AIA DOCUMENT A107-1997

Abbreviated Standard Form of Agreement Between Owner and Contractor for Construction Projects of Limited Scope where the basis of payment is a STIPULATED SUM

AGREEMENT made as of the
in the year
(In words indicate day month and year)

twenty sixth
two thousand one

day of October

This document includes
abbreviated General
Conditions and should
not be used with other
general conditions

BETWEEN the Owner
(Name address and other information)

S E L Properties LLC
3911 Kilbourne Road
Columbia S C 29205

This document has impor
tant legal consequences
Consultation with an
attorney is encouraged
with respect to its
completion or modification

and the Contractor
(Name address and other information)

Newman Construction Inc
500 Myrtle Beach Hwy
Sumter S C 29153-5014

This document has been
approved and endorsed by
The Associated General
Contractors of America

The Project is
(Name and location)

The Courtyards at Rolling Creek
Phase 1 (57 Lots)
Richland County, S C

The Architect is
(Name address and other information)

Letts Associates Inc
P O Box 212327
Columbia, S C 29221 2327



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The Owner and Contractor agree as follows



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ARTICLE 1 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents except to the extent specifically indicated in the Contract Documents to be the responsibility of others

See Attachment A for items of work included in contract

ARTICLE 2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

2.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner

(Insert the date of commencement if it differs from the date of this Agreement or if applicable state that the date will be fixed in a notice to proceed)

The date of commencement shall be stipulated by the notice to proceed All permits and a letter assuring payment must be received prior to the date of commencement

2.2 The Contract Time shall be measured from the date of commencement

2.3 The Contractor shall achieve Substantial Completion of the entire Work not later than one hundred eighty (180) calendar days from the date of commencement or as follows

(Insert number of calendar days Alternatively a calendar date may be used when coordinated with the date of commencement Unless stated elsewhere in the Contract Documents insert any requirements for earlier Substantial Completion of certain portions of the Work)

Substantial completion shall be defined as all curb and gutter and base material in place Extensions of time shall be granted for rain days days lost due to wet soil conditions change orders extra work if required items etc

subject to adjustments of this Contract Time as provided in the Contract Documents

(Insert provisions if any for liquidated damages relating to failure to complete on time or for bonus payments for early completion of the Work)

The Contractor and the Contractor's surety if any shall be liable for and shall pay the Owner the sums hereinafter stipulated as liquidated damages for each calendar day of delay until the Work is substantially complete One Hundred Fifty Dollars (\$100.00) per day

ARTICLE 3 CONTRACT SUM ^{estimated}

3.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract The Contract Sum shall be Seven hundred ninety nine thousand eleven & 10/100 Dollars (\$ 799 011 10) subject to additions and deletions as provided in the Contract Documents

This shall be a unit price contract



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3 2 The Contract Sum is based upon the following alternates if any which are described in the Contract Documents and are hereby accepted by the Owner

(State the number or other identification of accepted alternates. If decisions on other alternates are to be made by the Owner subsequent to the execution of this Agreement attach a schedule of such other alternates showing the amount for each and the date when that amount expires)

See Attachment A

3 3 Unit prices if any are as follows

See Attachment A

ARTICLE 4 PAYMENTS

4 1 PROGRESS PAYMENTS

4 1 1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents. The period covered by each Application for Payment shall be one calendar month ending on the last day of the month or as follows

The Contractor will submit an estimate of work completed each month. Progress payments will be made to the Contractor each month for the estimated value of work completed and materials stored at the project site with retainage held as follows. See Page 21 Article 20 for continuation

4 1 2 Provided that an Application for Payment is received by the Architect not later than the last day of a month the Owner shall make payment to the Contractor not later than the last day of the next month. If an Application for Payment is received by the Architect after the date fixed above payment shall be made by the Owner not later than thirty days after the Architect receives the Application for Payment



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4.1.3 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below or in the absence thereof at the legal rate prevailing from time to time at the place where the Project is located
(Insert rate of interest agreed upon if any)

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate of Eighteen Percent (18%) per year until payment is made by Owner

(Usury laws and requirements under the Federal Truth in Lending Act similar state and local consumer credit laws and other regulations at the Owners and Contractors principal places of business the location of the Project and elsewhere may affect the validity of this provision Legal advice should be obtained with respect to deletions or modifications and also regarding requirements such as written disclosures or waivers)

4.2 FINAL PAYMENT

4.2.1 Final payment constituting the entire unpaid balance of the Contract Sum shall be made by the Owner to the Contractor when

- 1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Paragraph 17.2 and to satisfy other requirements if any which extend beyond final payment and
- 2 a final Certificate for Payment has been issued by the Architect

4.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment or as follows

See Page 21 Article 20 for continuation

ARTICLE 5 ENUMERATION OF CONTRACT DOCUMENTS

5.1 The Contract Documents are listed in Article 6 and except for Modifications issued after execution of this Agreement are enumerated as follows

5.1.1 The Agreement is this executed 1997 edition of the Abbreviated Standard Form of Agreement Between Owner and Contractor AIA Document A107 1997

5.1.2 The Supplementary and other Conditions of the Contract are those contained in the Project Manual dated _____ and are as follows

Document	September, 2001 Title	Pages

Special Conditions to the Agreement
General Conditions to the Agreement



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5.13 The Specifications are those contained in the Project Manual dated as in Subparagraph 5.12 and are as follows
(Either list the Specifications here or refer to an exhibit attached to this Agreement)

Section	Title	Pages

The specifications shall be those of the governing authorities

5.14 The Drawings are as follows and are dated _____ unless a different date is shown below
(Either list the Drawings here or refer to an exhibit attached to this Agreement)

Number	Title	Pages

Plans by Letts Associates Inc for The Courtyards at Rolling Creek Phase 1 dated September 14 2001 sheets 1 of 15 through 15 of 15

5.15 The Addenda if any are as follows

Number	Date	Pages

Addendum #1	October 10 2001	
Addendum #2	October 11 2001	

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 5

5.16 Other documents if any forming part of the Contract Documents are as follows
(List any additional documents which are intended to form part of the Contract Documents)

None



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GENERAL CONDITIONS

ARTICLE 6 GENERAL PROVISIONS

6.1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement with Conditions of the Contract (General Supplementary and other Conditions) Drawings Specifications Addenda issued prior to the execution of this Agreement other documents listed in this Agreement and Modifications issued after execution of this Agreement A Modification is (1) a written amendment to the Contract signed by both parties (2) a Change Order (3) a Construction Change Directive or (4) a written order for a minor change in the Work issued by the Architect The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor The Contract Documents are complementary and what is required by one shall be as binding as if required by all performance by the Contractor shall be required to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results

6.2 THE CONTRACT

The Contract Documents form the Contract for Construction The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations representations or agreements either written or oral The Contract may be amended or modified only by a Modification The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Architect and Contractor (2) between the Owner and a Subcontractor or sub subcontractor (3) between the Owner and Architect or (4) between any persons or entities other than the Owner and Contractor

6.3 THE WORK

The term Work means the construction and services required by the Contract Documents whether completed or partially completed and includes all other labor materials equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations The Work may constitute the whole or a part of the Project

6.4 EXECUTION OF THE CONTRACT

Execution of the Contract by the Contractor is a representation that the Contractor has visited the site become generally familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents

6.5 OWNERSHIP AND USE OF ARCHITECT'S DRAWINGS SPECIFICATIONS AND OTHER INSTRUMENTS OF SERVICE

The Drawings Specifications and other documents including those in electronic form prepared by the Architect and the Architect's consultants are Instruments of Service through which the Work to be executed by the Contractor is described The Contractor may retain one record set Neither the Contractor nor any Subcontractor sub subcontractor or material or equipment supplier shall own or claim a copyright in the Drawings Specifications and other documents prepared by the Architect or the Architect's consultants and unless otherwise indicated the Architect and the Architect's consultants shall be deemed the authors of them and will retain all common law statutory and other reserved rights in addition to the copyrights All copies of them except the Contractor's record set shall be returned or suitably accounted for to the Architect on request upon completion of the Work The Drawings Specifications and other documents prepared by the Architect and the Architect's consultants and copies thereof furnished to the Contractor are for use solely with respect to this Project They are not to be used by the Contractor or any Subcontractor sub subcontractor or material or equipment supplier on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner Architect and the Architect's consultants The Contractor Subcontractors



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8.1.2 Any design errors or omissions noted by the Contractor during this review shall be reported promptly to the Architect but it is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional unless otherwise specifically provided in the Contract Documents

8.2 SUPERVISION AND CONSTRUCTION PROCEDURES

8.2.1 The Contractor shall supervise and direct the Work using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall be fully and solely responsible for the jobsite safety thereof unless the Contractor gives timely written notice to the Owner and Architect that such means, methods, techniques, sequences or procedures may not be safe.

8.2.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees and other persons or entities performing portions of the Work for or on behalf of the Contractor or any of its Subcontractors.

8.3 LABOR AND MATERIALS

8.3.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation and other facilities and services necessary for proper execution and completion of the Work whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

8.3.2 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

8.3.3 The Contractor shall deliver, handle, store and install materials in accordance with manufacturers' instructions.

8.3.4 The Contractor may make substitutions only with the consent of the Owner after evaluation by the Architect and in accordance with a Change Order.

8.4 WARRANTY

The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents; that the Work will be free from defects not inherent in the quality required or permitted; and that the Work will conform with the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation or normal wear and tear and normal usage.

8.5 TAXES

The Contractor shall pay sales, consumer use and other similar taxes which are legally enacted when bids are received or negotiations concluded.



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8.13 INDEMNIFICATION

8.13.1 To the fullest extent permitted by law and to the extent claims, damages, losses or expenses are not covered by Project Management Protective Liability insurance purchased by the Contractor in accordance with Paragraph 16, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants and agents and employees of any of them from and against claims, damages, losses and expenses including but not limited to attorneys' fees arising out of or resulting from performance of the Work provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death or to injury to or destruction of tangible property (other than the Work itself) but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Paragraph 8.13.

8.13.2 In claims against any person or entity indemnified under this Paragraph 8.13 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under Subparagraph 8.13.1 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

ARTICLE 9 ARCHITECT'S ADMINISTRATION OF THE CONTRACT

9.1 The Architect will provide administration of the Contract and will be an Owner's representative (1) during construction, (2) until final payment is due and (3) with the Owner's concurrence from time to time during the one year period for correction of Work described in Paragraph 17.2.

9.2 The Architect, as a representative of the Owner, will visit the site at intervals appropriate to the stage of the Contractor's operations (1) to become generally familiar with and to keep the Owner informed about the progress and quality of the portion of the Work completed, (2) to endeavor to guard the Owner against defects and deficiencies in the Work, and (3) to determine in general if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will neither have control over or charge of, nor be responsible for the construction means, methods, techniques, sequences or procedures or for safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, except as provided in Subparagraph 8.2.1.

9.3 The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of and will not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

9.4 Based on the Architect's evaluations of the Work and of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

9.5 The Architect will have authority to reject Work that does not conform to the Contract Documents.



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such arbitration arises unless it is shown at the time the demand for arbitration is filed that (1) such person or entity is substantially involved in a common question of fact or law (2) the presence of such person or entity is required if complete relief is to be accorded in the arbitration (3) the interest or responsibility of such person or entity in the matter is not insubstantial and (4) such person or entity is not the Architect or any of the Architect's employees or consultants. The agreement herein among the parties to the Agreement and any other written agreement to arbitrate referred to herein shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

9.11 CLAIMS FOR CONSEQUENTIAL DAMAGES

The Contractor and Owner waive claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes:

1. damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
2. damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable without limitation to all consequential damages due to either party's termination in accordance with Article 19. Nothing contained in this Paragraph 9.11 shall be deemed to preclude an award of liquidated direct damages when applicable in accordance with the requirements of the Contract Documents.

ARTICLE 10 SUBCONTRACTORS

10.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site.

10.2 Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor as soon as practicable after award of the Contract shall furnish in writing to the Owner through the Architect the names of the Subcontractors for each of the principal portions of the Work. The Contractor shall not contract with any Subcontractor to whom the Owner or Architect has made reasonable and timely objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

10.3 Contracts between the Contractor and Subcontractors shall (1) require each Subcontractor to the extent of the Work to be performed by the Subcontractor to be bound to the Contractor by the terms of the Contract Documents and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, which the Contractor by the Contract Documents assumes toward the Owner and Architect; and (2) allow the Subcontractor the benefit of all rights, remedies and redress afforded to the Contractor by these Contract Documents.

ARTICLE 11 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS

11.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces and to award separate contracts in connection with other portions



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ARTICLE 14 PAYMENTS AND COMPLETION

14.1 APPLICATIONS FOR PAYMENT

14.1.1 Payments shall be made as provided in Article 4 of this Agreement. Applications for Payment shall be in a form satisfactory to the Architect.

14.1.2 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall to the best of the Contractor's knowledge, information and belief be free and clear of liens, claims, security interests or other encumbrances adverse to the Owner's interests.

14.2 CERTIFICATES FOR PAYMENT

14.2.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment with a copy to the Contractor for such amount as the Architect determines is properly due, or notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in whole or in part as provided in Subparagraph 14.2.3.

14.2.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluations of the Work and the data comprising the Application for Payment, that the Work has progressed to the point indicated and that to the best of the Architect's knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion and to specific qualifications expressed by the Architect. The issuance of a Certificate for Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

14.2.3 The Architect may withhold a Certificate for Payment in whole or in part to the extent reasonably necessary to protect the Owner if, in the Architect's opinion, the representations to the Owner required by Subparagraph 14.2.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Subparagraph 14.2.1. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Subparagraph 8.2.2, because of:

1. defective Work not remedied
2. third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Contractor
3. failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment
4. reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum
5. damage to the Owner or another contractor



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materials and equipment for which a lien could be filed or a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien including costs and reasonable attorneys' fees.

14.5.3 The making of final payment shall constitute a waiver of claims by the Owner except those arising from:

1. liens, claims, security interests or encumbrances arising out of the Contract and unsettled;
2. failure of the Work to comply with the requirements of the Contract Documents; or
3. terms of special warranties required by the Contract Documents.

14.5.4 Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 15 PROTECTION OF PERSONS AND PROPERTY

15.1 SAFETY PRECAUTIONS AND PROGRAMS

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall take reasonable precautions for safety of and shall provide reasonable protection to prevent damage, injury or loss to:

1. employees on the Work and other persons who may be affected thereby;
2. the Work and materials and equipment to be incorporated therein; and
3. other property at the site or adjacent thereto.

The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons and property and their protection from damage, injury or loss. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, a Subcontractor, a sub-subcontractor or anyone directly or indirectly employed by any of them or by anyone for whose acts they may be liable and for which the Contractor is responsible under Subparagraphs 15.1.2 and 15.1.3 except for damage or loss attributable to acts or omissions of the Owner or Architect or by anyone for whose acts either of them may be liable and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Paragraph 8.13.

15.2 HAZARDOUS MATERIALS

15.2.1 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance including but not limited to asbestos or polychlorinated biphenyl (PCB) encountered on the site by the Contractor, the Contractor shall upon recognizing the condition immediately stop Work in the affected area and report the condition to the Owner and Architect in writing. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. The Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Contractor's reasonable additional costs of shutdown, delay and start-up which adjustments shall be accomplished as provided in Article 12 of this Agreement.

15.2.2 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants and agents and employees of any of them from and against claims, damages, losses and expenses including but not limited to attorneys' fees arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in



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property insurance on an all risk policy form including builder's risk in the amount of the initial Contract Sum plus the value of subsequent modifications and cost of materials supplied and installed by others comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance until final payment has been made as provided in Paragraph 14.5 or until no person or entity other than the Owner has an insurable interest in the property required by this Paragraph 16.4 to be covered whichever is later. This insurance shall include interests of the Owner, the Contractor, Subcontractors and sub-subcontractors in the Project.

16.4.2 The Owner shall file a copy of each policy with the Contractor before an exposure to loss may occur. Each policy shall contain a provision that the policy will not be canceled or allowed to expire and that its limits will not be reduced until at least 30 days prior written notice has been given to the Contractor.

16.5 WAIVERS OF SUBROGATION

16.5.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, and (2) the Architect, Architect's consultants, separate contractors described in Article 11, if any, and any of their subcontractors, sub-subcontractors, agents and employees for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to Paragraph 16.4 or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Contractor, as appropriate, shall require of the Architect, Architect's consultants, separate contractors described in Article 11, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers, each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

16.5.2 A loss insured under the Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds as their interests may appear, subject to requirements of any applicable mortgagee clause. The Contractor shall pay Subcontractors their just shares of insurance proceeds received by the Contractor and, by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their sub-subcontractors in similar manner.

ARTICLE 17 CORRECTION OF WORK

17.1 The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, whether discovered before or after Substantial Completion, and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

17.2 In addition to the Contractor's obligations under Paragraph 8.4, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Subparagraph 14.4.2, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it



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Contract and recover from the Owner payment for Work executed and for proven loss with respect to materials equipment tools and construction equipment and machinery including reasonable overhead profit and damages applicable to the Project

19.2 TERMINATION BY THE OWNER

19.2.1 The Owner may terminate the Contract if the Contractor

- 1 persistently or repeatedly refuses or fails to supply enough properly skilled workers or proper materials
- 2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors
- 3 persistently disregards laws ordinances or rules regulations or orders of a public authority having jurisdiction or
- 4 otherwise is guilty of substantial breach of a provision of the Contract Documents

19.2.2 When any of the above reasons exists the Owner upon certification by the Architect that sufficient cause exists to justify such action may without prejudice to any other remedy the Owner may have and after giving the Contractor seven days written notice terminate the Contract and take possession of the site and of all materials equipment tools and construction equipment and machinery thereon owned by the Contractor and may finish the Work by whatever reasonable method the Owner may deem expedient Upon request of the Contractor the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work

19.2.3 When the Owner terminates the Contract for one of the reasons stated in Subparagraph 19.2.1 the Contractor shall not be entitled to receive further payment until the Work is finished

19.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work including compensation for the Architect's services and expenses made necessary thereby and other damages incurred by the Owner and not expressly waived such excess shall be paid to the Contractor If such costs and damages exceed the unpaid balance the Contractor shall pay the difference to the Owner The amount to be paid to the Contractor or Owner as the case may be shall be certified by the Architect upon application and this obligation for payment shall survive termination of the Contract



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ARTICLE 20 OTHER CONDITIONS OR PROVISIONS

Continuation of Page 3, Article 4 1 1 - Progress Payments.

<u>Status of Project Completion</u>	<u>Retainage to be Held</u>
0% to 49% complete	10%
50% to 99% complete	5%
100% complete	maximum of 2% to be held until written approvals are received from the governing authorities

Continuation of Page 4, Article 4 2 2 - Final Payment

Final payment shall be due and payable thirty (30) days from the date the contractor receives verbal and/or written approvals from the appropriate governmental authorities. Payment shall not be withheld due to delays in obtaining final written approvals caused by others.

Other Provisions

The term Architect as used in this agreement shall specifically refer to the consulting engineer.

The owner and/or the consulting engineer shall be responsible for inspecting and approving the installation and location of all water and sewer services. The contractor shall not be responsible for correcting problems associated with services after final payment is received. The owner shall be financially responsible for any damages to the work included in this contract which are caused by other contractors and/or subcontractors not contracted by Newman Construction Inc.

This Agreement entered into as of the day and year first written above.


OWNER (Signature)


CONTRACTOR (Signature)

~~Stephen E. Lipscomb member~~
(Printed name and title)

~~Jimmy Newman president~~
(Printed name and title)

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Attachment A CONTRACTOR'S PROPOSAL

Page 1 of 4

9/26/01

This page revised

10/10/01 and

10/11/01

THE COURTYARDS AT ROLLING CREEK PHASE I Project # M-1007

Streets

Item #	Item	Quantity	Unit	Unit Price	Extended Price
1	Cleaning and Grubbing Road R O W / ~~Cleaning Utility Easements~~ <i>AL SED</i>	476	AC	30.00 ⁰⁰	14,280.00 ⁰⁰
2	Strip, Store & Replace Topsoil	LS	LS	48.00 ⁰⁰	4,800.00 ⁰⁰
3	Grading Mass/Fine	LS	LS	95.00 ⁰⁰	95,000.00 ⁰⁰
4	Concrete Key	1	EA	250.00 ⁰⁰	250.00 ⁰⁰
5	Silt Fence	1160	LF	3.00 ⁰⁰	3,480.00 ⁰⁰
6	Mud Mat at Entrance	1	LS	500.00 ⁰⁰	500.00 ⁰⁰
7	Curb 18" L Type	2908	LF	7.50 ⁰⁰	21,810.00 ⁰⁰
8	Curb 18" Roll Type	6552	LF	5.00 ⁰⁰	32,760.00 ⁰⁰
9	Asphalt Paving 1 1/2" <i>AL SED</i>	12002	SY	3.25 ⁰⁰	39,006.50 ⁰⁰
10	Macadam 6" <i>AL SED</i>	12002	SY	5.55 ⁰⁰	66,611.10 ⁰⁰
	Traffic Signs				
11	Street Name	3	EA	290.00 ⁰⁰	870.00 ⁰⁰
12	Speed Limit	3	EA	220.00 ⁰⁰	660.00 ⁰⁰
13	Traffic Circle	3	EA	260.00 ⁰⁰	780.00 ⁰⁰
14	Stop	4	EA	220.00 ⁰⁰	880.00 ⁰⁰
15	One Way	2	EA	220.00 ⁰⁰	440.00 ⁰⁰
16	Yield	1	EA	220.00 ⁰⁰	220.00 ⁰⁰
17	Pavement Ends	1	EA	220.00 ⁰⁰	220.00 ⁰⁰
18	Dead End	1	EA	220.00 ⁰⁰	220.00 ⁰⁰
19	Flowable Fill	1	CY	65.00 ⁰⁰	65.00 ⁰⁰
20	Grassing	30	AC	150.00 ⁰⁰	4,500.00 ⁰⁰
21	Construction ~~Staking~~ <i>AL SED</i>	LS	LS	9,800.00 ⁰⁰	9,800.00 ⁰⁰
22	Ripped Rock	1	CY	40.00 ⁰⁰	40.00 ⁰⁰
23	Blasted Rock	1	CY	50.00 ⁰⁰	50.00 ⁰⁰
24	4" PVC Conduit	350	LF	5.00 ⁰⁰	1,750.00 ⁰⁰
25	4" Wide Concrete Sidewalk	420	LF	7.50 ⁰⁰	3,150.00 ⁰⁰
	Subtotal Streets				302,142.60⁰⁰

Storm Drainage

Item#	Item	Quantity	Unit	Unit Price	Extended Price
1	54" CMP (Aluminum)	250	LF	72.00 ⁰⁰	18,000.00 ⁰⁰
2	54" RCP	22	LF	85.00 ⁰⁰	1,870.00 ⁰⁰
3	48" RCP	356	LF	63.50 ⁰⁰	22,606.00 ⁰⁰
4	24" RCP	523	LF	25.50 ⁰⁰	13,336.50 ⁰⁰
5	18" RCP	1388	LF	21.00 ⁰⁰	29,148.00 ⁰⁰
6	54" Flared End Section Outlet - Grout Rip Rap	1	EA	600.00 ⁰⁰	600.00 ⁰⁰
7	48" Flared End Section Outlet - Grout Rip Rap	1	EA	500.00 ⁰⁰	500.00 ⁰⁰
8	18" CMP (Aluminum)	140	LF	18.00 ⁰⁰	2,520.00 ⁰⁰
9	18" Flared End Section	2	EA	650.00 ⁰⁰	1,300.00 ⁰⁰
10	Rip Rap & Filter Fabric	77	CY	60.00 ⁰⁰	4,620.00 ⁰⁰
11	Underdrains	330	LF	8.50 ⁰⁰	2,805.00 ⁰⁰
12	Florida Type Catch Basin	18	EA	1,500.00 ⁰⁰	27,000.00 ⁰⁰
13	Junction Box	2	EA	1,250.00 ⁰⁰	2,500.00 ⁰⁰
14	Pedestal Type Catch Basin	1	EA	1,400.00 ⁰⁰	1,400.00 ⁰⁰
15	Flowable fill as needed	1	CY EA	65.00 ⁰⁰	65.00 ⁰⁰
16	Construction Staking	1	LS	1,400.00 ⁰⁰	1,400.00 ⁰⁰
17	Grassing	0.59	AC	3,000.00 ⁰⁰	1,770.00 ⁰⁰
18	Ripped Rock	1	CY	40.00 ⁰⁰	40.00 ⁰⁰
19	Blasted Rock	1	CY	50.00 ⁰⁰	50.00 ⁰⁰
	Subtotal Storm Drainage				131,530.50⁰⁰

NEWMAN CONSTRUCTION, INC

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CONTRACTOR'S PROPOSAL

Page 2 of 4

THE COURTYARDS AT ROLLING CREEK PHASE I Project # M-1007

Water System

Item#	Item	Quantity	Unit	Unit Price	Extended Price
1	12" DIP <i>SEP 3148</i>	~~2400~~	LF	21.00	66,108.00
2	12" Cross	2	EA	650.00	1,300.00
3	12" x 6" Tee	2	EA	480.00	960.00
4	12" x 12" Tee	1	EA	500.00	500.00
5	Fire Hydrant Tee & Valve	6	EA	1,920.00	11,520.00
6	12" x 8" Reducer	2	EA	320.00	640.00
7	12" 90 Degree Bend (MJ)	2	EA	340.00	680.00
8	12" 22 1/2 Degree Bend (MJ)	3	EA	340.00	1,020.00
9	12" x 4" Reducer	1	EA	300.00	600.00
10	8" x 10" Tapping Sleeve/Valve <i>(Tap Fee)</i>	1	EA	3,600.00	3,600.00
11	8 x 8 Tee	4	EA	350.00	1,400.00
12	8 90 Degree Bend	2	EA	275.00	550.00
13	8 x 4 Reducer	3	EA	180.00	540.00
14	8 Plug	1	EA	100.00	100.00
15	8 Gate Valves	7	EA	740.00	5,180.00
16	8 PVC Pipe	2316	LF	10.50	24,318.00
17	4 PVC Pipe	1425	LF	6.00	8,550.00
18	4 Gate Valves	5	EA	400.00	2,000.00
19	2 1/2" Blow Off Assembly	3	EA	450.00	1,350.00
20	3/4 Services Short	34	EA	220.00	7,480.00
21	3/4 Services Long	23	EA	100.00	2,300.00
22	4 Plugs	2	EA	50.00	100.00
23	12" Gate Valve	0	EA	1,380.00	-0-
24	8 DIP	40	LF	15.00	600.00
25	12" x 6" Reducer	1	EA	320.00	320.00
26	Ripped Rock	1	CY	40.00	40.00
27	Blasted Rock	1	CY	50.00	50.00
28	Construction Staking	LS	LS	1,800.00	1,800.00
29	Flowable Fill	1	CY	65.00	65.00
30	Mud Mat @ Brook View Lane	1	LS	500.00	500.00
	Subtotal Water				144,171.00

NEWMAN Construction, Inc

SEP

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CONTRACTOR'S PROPOSAL

Page 3 of 4

THE COURTYARDS AT ROLLING CREEK PHASE I Project # M-1007

Revised

On-Site Sewer

10/11/01

Item #	Item	Quantity	Unit	Unit Price	Extended Price
8" Gravity Sewer					
1	0' 6' Cuts	1 548	LF	12. ⁰⁰	18,576. ⁰⁰
2	6'-8' Cuts	1 779	LF	13. ⁰⁰	23,127. ⁰⁰
3	8' 10' Cuts	749	LF	15. ⁰⁰	11,235. ⁰⁰
4	10' 12' Cuts	88	LF	17. ⁰⁰	1,496. ⁰⁰
5	DIP Extra	300	LF	8. ⁰⁰	2,400. ⁰⁰
4 Diameter Manholes					
6	0' 6' Cuts	12	EA	1,000. ⁰⁰	12,000. ⁰⁰
7	6'-8' Cuts	7	EA	1,100. ⁰⁰	7,700. ⁰⁰
8	8' 10' Cuts	2	EA	1,300. ⁰⁰	2,600. ⁰⁰
9	10' 12' Cuts	1	EA	1,600. ⁰⁰	1,600. ⁰⁰
10	Tie to Existing Manhole	1	EA	500. ⁰⁰	500. ⁰⁰
11	8" Drop	35	VF	150. ⁰⁰	5,250. ⁰⁰
12	Long Service	39	EA	350. ⁰⁰	13,650. ⁰⁰
13	Short Service	18	EA	150. ⁰⁰	2,700. ⁰⁰
14	Flowable fill as needed	1	CY	65. ⁰⁰	65. ⁰⁰
15	Construction Staking	LS	LS	2,250. ⁰⁰	2,250. ⁰⁰
16	Ripped Rock	1	CY	40. ⁰⁰	40. ⁰⁰
17	Blasted Rock	1	CY	50. ⁰⁰	50. ⁰⁰
Subtotal On-Site Sewer					100,514.⁰⁰

Off Site Sewer Base Bid 15" & 18" Sewer Main

Item #	Item	Quantity	Unit	Unit Price	Extended Price
18 Gravity Sewer					
1	0' 6' Cuts	653	LF	22. ⁰⁰	14,366. ⁰⁰
2	6' 8' Cuts	961	LF	25. ⁰⁰	24,025. ⁰⁰
3	8' 10' Cuts	30	LF	28. ⁰⁰	840. ⁰⁰
4	18 DIP Extra	111	LF	35. ⁰⁰	3,885. ⁰⁰
6 Diameter Manholes					
5	0'-6' Cuts	1	EA	1,400. ⁰⁰	1,400. ⁰⁰
6	6'-8' Cuts	6	EA	1,600. ⁰⁰	9,600. ⁰⁰
7	Extend Manhole 36" Above Existing Ground	7	EA	700. ⁰⁰	4,900. ⁰⁰
8	Connect to Existing Manhole	1	EA	1,500. ⁰⁰	1,500. ⁰⁰
9	Interior Coating of Manholes	49	VF	125. ⁰⁰	6,125. ⁰⁰
15 Gravity Sewer					
10	0' 6' Cuts	558	LF	17. ⁰⁰	9,486. ⁰⁰
11	6'-8' Cuts	428	LF	19. ⁰⁰	8,132. ⁰⁰
12	8' 10' Cuts	12	LF	22. ⁰⁰	264. ⁰⁰
4 Diameter Manholes					
13	0'-6' Cuts	1	EA	1,000. ⁰⁰	1,000. ⁰⁰
14	6' 8' Cuts	3	EA	1,100. ⁰⁰	3,300. ⁰⁰
15	Extend Manhole 36" Above Existing Ground	4	EA	500. ⁰⁰	2,000. ⁰⁰
16	Interior Coating of Manholes	35	VF	125. ⁰⁰	4,375. ⁰⁰
17	Water Tight Frame & Cover	11	EA	100. ⁰⁰	1,100. ⁰⁰
18	Ripped Rock	1	CY	40. ⁰⁰	40. ⁰⁰
19	Blasted Rock	1	CY	50. ⁰⁰	50. ⁰⁰
20	Construction Staking	1	LS	1,500. ⁰⁰	1,500. ⁰⁰
21	Flowable Fill	1	CY	65. ⁰⁰	65. ⁰⁰
Subtotal Off Site Sewer					97,953.⁰⁰

NEWMAN Construction, Inc

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CONTRACTOR'S PROPOSAL

Page 4 of 4

THE COURTYARDS AT ROLLING CREEK PHASE I Project # M-1007

Total Streets Sewer Water & Storm Drainage Base Bid

776,311.⁰⁰

- * All construction staking shall be provided by the Contractor
- ** The Contractor shall verify all quantities prior to bidding

- 1 INLET PROTECTION 19 EA @ 100.⁰⁰ = 1,900.⁰⁰
- 2 CLEAR off-ROAD pipe R/W 10,400 LF @ 2.⁰⁰ = 20,800.⁰⁰

GRAND Total

799,011.⁰⁰

* SEE ATTACHED NOTES to bid schedule. *

OFF-SITE SEWER ALTERNATE BID

Item #	Item	Quantity	Unit	Unit Price	Extended Price
	8 Gravity Sewer				
1	0-6' Cuts	1 297	LF	12. ⁰⁰	15,564. ⁰⁰
2	6-8' Cuts	1 648	LF	13. ⁰⁰	21,424. ⁰⁰
3	8-10' Cuts	42	LF	15. ⁰⁰	630. ⁰⁰
4	8 DIP Extra	111	LF	8. ⁰⁰	888. ⁰⁰
	4 Diameter Manholes				
5	0-6' Cuts	3	EA	1,000. ⁰⁰	3,000. ⁰⁰
6	6-8' Cuts	9	EA	1,100. ⁰⁰	9,900. ⁰⁰
7	Tie to Existing Manhole	1	EA	500. ⁰⁰	500. ⁰⁰
8	Water Tight Frame & Cover	12	EA	100. ⁰⁰	1,200. ⁰⁰
9	Ripped Rock	1	CY	40. ⁰⁰	40. ⁰⁰
10	Blasted Rock	1	CY	50. ⁰⁰	50. ⁰⁰
11	Construction Staking	LS	LS	1,500. ⁰⁰	1,500. ⁰⁰
12	Flowable Fill	1	CY	65. ⁰⁰	65. ⁰⁰
	Subtotal				54,671. ⁰⁰

NEWMAN CONSTRUCTION, INC

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NOTES TO BID SCHEDULE
COURTYARDS AT ROLLING CREEK

Notes

- 1 Grading includes the following stake streets rough grade streets for utility installation subgrade streets after utility installation test compaction and grade shoulders for temporary seeding Grading includes on-site material only (no off-site borrow or disposal) and does not include any special stabilization procedures such as those listed below under if required items Decisions concerning these "if required items may be referred to a soils engineer at no cost to the contractor Subgrade preparation is limited to scarifying mixing rolling and grading the streets one time and does not guarantee stabilization
- 2 This proposal assumes all portions of the project site are accessible and does not include the cleaning construction and/or filling of temporary access roads
- 3 All cleaning debris is to be burned on site
- 4 We prefer to use the AIA Standard Form of Agreement Between Owner and Contractor (AIA Document A107) in lieu of the agreement form in the bid package
- 5 Our records show that compaction tests are usually less expensive than flowable fill on large deep utility road crossings and at present this alternate method appears acceptable by Richland County You may want to consider this possibility however the testing costs are not included in our proposal

If required

- 1 Temporary open construction ditches 0 to 6 deep (with no compaction of backfill) @ \$3 00 per LF
- 2 Hay bales @ \$7 00 EA
- 3 Soil cement for street subgrade stabilization at 28 lbs per SY (if > 1000 SY) @ \$4 50 per SY
- 4 Soil cement for street subgrade stabilization at 28 lbs per SY (if < 1000 SY) @ \$5 50 per SY
The use of soil cement may require stripping unsuitable material and replacing it with a material suitable for mixing with cement This would be billed the same as mucking
- 5 Mucking including on site borrow and on site disposal @ \$8 00 per CY
- 6 Mucking including off site borrow and on site disposal @ \$12 50 per CY
- 7 Additional bury for fire hydrants - first ½ @ \$250 00 EA each additional ½ @ \$100 00 EA
- 8 Prime @ \$ 50 per SY
- 9 Well pointing will be billed cost plus or a max of \$5 000 00 set up fee plus \$10 00 per LF
- 10 Erosion control items not listed will be billed cost plus or at a negotiated unit price
- 11 Performance and payment bonds @ 1 5% of total

Respectfully Submitted
Newman Construction Inc



PAGE 5 of 5

SFI Properties

Company: Rolling Creek
 Phase 1: 7 lots
 Property: k SC

	TOTAL		Loan	11/19/01	1/23/02	2/1/02	3/11/02	4/10/02	5/6/02	6/14/02	6/19/02	7/25/02	8/13/02	9/17/02	Total	Re nt lrg t
	COSTS	Equity	Amount	Closi g	Draw #	Draw #	Draw #	Draw #	Draw #	Draw #	Draw #	Draw #	Draw #	Draw #	Draw #	Draw #
Lot 1	\$800,000.00		\$800,000.00	\$800,000.00	2	3	4	5	6	7	8	9	10	11	\$800,000.00	\$0.00
Construction Contract	\$799,011.00	\$23,000.00	\$799,011.00	\$166,734.70	\$19,109.97	\$1,451.15	\$17,452.25	\$102,030.00	\$72,099.37						\$799,011.00	\$0.00
Engineering	\$150,000.00		\$30,350.25	\$30,350.25											\$30,350.25	\$0.00
Construction Loan Fees	\$12,013.00		\$12,013.75	\$12,013.75											\$12,013.75	\$0.00
Landscaping	\$35,000.00		\$35,000.00							\$7,259.75	\$462.00	\$24,308.00	\$308.00	\$40.00	\$32,645.75	\$23,421.00
Rock Clearing	\$75,000.00		\$75,000.00						\$54,293.47	\$20,706.53					\$75,000.00	\$0.00
Interest Reserve	\$250,000.00		\$250,000.00	\$250,000.00											\$2,000.00	\$0.00
Soft Costs @ Closing	\$23,918.00		\$0.00	\$0.00											\$0.00	\$0.00
Total	\$2,144,942.00	\$23,000.00	\$2,001,375.00	\$1,259,098.70	\$69,350.97	\$154,513.15	\$173,459.25	\$162,833.56	\$126,392.84	\$27,966.29	\$462.00	\$24,308.00	\$308.00	\$308.00	\$1,999,020.76	\$2,354.24

11/19 Took all soft costs and engineering over costs of this seller
 1/23 Took AIA #1 and Project Inspection Invoice of \$693 for all this fee
 3/11 Took AIA #2 and Project Inspection Invoice of \$1767 for all this fee
 5/6 Took AIA #3 and Project Inspection Invoice of \$408 for all this fee

NO MORE INVESTMENTS FROM THIS LOAN EFFECTIVE 12/02

0001812



**BORROWER STATEMENT
SEL PROPERTIES, LLC
NOVEMBER 19, 2001**

Loan Amount

\$2 001,375 00

Less Expenses

Commitment Fee to NSBC	\$ 12 013 75
Title Exam (2) to LBH	500 00
Title Insurance Commitment to LBH	150 00
Title Insurance Premium to LBH	2 516 00
2001 Taxes to Richland County	7,039 75
Atty Fees to Ellis, Lawhorne	2,000 00
Atty Fee to LBH	4 500 00
Recording Fees to Richland County	100 00
Letts Associates (Reim SEL)	173 165 44
Richland County P&D (Reim SEL)	855 00
CK Home Plans (Reim SEL)	<u>2 781 00</u>
 TOTAL DISBURSEMENT AT CLOSING	 \$205 620 94
 PAYOFF TO NBSC (Intrabank Transfer)	 \$803 477 76
 INTEREST RESERVE	 \$250 000 00
 BALANCE TO DRAW	 \$742 276 30

SEL PROPERTIES LLC

By


Stephen E Lipscomb, Manager



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CAMDEN LEWIS

STREET ADDRESS
1513 HAMPTON STREET
COLUMBIA, SOUTH CAROLINA
29201

May 28, 2004

Dutch Fork Realty, LLC
322 S Congress Street
Winnsboro South Carolina 29180

Dutch Fork Development Group II, LLC
322 S Congress Street
Winnsboro South Carolina 29180

RE Development and Marketing Agreement between SEL Properties, LLC (SEL) and Dutch Fork Realty LLC (DFR) and Dutch Fork Development Group, II, LLC (DFDG)

TO WHOM IT MAY CONCERN

The above-referenced Development and Marketing Agreement is now void due to the breach of said Agreement by both DFR and DFDG. The breaches are clear in that under Paragraph 4 of the Agreement in that DFDG did not properly perform its functions as to that paragraph. Specifically there have been numerous road problems and budget problems throughout the development.

Finally Paragraph 8 (Termination) states the Agreement shall be rendered null and void and of no effect upon

"The failure of DFDG and DFR to sell at least twenty (20%) percent of the available lots in any one year period"

This sales requirement has not met done through the years the contract has been in existence. Therefore under that paragraph alone, this contract is null and void.

If you have any questions, or if you want to have your attorney contact me, please feel free to do so.

Sincerely yours

LEWIS, BABCOCK & HAWKINS LLP

A. Camden Lewis

ACL/kc
cc Mr Stephen Lipscomb



0001814

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DRAFT

Mr William P Melton
Dutch Fork Development Group II, LLC
322 S Congress Street
Winnsboro, South Carolina 29180

DRAFT

RE Development and Marketing Agreement between SEL Properties, LLC (SEL) and
Dutch Fork Realty, LLC (DFR) and Dutch Fork Development Group, II, LLC
(DFDG)

Dear Mr Melton.

This letter is in response to a remittur request you sent to SEL Properties, LLC (SEL) on
September 22, 2004 SEL does not dispute the requested \$2,933 remainder on the Development Fee
Phase 4 Rolling Creek. A check for this amount is enclosed.

We have also enclosed a check for \$57,000 As I previously informed you in my letter of
May 24, 2004, DFDG is in breach of the Development and Marketing Agreement with SEL.
DFR/DFDG's failure to sell the requisite number of lots and their incompetence in overseeing the
development as evidenced by the numerous problems with the roadways is unacceptable and voids
the contract See Paragraphs 4 and 8 DFR/DFDG's failures in this regard have cost SEL a
substantial amount of money and have forced SEL to rebuild the very construction that DFDG was
in charge of overseeing Consequently, SEL disputes all alleged liability relating to the Development
and Marketing Agreement

SEL, however, is willing to pay DFDG \$57,000 to rid both DFDG and DFR from this
project. Acceptance of this check is in accord and satisfaction of the parties dispute and forever
terminates the parties relationship Both SEL and DFDG/DFR shall be bound under the above terms
upon deposit of the enclosed check and return of a signed copy this letter This proposal is valid
until 12 noon on November 15, 2004

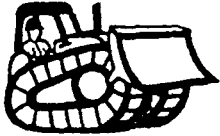
If you have any questions, please do not hesitate to call

Sincerely,

A Camden Lewis



0001816



NEWMAN CONSTRUCTION, INC.

500 MYRTLE BEACH HWY • SUMTER SC 29153-5014

INVOICE

To S E L Properties, LLC
P O Box 510
Winnsboro, S C 29180

Project The Courtyards at Rolling
Creek - Phase I
Richland County, S C

Attn W P Melton

Date	October 31, 2003	Invoice #	6185

1	Install underdrain	861 LF @	12 50 =	10 762 50
2	Remove & dispose of exst asphalt	1159 SY @	7 00 =	8 113 00
3	Cut & dispose of 82' (average) of soil and replace with SABC	1085 SY @	12 50 =	13,562 50
4	Replace asphalt base course	1159 SY @	11 50 =	13,328 50
Total Due				<u>\$45,766 50</u>



PHONE (803) 775-2385 • FAX (803) 775 1040

GRADING • PAVING • UTILITIES

0001817



NEWMAN CONSTRUCTION, INC.

500 MYRTLE BEACH HWY • SUMTER, SC 29153-5014

7/26/03 7:35 1040
9 26 03

REVISED PROPOSAL

To	Letts Associates Inc P O Box 212327 Columbia SC 29221-2327	Project	The Courtyards at Rolling Creek-Phase 1 and Rolling Creek Phase 4 Richland County SC
Fax	(803) 798-1678	Phone	(803) 798-4562
Attn	Chad	Date	September 25, 2003

FOR Street repair

This proposal is to be used in conjunction with our proposals of August 1, 2003 and would replace the initial line item for removing and replacing approximately 3' of wet soil @ \$23.00 per SY. Based on what we found on site, the failed areas may be stabilized by one of the following methods:

1. Cut and dispose of 1' (average) of soil and replace with SABC @ \$14.00 per SY
2. Cut and dispose of 5' (average) of soil and replace with SABC @ \$10.00 per SY

Note: Excavation depths and method of stabilization are to be determined by the geotechnical engineer.

This proposal is subject to our standard contract terms and can be honored for up to 30 days provided we are notified within 2 working days of the status of our proposal and the status of the project.

Respectfully Submitted,
NEWMAN CONSTRUCTION, INC.


Jimmy Newman
President

cc Steve Lipscomb
Billy Melton

Accepted By 
Printed Name W P MELTON
Title DEVELOPER
Date 9-26-03

Authorized by Steve Lipscomb
by phone 9-26-03


PLAINTIFF'S
EXHIBIT

20

PHONE (803) 775-2385 • FAX (803) 775-1040



NEWMAN CONSTRUCTION, INC.

500 MYRTLE BEACH HWY • SUMTER SC 29153-5014

REVISED PROPOSAL

To	Letts Associates Inc P O Box 212327 Columbia SC 29221 2327	Project	The Courtyards at Rolling Creek Phase I Richland County S C
Fax	(803) 798-1678	Phone	(803) 798-4562
Attn	Chad	Date	August 1, 2003

FOR Street repair at entrance

According to Rick Maxheimer the geotechnical engineer will need to be on site in order to determine the extent of the street rehabilitation as we go. In our opinion excess moisture is the culprit of the problem and must be dealt with first. We suggest the following

1	Install underdrain 800 LF @ \$12.50	10 000 00
2	Remove and dispose of existing asphalt 400 SY @ \$7.00	2 800 00
3	Remove and replace approximately 3" of wet soil 400 SY @ \$23.00	9 200 00
4	Replace asphalt base course 400 SY @ \$11.50	4 600 00

Total \$26,600.00

Note: A mobilization charge of \$2,500.00 may be required if quantities are reduced or items are omitted.
Underdrain may dry the area so that subbase removal and replacement is unnecessary.

This proposal is subject to our standard contract terms and can be honored for up to 30 days provided we are notified within 2 working days of the status of our proposal and the status of the project.

Respectfully Submitted
NEWMAN CONSTRUCTION INC

[Signature]
Jimmy Newman
President

cc: Steve Lipscomb
Billy Meier

Accepted By *[Signature]*

Printed Name _____

Title _____

Date _____

PHONE (803) 775-2385 • FAX (803) 775-1040

PLAINTIFF'S
EXHIBIT

21

LETTS ASSOCIATES, INC

CIVIL ENGINEERING DESIGN & CONSULTING



June 13 2002

Gordon Greene
Richland County Public Works
400 Powell Road
Columbia, SC 29203

Re The Courtyards at Rolling Creek Phase I (Lots 1-57)
Engineer's Cost Estimate for Bonding
M-1007

Dear Mr. Greene

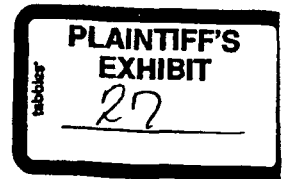
This letter is written to advise you that the developers of The Courtyards at Rolling Creek wish to bond the remaining Phase I improvements

At this time the sewer collection, the water distribution and the drainage systems have been installed. The water distribution system has been pressure tested and will be chlorinated in the near future.

The contractor has installed the curbing and has placed the first two lifts of asphalt. The surface will be placed in the future after the majority of the Phase I house construction has been completed.

Listed below is a breakdown of the items remaining to be completed in The Courtyards at Rolling Creek Phase I

Description	Quantity	Unit	Unit Price	Total Cost
<u>STREETS</u>				
Replace Topsoil	1	LS	\$ 480.00	\$ 480.00
Grading Mass/Fine	1	LS	\$ 4,750.00	\$ 4,750.00
Concrete Key	1	EA	\$ 250.00	\$ 250.00
1 1/4" Asphalt Paving Surface	12,002	SY	\$ 2.80	\$ 33,605.60
Street Name Sign	3	EA	\$ 290.00	\$ 870.00
Speed Limit Sign	3	EA	\$ 220.00	\$ 660.00
Traffic Circle Sign	3	EA	\$ 260.00	\$ 780.00
Stop Sign	4	EA	\$ 220.00	\$ 880.00
One Way Sign	2	EA	\$ 220.00	\$ 440.00
Yield Sign	1	EA	\$ 220.00	\$ 220.00
Pavement End Sign	1	EA	\$ 220.00	\$ 220.00



Page Two
The Courtyards at Rolling Creek Phase I (Lots 1-57)
Engineer's Cost Estimate for Bonding
June 13, 2002

Dead End Sign	1	EA	\$	220 00	\$	220 00
Grassing	3	AC	\$	1,500 00	\$	4 500 00
Quality Control Testing	1	LS	\$	800 00	\$	800 00
<u>STORM DRAINAGE</u>						
Grassing	0 059	AC	\$	3 000 00	\$	177 00
Clean Drainage System	1	LS	\$	1 500 00	\$	1 500 00
Final Inspection	1	LS	\$	1 000 00	\$	1 000 00
As-built Plans	1	LS	\$	1 500 00	\$	1,500 00
<u>SEWER SYSTEM</u>						
Clean System	1	LS	\$	1 000 00	\$	1 000 00
Final Inspection	1	LS	\$	1 000 00	\$	1 000 00
As Built Plans	1	LS	\$	1,500 00	\$	1 500 00
Extend Manhole 36" Above Ground	4	EA	\$	500 00	\$	2 000 00
Extend Manhole 36" Above Ground	7	EA	\$	700 00	\$	4 900 00
<u>WATER SYSTEM</u>						
Chlorinate System	1	LS	\$	1 500 00	\$	1 500 00
As Builts	1	LS	\$	1 500 00	\$	1 500 00
Final Inspection	1	LS	\$	1 000 00	\$	1 000 00
TOTAL					\$	67,262.60

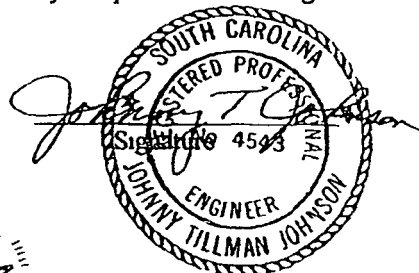
I estimate that the cost to complete the remaining improvements at The Courtyards at Rolling Creek Phase I. Therefore, the surety bond at 125% for The Courtyards at Rolling Creek Phase I is \$84 078 25

BOND ESTIMATE CERTIFICATION

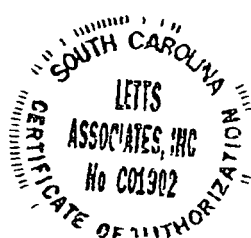
I hereby certify that all installed road storm drainage sediment control water supply and sewage disposal improvements (as applicable) serving The Courtyards at Rolling Creek Phase I Subdivision have been constructed as required by Richland County Planning commission, and that a bond estimate adequate to satisfactorily complete the remaining improvements has been provided to Richland County

6-14-02
Date

Johnny T. Johnson, P. E.
Subdivision Project Engineer



cc Billy Melton
Steve Lipscomb



C:\My Documents\UM 1007 Court Yards\Bond.doc

6418

0001821

LETTS ASSOCIATES, INC

CIVIL ENGINEERING DESIGN & CONSULTING



September 5 2002

Gordon Greene
Richland County Public Works
400 Powell Road
Columbia, SC 29203

Re Rolling Creek Phase IV (20 Lots)
Engineer's Cost Estimate for Bonding
R-1002

Dear Mr. Greene

This letter is written to advise you that the developers of Rolling Creek Phase IV wish to bond the remaining improvements.

At this time the sewer collection, the water distribution and the drainage systems have been installed. The Record drawings for the water and sewer systems are complete and have been submitted to the appropriate reviewing agencies. The water distribution system will be chlorinated in the near future.

The contractor has installed the curbing and has placed the first two lifts of asphalt. The surface will be placed in the future after the majority of the house construction has been completed.

Listed below is a breakdown of the items remaining to be completed in Rolling Creek Phase IV.

<u>Description</u>	<u>Quantity</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Total Cost</u>
<u>STREETS</u>				
Replace Topsoil	1	LS	\$ 1 400 00	\$ 1 400 00
2 Asphalt Paving Surface	4 526	SY	\$ 4 00	\$ 18 104 00
Street Name Sign	2	EA	\$ 290 00	\$ 580 00
Speed Limit Sign	2	EA	\$ 220 00	\$ 440 00
Stop Sign	2	EA	\$ 220 00	\$ 440 00
Dead End Sign	2	EA	\$ 220 00	\$ 440 00
Grassing	0 87	AC	\$ 1 500 00	\$ 1 305 00
Silt Fencing	142	LF	\$ 3 00	\$ 426 00
Quality Control Testing	1	LS	\$ 800 00	\$ 800 00
<u>STORM DRAINAGE</u>				
Grassing	0 09	AC	\$ 3 000 00	\$ 270 00
Clean Drainage System	1	LS	\$ 1 500 00	\$ 1 500 00
Final Inspection	1	LS	\$ 1 000 00	\$ 1 000 00
As built Plans	1	LS	\$ 1 500 00	\$ 1 500 00
36 RCP Flared End Section	1	EA	\$ 1 200 00	\$ 1 200 00

P O Box 212327 • 1343 Garner Lane • Suite 200 • Columbia SC 29221 2327 • Telephone (803) 798-4562 • Facsimile (803) 798 1678

C:\My Documents\R 1002\Bond Letter.doc

0001822

Page Two
Rolling Creek Phase IV
Engineer s Cost Estimate for Bonding
September 5 2002

STORM DRAINAGE (Continued)

30" RCP flared End Section	1	EA	\$ 900 00	\$ 900 00

SEWER SYSTEM

Clean System	1	LS	\$ 1 000 00	\$ 1 000 00

Final Inspection	1	LS	\$ 1 000 00	\$ 1 000 00

Grassing	0 6	AC	\$ 3 000 00	\$ 1 800 00

WATER SYSTEM

Chlorinate System	1	LS	\$ 1 500 00	\$1 500 00

Final Inspection	1	LS	\$ 1 000 00	\$1 000 00

TOTAL				\$ 36,605 00

TOTAL x 1 25% (Bond Amount)				\$ 45 756 25

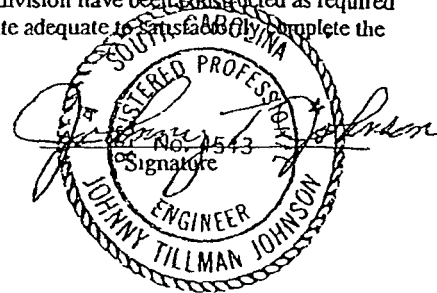
I estimate that the cost to complete the remaining improvements at Rolling Creek Phase IV is \$36 605 00
Therefore the surety bond at 1 25% for Rolling Creek Phase IV is \$45 756 25

BOND ESTIMATE CERTIFICATION

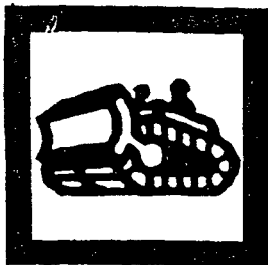
" I hereby certify that all installed road storm drainage sediment control water supply and sewage disposal improvements (as applicable) serving Rolling Creek Phase IV Subdivision have been constructed as required by Richland County Planning Commission and that a bond estimate adequate to satisfactorily complete the remaining improvements has been provided to Richland County

9/5/02
Date

Johnny T. Johnson, P. E.
Subdivision Project Engineer



cc Billy Melton
Steve Lipscomb



NEWMAN CONSTRUCTION, INC

500 MYRTLE BEACH HWY • SUMTER SOUTH CAROLINA 29153 • (803) 775 2385

October 22 2001

Mr Steve Lipscombe
Rolling Creek
c/o Dutch Fork Realty
120 Willow Creek Dr
Imo S C 29063

Re Courtyards at Rolling Creek

Dear Mr Lipscombe

As requested we offer the following suggestions and/or comments in an effort to lower the cost of this project

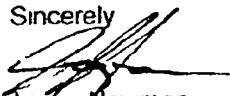
1	Change paving specifications if possible to 6" SABC and 1½ asphalt surface in lieu of 8" SABC and 2" asphalt surface	Deduct	\$27 000 00
2	Adjust street grades and stockpile excess dirt if any on phase 2 street at edge of phase 1	Deduct	\$12 000 00
3	Omit seeding of off-road water and sewer pipe rights of way	Deduct	\$ 9 400 00
4	Omit 48" and 54" flared end sections and add grout to rip rap	Deduct	\$ 4 400 00
5	Use filter fabric over basins in conjunction with retention area in lieu of silt fence for inlet protection	Deduct	\$ 950 00
	Total of Above Possible Deducts		<u>\$53,750.00</u>

In addition to the above

1	We are working on a deduct for the interior coating of off-site manholes (current information is inadequate)	
2	We offer the following detail of rock excavation by quantity	
	<u>Blasted Rock</u>	<u>Ripped Rock</u>
	0 to 100 CY @ \$100 00/CY	0 to 100 CY @ \$ 75 00/CY
	100 to 1 000 CY @ \$ 75 00/CY	100 to 1 000 CY @ \$ 50 00/CY
	1 000 or more CY @ \$ 50 00/CY	1 000 or more CY @ \$ 25 00/CY
3	As a clarification of our bid we included the use of class III tongue and groove RCP	

Thank you for your consideration of our bid

Sincerely


Jimmy Newman
president



00317

0001824



NEWMAN CONSTRUCTION, INC.

500 MYRTLE BEACH HWY • SUMTER SC 29153-5014

CHANGE ORDER

To S E L Properties LLC
P O Box 510
Winnsboro SC 29180

Change Order No 17
Date June 30 2002

At W P Melton

Contract Date October 26 2001
Contract For The Courtyards at
Rolling Creek Phase

We request a change order for full dept asphalt (2 asphalt base 2 asphalt binder and 1 1/4 asphalt surface) in lieu of 6 SABC and 1 1/2 asphalt surface

Full depth asphalt (5 1/4) in lieu of
6 SABC and 1 1/2 asphalt

12002 SY @ 3.70 = \$44 407 40

Total Change Order

\$44 407 40

This work will require an additional 0 calendar days to achieve substantial completion

The original contract sum was	799011 70
Net change by previous change orders	182505 35
The contract sum prior to this change order	981516 75
The contract sum will be (increased)(decreased)(unchanged) by this change order in the amount of	44407 40
The new contract sum including this change order	1025924 15

Owner
S E L Properties LLC
P O Box 510
Winnsboro SC 29180

Signature

Print Name and Title

Date

Contractor
Newman Construction Inc
500 Myrtle Beach Hwy
Sumter SC 29153-5014

Signature

Print Name and Title

Date

Engineer
Letts Associates Inc
P O Box 212027
Columbia SC 29221-2027

Signature

Print Name and Title

Date

CONSTRUCTION DRAW CHECKLIST *Impact \$693.00*

LOAN NAME SEL Properties
 DRAW REQUEST # 1
 DATE RECEIVED 1/17/02 - Revised AIA #1
 LOAN AMOUNT \$ 2,001,375 11/23/01

FUNDED TO CUSTOMER \$65,657.97
 FUNDED TO PAY INTEREST 0
 TOTAL FUNDED \$69,350.97
 DATE FUNDED 1/23/02

DATE	DRAW ITEMS	DATE	POST CLOSING ITEMS
1/17/02	Fax AIA to Project Inspector with last month's spread		Foundation Survey
N/A	Title endorsement received from last month?		
1/17/02	Order Title Update Jimmy Knight's office		
	Any exceptions needed before funding?		
X	AIA **Are the remaining funds in NBSC's construction/site work budgets sufficient to pay the AIA balances?		
✓	**Signature of General Contractor		
✓	**Signature of Architect		
✓	**Lien Waivers?		
100%	**Retainage %		
	**Change Orders		
✓	X **Copy of Change Order(s) #1 <u>533,132.50</u>		
	**Payment & Performance Bond(s)		
	(Get it change accordingly)		
✓	Is insurance in place? 4-1-02 - Dutch Fork Dev		
	General Liability 10-1-02 - Newman Const		
	Builder's Risk		
	Property		
	Flood		



DATE	DRAW ITEMS	DATE	FINAL DRAW ITEMS
1/23	Interest paid current or being advanced? - NBSC does not begin to		As Built Survey
	Received project inspection approval? pay int until 4/02 - then it		Permanent Insurance
	Project inspection memo to file? comes from a		Final Lien Waivers
1/16	Title Update received? separate mm out		Certificate of Occupancy
	Title Memo to file? w/ \$250,000 in it		Final Title Endorsement
✓	Check 226 screen for sufficient funds and expiration 12/1/05 no draw		Post Construction Estoppels & SNDAs
	of commitment		
✓	Proper Loan Officer approval (signed ticket)		
✓	Upload advance		
✓	Inform Customer of loan being funded		
✓	Update draw spread		

* Budget will be short - borrower to put equity into loan at the end of the project
 tax credit to Mr Milton once draws funded

mean soil boring test before funding - need 1/18/02
 ✓ AIA's need to be signed by Architect

1. copies of APPROVED change orders 1 + 2 need 1/24/02
 Architect, Contractor + Owner
 need Lien waiver - Need revision on ce for #5 off site sewer on app #2 shown @ 12312901

Memo

NBSC

Date 1/30/02
To File
From Margie Simkins *ms*
Subject SEL Properties
Page # 004

This memo is to document the meeting held on January 14, 2002 between the owner, Mr Steve Lipscomb, the developer, Mr Billy Melton the account officer, Ronnie Colson the project inspector, Mr Danny White and myself

During this meeting, it was discussed that applications # 1 and # 2 of the AIA were both submitted with errors NBSC and our project inspector requested that revised AIAs be submitted prior to funding The revised AIA #1 was received corrected and that application was paid in the amount of \$68,067 97 on January 23, 2002 However, pay application #2 was still incorrect and another revision was requested The corrected, revised AIA #2 was received on January 29, 2002 and once appropriate lien waivers are signed, this AIA will be funded in the amount of \$154 513 15

During the January 14, 2002 meeting, it was determined by the account officer and the owner that, once the budget for the AIA contract is fully funded, the owner will begin to pay the remaining funds due on the contract

After the meeting disbursed, the account officer discussed sources of income held by the owner which could be used to cover the cost overruns Subsequently, a hold was put on account # 49-4553992703 which has a balance of approximately \$23,000 available for funding on the SEL Properties loan In addition, it appears that the \$250,000 interest reserve may have excess funds which could also be used to cover cost overruns If the loan was fully funded over a 24-month period at a rate of 5 75% (the current rate), then \$230,000 would be sufficient to cover the interest Lot releases are expected to begin as soon as the construction is completed, thus reducing the principal balance well before the two year maturity date In addition, the borrower is in the process of selling a portion of the undeveloped acreage The proceeds from this sale would be applied directly to the principal balance of the loan.

After funding the second AIA, the amount of funds left to fund on the construction contract is \$622,496 98 and the balance left in the loan budget is \$562,925 33, for a shortfall of \$59,571 65 As of today, the sources outlined above should be sufficient to cover the cost overruns without the borrower having to come out of pocket for additional expenses

To Document the File

MJS/mm



CONSTRUCTION DRAW CHECKLIST

LOAN NAME <u>SEL Properties</u>	FUNDED TO CUSTOMER <u>815451315</u>
DRAW REQUEST # <u>2</u>	FUNDED TO PAY INTEREST <u>N/A</u>
DATE RECEIVED <u>1/23/02</u>	TOTAL FUNDED <u>\$15451315</u>
LOAN AMOUNT <u>\$2,001,375</u>	DATE FUNDED <u>2/10/02</u>

DATE	DRAW ITEMS	DATE	POST CLOSING ITEMS

☒	Fax AIA to Project Inspector with last month's spread
☒	Title endorsement received from last month?
<u>1/23</u>	Order Title Update
	Any exceptions needed before funding?
☒	AIA **Are the remaining funds in NBSC's construction/site work budgets sufficient to pay the AIA balances?
☒	**Signature of General Contractor
☒	**Signature of Architect/Engineer
☒	**Lien Waivers?
☒	**Retainage %
☒	**Change Orders <u>#2 \$12,424.50</u>
	**Copy of Change Order(s) <u>#3 1105.00</u>
	* Payment & Performance Bond(s)
	(Get it change accordingly)
☒	Is insurance in place? <u>10-1-02 - Newnan Commit</u>
	General Liability <u>4-01-03 - Dutch Fork Dev</u>
	Builder's Risk
	Property
	Flood
☒	Interest paid current or being advanced? <u>1 psc due - 1st</u>
<u>1/30</u>	Received project inspection approval? <u>4/1/02 - 1st</u>
	Project inspection memo to file? <u>from separate mem</u>
<u>1/15</u>	Title Update received? <u>1/5/02 - 1st</u>
	Title Memo to file? <u>Advised on 1/15/02</u>
☒	Check 226 screen for sufficient funds and expiration of commitment
☒	Proper Loan Officer approval (signed ticket)
	Upload advance
	Inform Customer of loan being funded
	Update draw spread

	Foundation Survey

PLAINTIFF'S EXHIBIT
31

FINAL DRAW ITEMS
As Built Survey
Permanent Insurance
Final Lien Waivers
Certificate of Occupancy
Final Title Endorsement
Post Construction Estoppels & SNDAs

ADDITIONAL COMMENTS

* Budget for construction will be short - Borrower to put equity into loan at the end of project

* AIA #2 needs corrected - stored materials per 1 on AIA #1 are showing on this AIA - need to be cut out

* over on 2 line items - they need to be shown as chg orders

* changed this to an action 1/23 - + Danny White relayed this to the engineer 1/23/02. - waiting for new/revised AIA #2

Memo

NBSC

Date 1/16/02
To File
From Margie Simkins *ms*
Subject SEL Properties
Loan # 04553982750 Note # 004

This memo is to document the meeting held January 15, 2002 to discuss budget issues and AIAs submitted to date on the subject loan. In attendance at the meeting were Ronnie Colson, the account officer, the owner, Steve Lipscomb, the developer, Bill Melton, the project inspector, Danny White and Margie Simkins the loan administrator

Mr Melton provided NBSC with a budget reflecting the total cost of the project in the amount of \$2,144,942 NBSC's loan amount is \$2,001,375 Thus, the equity portion to be contributed by the owner is \$143,567 Ronnie Colson and Mr Lipscomb agreed that this equity will be put into the project after the loan has been fully funded (excluding interest reserve)

Two change order have been submitted on AIA #1 and AIA #2 These were discussed with all parties Each change order still needs to be signed by the owner, SEL Properties and the engineer, Letts Associates, Inc Change Order #2, in the amount of \$54,249 50 represents the cost of blasted rock to date This amount is still being reviewed by the engineer The revised budget now permits for \$75 000 worth of rock contingency The inspector anticipates that approximately half the blasted rock has been accomplished to date and all parties discussed whether the remaining funds for the rock contingency would be sufficient to complete the estimated work No determination was made at this point

Today, January 16, 2002, Danny White spoke to the engineer requesting that AIA #1 be resubmitted, correctly showing the change order for the blasted rock in the amount of \$28,733 50 the author has contacted Mr Melton to relay the same message to him and once a revised AIA #1 is submitted, NBSC will be in a position, upon receiving the title update, to fund application #1

To Document the File

MJS/mmm

cc Ronnie Colson



C.R. JACKSON, INC.

Committed to Fairness Working with Pride Aiming for Excellence
Since 1972

September 6 2002

Mr Jimmy Newman
Newman Construction Inc
500 Myrtle Beach Highway
Sumter South Carolina 29153

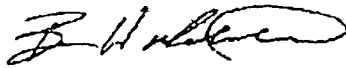
Re Courtyards at Rolling Creek

Dear Mr Newman

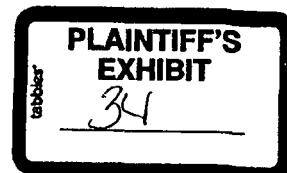
C R Jackson Inc has submitted an invoice for the asphalt paving on the referenced project To date this amount has not been paid and is past due This is uncharacteristic of our previous business relationship We value you as our customer However we cannot allow this invoice to remain delinquent

This letter serves as our notice that if the referenced invoice has not been paid by 9/13/02 C R Jackson Inc will proceed with remedies available to us to protect our interest in this project not limited to a lien on the property

Respectfully yours



Ben H Whetstone
President



TELEPHONE 803 750 6070 FAX 803 750 1358
POST OFFICE BOX 8023, 29202 • 100 INDEPENDENCE BOULEVARD 29210 COLUMBIA SOUTH CAROLINA

LETTS ASSOCIATES, INC

CIVIL ENGINEERING DESIGN & CONSULTING



September 24, 2002

Brax Melton
Dutch Fork Development Group
P.O. Box 516
Windsboro, SC 29150

Re: The County roads at Rolling Creek Phase I
#11007

Dear Mr. Melton:

I am writing this letter as a follow up to my conversations with D. Melton and Darlene Ivey of Newman Construction Co., Inc.

I called today to request that Newman Construction Inc. furnish lien waivers and lists of materials for sewer and water to Richland County and the City of Columbia respectively. This call was as a follow up to previous call requesting the same information.

I was informed by Mrs. Ivey that Newman Construction Inc. would not release the lien waivers or lists of materials to Richland County or the City of Columbia until payment received for completed and approved work on Phase I. As you know, we can not obtain final approvals for the sewer and water system from Richland County or the City of Columbia until the lien waivers and list of materials are provided. In addition, we will not receive DHEC permits to place the sewer and water systems into operation until Richland County and the City of Columbia are satisfied. Please call if you have any questions.

Yours truly,

Richard W. Maxheimer, V.P.
Richard W. Maxheimer, V.P.

RWM:mw

cc: Steve Lipscomb
Darlene Ivey

P.O. Box 12 • 1343 Corner Lane, Suite 200 • Columbia, SC 29201 • Telephone (803) 798-4567 • Fax (803) 798-1678

Letts Associates, Inc. 11007 Rolling Creek Phase I, Melton



LETTS ASSOCIATES, INC

CIVIL ENGINEERING DESIGN & CONSULTING



October 17, 2002

Billy Melton
Dutch Fork Development Group
P.O. Box 510
Winnabow, SC 29180

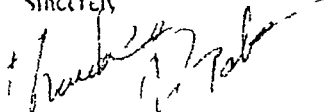
Re: The Courtyards at Rolling Creek Phase I
MI-100

Dear Mr. Melton:

We talked to Newman Construction Co. Inc. on Wednesday, October 16, 2002 and they indicated that they have been paid a substantial sum of money for this project, but until they are paid in full, they will not provide a \$0 owed Lien Waiver to the City of Columbia or Richland County.

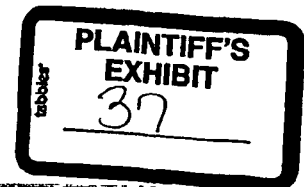
If you have any questions, please give us a call.

Sincerely,


Richard W. Linheimer, A.P.

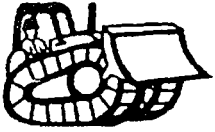
RWM/mw

cc: Steve Lipscomb
Jimmy Newman



P.O. Box 2123 71343 Corner Lane • Suite 200 • Columbia, SC 29213 • Tel: (803) 798-4500 • Fax: (803) 798-1678

C:\AR\Documents\MI1007 Courtyards\Rolling Creek\



NEWMAN CONSTRUCTION, INC.

500 MYRTLE BEACH HWY • SUMTER SC 29153-5014

September 20 2002

W P Melton
S E L Properties LLC
P O Box 510
Winnsboro S C 29180

Re The Courtyards at Rolling Creek – Phase 1

Dear Mr Melton

We understood from Steve Lipscomb that we would receive at least half of the amount due on this project last week. As of today we have received nothing and the principal amount now due on the project is \$168,736.46 as follows

Billing dated 6/30/02	\$124,176.78
Billing dated 7/31/02	12,483.00
Billing dated 8/31/02	<u>32,076.68</u>
Total	<u>\$168,736.46</u>

As stated in our letter of September 6th this past due amount has become an extremely serious issue for us as well as for the paving subcontractor C R Jackson Inc. We must have payment or a satisfactory guarantee of payment for all amounts due including interest according to the contract on all past due amounts by September 30 2002 or we will have to take the necessary steps to protect our interest.

We have requested the details on the sidewalk several times but have not yet received any information. If we haven't received it by September 30 we will presume that this work is to be taken out of our contract.

Please understand that we appreciate the work and have enjoyed working with you on this project however we have to pay our bills and close out this project in a timely manner.

Sincerely

NEWMAN CONSTRUCTION INC

Jimmy Newman
President

cc Steve Lipscomb

PHONE (803) 775 2385 • FAX (803) 775 1040
GRADING • PAVING • UTILITIES



00070

0001833

SEL Properties, LLC
925 Brookwood Drive
PO Box 11641
Columbia, SC 29211-1641
(803) 254 8403
(803) 771 4937 fax

Friday October 18 2002

Newman Construction
500 Myrtle Beach HWY
Sumter SC 29153 5014

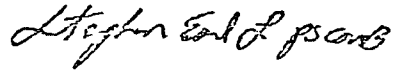
Attn Darlene Ivey

Re Courtyards at Rolling Creek Phase I

Dear Darlene

SEL Properties acknowledges that there is a balance of \$51 656 13 left on Courtyards at Rolling Creek Phase I. The bank will not be responsible for these for these funds. SEL Properties will be responsible for these funds and will pay the funds on 60 days terms.

Sincerely



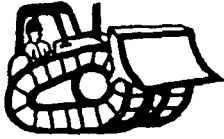
Stephen E. Lipscomb
President

Cc Stacey Mitson
Office Manager



00036

0001834



NEWMAN CONSTRUCTION, INC.

500 MYRTLE BEACH HWY • SUMTER SC 29153-5014

October 21 2002

W P Melton
S E L Properties LLC
P O Box 510
Winnsboro S C 29180

Re The Courtyards at Rolling Creek - Phase 1

Dear Mr Melton

We received a letter from Steve Lipscomb by fax on Friday afternoon which we had hoped would clear things up so that we could sign off on the lien waivers you requested. We understood from previous conversations with you that ample funds were available to pay the balance due on this project however that does not appear to be the case according to Mr Lipscomb's letter. He is asking us to finance the balance of \$51,656.13 for an additional 60 days which we are not prepared to do.

Also, there remains a balance due on Rolling Creek Subdivision Phase 4 of \$13,170.95 which needs to be addressed.

Due to the apparent confusion, we would greatly appreciate it if you would get together with Mr Lipscomb to go over these matters and let us know how things really stand. We are as anxious as you are to get these projects closed out.

Sincerely,

NEWMAN CONSTRUCTION INC

Jimmy Newman
President

cc Steve Lipscomb

PHONE (803) 775-2385 • FAX (803) 775-1040
GRADING • PAVING • UTILITIES



0001835

LETTS ASSOCIATES, INC



CIVIL ENGINEERING DESIGN & CONSULTING

FAX# (803) 798-1678

Date April 25, 2002

Time 9 15 AM

Number of pages 6

Fax Number 771-4937

Attention Stacey Matson
Company SEL Properties
From Mary Winn
Subject Accounts Receivable

Stacey, I am enclosing the latest statements for Mr. Lipscomb's projects
would you please ask him if we could get the past due amounts paid? New
invoices will be going out next week.

Thanks a bunch

(Total Past Due \$23,696.40)

cc Billy Melton

1343 Garner Lane, Suite 200, Columbia SC 29210 P O Box 212327, Columbia, SC 29221 2327

Telephone (803) 798-4562 • Facsimile (803) 798 1678

PLAINTIFF'S
EXHIBIT

41

LETTS ASSOCIATES, INC
CIVIL ENGINEERING DESIGN & CONSULTING



Rec'd

October 10, 2002

Ed Boyer
Sanitary Engineer
Richland County Utilities & Services
5506 Fernandina Road
Columbia SC 29210

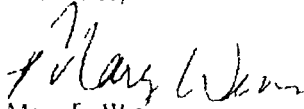
Re: The Courtyards at Rolling Creek Phase I Sewer System
M-1007

Dear Mr. Boyer:

Per your request, please find enclosed the mylin copies for the Sanitary Sewer Lines for The Courtyards at Rolling Creek Phase I. Please let us know if you need anything further on this project.

I talked to Darlene at Newmin Construction and she informed me that the Lien Waiver will not be changed to "paid in full" until Newmin Construction is paid for past due invoices.

Sincerely,


Mary E. Wynn
Office Manager

Enclosure

Steve Lipscomb
Billy Meltor
Jimmy Newman



Instrument: 2004023620

Book/Page: R918 1557

Date/Time: 3/25/2004 10:54:00 AM

STATE OF SOUTH CAROLINA)
) TITLE TO REAL ESTATE
 COUNTY OF RICHLAND)

TEST.
 A TRUE COPY
 R M C

KNOW ALL MEN BY THESE PRESENTS that SEL Properties, LLC, (hereinafter referred to as Grantor), of the State of South Carolina, in consideration of the sum of no cash consideration, to it, in hand, paid on this date by K & L Contracting, LLC (hereinafter referred to as Grantee) in the State aforesaid, the receipt whereof is hereby acknowledged has granted, bargained, sold and released, and by these Presents, does grant, bargain, sell and release all of Grantor's right, title, and interest in the property described below unto Grantee its successors and assigns, all of its right, title and interest in and to

Street Address: Lot 14 of the Courtyards at Rolling Creek, Phase I

New Tax # R02606-01-01

Legal Description: See Exhibit A* attached.

Together with all and singular, the rights, members, hereditaments, and appurtenances to the said premises belonging or in anywise incident or appertaining.

To have and to hold, all and singular the premises before mentioned unto the said Grantee, its successors and assigns forever and it does hereby bind itself and its successors and assigns to warrant and forever defend all and singular the said premises unto the said Grantee, its successors and assigns against it and its successors and assigns and against every person whosoever claiming or to claim, the same or any part thereof.

IN WITNESS WHEREOF, the execution hereof this 24th day of March

2004

Book 00918-1557
 R04033830 03/25/2004 10:54:00 AM
 Fee: \$16.00 County Tax: \$0.00 State Tax: \$0.00

Deed

2004023620 John G. Morris
 Richard County ROD

This document is not to scale

PLAINTIFF'S
 EXHIBIT

45

0001838

Instrument: 2004023620

Book/Page: R918 1558

Date/Time: 3/28/2004 10:54:09 AM

WITNESSES

Laura McDonald
Timothy A. Allen

Stephen E. Lipscomb (SEAL)
 SEL Properties, LLC
 By Stephen E. Lipscomb
 Its Manager

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)

PROBATE

PERSONALLY APPEARED before me the undersigned witness, who being duly sworn, deposes and says that s/he saw the within named SEL Properties LLC, by Stephen E. Lipscomb its Manager sign, seal and as its act and deed, deliver the within written Deed for the uses and purposes therein mentioned and that s/he with the other witness whose name appears above, witnessed the execution thereof

SWORN TO BEFORE ME THIS

24th day of March 2004
Timothy A. Allen (L.S.)
 Notary Public for South Carolina

Laura McDonald

My Commission Expires: 4/12/2010

Grantee's Address PO Box 11641 Columbia, SC 29211

Richland County, SC

John D. Morris

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EXHIBIT A

All that certain piece, parcel or lot of land together with any improvements thereon, situate, lying and being in the County of Richland, State of South Carolina, being known as designated as Lot 14 on a bonded plat of The Courtyards at Rolling Creek, Phase I, prepared by Associated E & S Inc. and being dated June 20 2002 and last revised August 20 2002 and recorded in the Richland County ROD in Book RB696 at Page 1031 on August 22, 2002 and having the same boundaries and measurements as shown on said plat

Street Address. 2 Whetstone Creek Court

New Tax # R02606-01-01

Derivation. Thus being the same property conveyed to SEL Properties, LLC from Robert E Cripps, II by deed recorded in the Richland County ROD on 10/6/2000 in Book 449 at Page 37

Richland County ROD

John G. Morris

This document is not to scale

0001840

Instrument: 2004023620

Book/Page: R916 1580

Date/Time: 3/28/2004 10:54:08 AM

STATE OF SOUTH CAROLINA)
 COUNTY OF Richland)

AFFIDAVIT

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1 I have read the information on the back of this affidavit and I understand such information.

2 The property being transferred is located at Lot 14 Courtyards at
Hollins Ct. bearing Richland County Tax Map Number 2606-01-01
 was transferred by SEL Properties, LLC
 to K&L Contracting, LLC
 on 3/24/04

3 The deed is exempt from the deed recording fee because (See Information section of affidavit):

12/40/40(1)

4 As required by Code Section 12-24-70 I state that I am a responsible person who was connected with the transaction as: Timothy G Quinn, Attorney

5 I understand that a person required to furnish this affidavit who wilfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year or both.

Timothy G Quinn
 Responsible Person Connected with the Transaction

SWORN to before me this 24th
 day of March 2004
Karla McDonald
 Notary Public for SC
 My Commission Expires: 7/23/04

Timothy G Quinn
 Print or Type Name Here

This document is not to scale

0001841

SETTLEMENT STATEMENT

U.S. Department of Housing
and Urban Development

OMB No. 2502-0245

1 ☐ FBA 2 ☐ FmBA 3 ☐ Conv Online		6 File Number 200215 TQO	7 Loan Number	8 Mortgage Ins Case #
4 ☐ VA 5 ☐ Conv Ins				

C Note: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the Settlement Agent are shown. Items marked (p o o) were paid outside the closing they are shown here for information purposes and are not included in the totals.

D Name and Address of Borrower K & L CONTRACTING LLC PO BOX 11641 COLUMBIA SC 29211	E Name and Address of Seller	F Name and Address of Lender FIRST CITIZENS BANK 1230 MAIN STREET COLUMBIA SC 29202

G Property Location LOT 15 WHETSTONE CREEK CT ROLLING CREEK	H Settlement Agent TIM QUINN, ATTORNEY AT LAW Place of Settlement 1421 CALHOUN ST COLUMBIA SC 29201	I Settlement Date 9/30/02 DISB DATE 9/30/02

J Summary of Borrower's Transaction		K Summary of Seller's Transaction	
100 Gross Amount Due From Borrower		400 Gross Amount Due To Seller	
101 Contract sales price	0.00	401 Contract sales price	0.00
102 Personal property		402 Personal property	
103 Settlement charges to borrower (line 1400)	38,177.92	403	
104		404	
105 HOLD	143,022.08	405	
Adjustments for items paid by seller in advance		Adjustments for items paid by seller in advance	
106 City/town taxes to		406 City/town taxes to	
107 County taxes to		407 County taxes to	
108 Assessments to		408 Assessments to	
109		409	
110		410	
111		411	
112		412	
120 Gross Amount Due From Borrower	181,200.00	420 Gross Amount Due To Seller	0.00
200 Amounts Paid By or in Behalf of Borrower		500 Reduction in Amount Due To Seller	
201 Deposit or earnest money	0.00	501 Excess deposit (see instructions)	0.00
202 Principal amount of new loan(s)	181,200.00	502 Settlement charges to seller (line 1400)	0.00
203 Existing loan(s) taken subject to		503 Existing loans taken subject to	
204		504 Payoff of first mortgage loan	
205		505 Payoff of second mortgage loan	
206		506	
207		507	
208		508	
209		509	
Adjustments for items unpaid by seller		Adjustments for items unpaid by seller	
210 City/town taxes to		510 City/town taxes to	
211 County taxes to		511 County taxes to	
212 Assessments to		512 Assessments to	
213		513	
214		514	
215		515	
216		516	
217		517	
218		518	
219		519	
220 Total Paid By/For Borrower	181,200.00	520 Total Reduction Amount Due Seller	0.00
300 Cash At Settlement From/To Borrower		600 Cash At Settlement To/From Seller	
301 Gross amount due from borrower (line 120)	181,200.00	601 Gross amount due to seller (line 420)	0.00
302 Less amt paid by/for borrower (line 220)	(181,200.00)	602 Less reduction in amt due seller (in 520)	0.00
303 Cash ☒ From ☐ To Borrower	0.00	603 Cash ☐ To ☒ From Seller	0.00

REPORTER TAX ID #

The amount on line 401 on this form is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if this item is required to be reported and the IRS determines that it has not been reported. This is a substitute form 1099-S.

TAX ID #

Previous Edition is obsolete



HUD 1 (3-86)
RHSFA RB 4305 2

Handwritten signature

4771

0001842

L. Settlement Charges				Paid From	Paid From
700 Total Sales/Broker = Commission based on price \$				Borrower's	Seller's
Division of commission (line 700) as follows:				Funds at	Funds at
70 \$	to			Settlement	Settlement
702 \$	to				
703	Commission paid at settlement				
704					
800	Items Payable in Connection With Loan				
801	Loan origination Fee	\$			
802	Loan Discount	\$			
803	Appraisal Fee	to FIRST CITIZENS BANK		300.00	
804	Credit report	to			
805	Lender's Inspection Fee				
806	Mortgage Insurance Application Fee to				
807	Assumption Fee				
808	LOAN FEE TO FIRST CITIZENS BANK			1,812.00	
809	FLOOD CERT FEE TO FIRST CITIZENS BANK			12.00	
810					
811					
812					
813					
814					
815					
900	Items Required By Lender To Be Paid In Advance				
901	Interest from	to \$	/day		
902	Mortgage Insurance Premium for		month to		
903	Hazard Insurance Premium for		years to		
904					
905					
1000	Reserves Deposited With Lender				
1001	Hazard Insurance	months of	per month		
1002	Mortgage Insurance	months of	per month		
1003	City Property Taxes	months of	per month		
1004	County Property Taxes	months of	per month		
1005	Annual Assessment	months of	per month		
1006	Flood Insurance	months of	per month		
1007	Sanitary Tax	months of	per month		
1008	AGGREGATE ACCOUNTING ADJ	months of	per month	0.00	
1100	Title Charges				
1101	Settlement or closing fee	to			
1102	Abstract or title search	to			
1103	Title examination	to			
1104	Title insurance binder	to			
1105	Document preparation	to DOC PREP		75.00	
1106	Notary fees	to			
1107	Attorney's fees	to TIM QUINN, ATTORNEY AT LAW		350.00	
	(includes above item numbers, 1101-1107)				
1108	Title Insurance	to PERPETUAL TITLE		500.52	
	(includes above item number)				
1109	Lender's coverage	\$ 181,200.00			
1110	Owner's coverage	\$			
1111					
1112					
1113					
1200	Government Recording and Transfer Charges				
1201	Recording fees Deed \$ 00	Mortgage \$ 20.20	Release \$ 8.20	28.40	
1202	City/county tax/stamps Deed \$	Mortgage \$			
1203	State tax/stamps: Deed \$ 00	Mortgage \$.00			0.00
1204					
1205					
1300	Additional Settlement Charges				
1301	Survey to				
1302	Post inspection to				
1303	PARTIAL RELEASE NBSC			31,600.00	
1304	LOT CLEARING			5,500.00	
1305					
1400	Total Settlement Charges (enter on lines 103, Section V and 302, Section XI)			38,177.92	0.00

I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction. I further certify that I have received a copy of the HUD-1 Settlement Statement.

[Signature]
K & L CONTRACTING LLC

Borrowers

The HUD-1 Settlement Statement which I have prepared is a true and accurate account of this transaction. I have caused or will cause the funds to be disbursed in accordance with this statement.

Sellers

Settlement Agent: TIM QUINN ATTORNEY AT LAW

Date

9/30/02

WARNING: It is a crime to knowingly make false statements to the United States on this or any other similar form. Penalties upon conviction can include a fine or imprisonment. For details see Title 18 U.S. Code Section 1001 and Section 1010.

4772

0001843

Type of Loan ☐ FHA 2 ☐ VA 5	☐ FHA 3 ☐ Conv Ins	☐ Conv This ☐ Conv Ins	6 File Number 2002957 TGQ	7 Loan Number	8 Mortgage Ins Case #

C: Note This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the Settlement Agent are shown. Items marked * (p o c) were paid outside the closing. They are shown here for information purposes and are not included in the totals.

D Name and Address of Borrower K & L CONTRACTING, LLC PO BOX 11641 COLUMBIA, SC 29211	E Name and Address of Seller	F Name and Address of Lender FIRST CITIZENS BANK 1230 MAIN STREET COLUMBIA, SC 29202

G Property Location LOT 57 SAVANNAH BRANCH TRAIL ROLLING CREEK	H Settlement Agent TIM QUINN, ATTORNEY AT LAW Place of Settlement 1421 CALHOUN ST COLUMBIA, SC 29201	I Settlement Date 9/30/02 DISB DATE 9/30/02

J Summary of Borrower's Transaction		K Summary of Seller's Transaction	
100 Gross Amount Due From Borrower		400 Gross Amount Due To Seller	
101 Contract sales price	0 00	401 Contract sales price	0 00
102 Periodic property		402 Personal property	
103 Settlement charges to borrower (line 1400)	39,436 32	403	
104		404	
105 HOLD	245,763.68	405	
Adjustments for items paid by seller in advance		Adjustments for items paid by seller in advance	
106 City/town taxes to		406 City/town taxes to	
107 County taxes to		407 County taxes to	
108 Assessments to		408 Assessments to	
109		409	
110		410	
111		411	
112		412	
120 Gross Amount Due From Borrower	285,200 00	420 Gross Amount Due To Seller	0 00
200 Amounts Paid By or in Behalf of Borrower		500 Reduction in Amount Due To Seller	
201 Deposit or earnest money	0 00	501 Excess deposit (see instruction)	0 00
202 Principal amount of new loan(s)	285,200 00	502 Settlement charges to seller (line 1400)	0 00
203 Existing loan(s) taken subject to		503 Existing loans taken subject to	
204		504 Payoff of first mortgage loan	
205		505 Payoff of second mortgage loan	
206		506	
207		507	
208		508	
209		509	
Adjustments for items unpaid by seller		Adjustments for items unpaid by seller	
210 City/town taxes to		510 City/town taxes to	
211 County taxes to		511 County taxes to	
212 Assessments to		512 Assessments to	
213		513	
214		514	
215		515	
216		516	
217		517	
218		518	
219		519	
220 Total Paid By/For Borrower	285,200 00	520 Total Reduction Amount Due Seller	0 00
300 Cash At Settlement From/To Borrower		600 Cash At Settlement To/From Seller	
301 Gross Amount due from Borrower (line 120)	285,200 00	601 Gross amount due to Seller (line 420)	0 00
302 Less amt paid by/for borrower (line 220)	285,200 00	602 Less reduction in amt due seller (line 520)	0 00
303 Cash ☒ From ☐ To Borrower	0.00	603 Cash ☐ To ☒ From Seller	0 00

REPORTER TAX ID #

The amount on line 401 on this form is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return a negligence penalty or other sanction may be imposed on you if this item is required to be reported and the IRS determines that it has not been reported. This is a substitute form 1099-S.

TAX ID #

Previous edition is obsolete

SEL



HUD- (3-85)
 RXSPA 23 4305 -

8423

	to	Funds at Settlement	Funds at Settlement
703 Commission paid at settlement			
704			
800 Items Payable in Connection With Loan			
801 Loan origination fee	\$		
802 Loan Discount	\$		
803 Appraisal Fee	to FIRST CITIZENS BANK	300 00	
804 Credit report	to		
805 Lender's Inspection Fee			
806 Mortgage Insurance Application Fee to			
807 Assumptory Fee			
808 LOAN FEE TO FIRST CITIZENS BANK		2,852 00	
809 FLOOD CERT FEE TO FIRST CITIZENS BANK		12.00	
810			
811			
812			
813			
814			
815			
900 Items Required By Lender To Be Paid In Advance			
901 Interest from	to \$ /day		
902 Mortgage Insurance Premium for	months to		
903 Hazard Insurance Premium for	years to		
904			
905			
1000 Reserves Deposited With Lender			
1001 Hazard Insurance	months \$ per month		
1002 Mortgage Insurance	months \$ per month		
1003 City Property Taxes	months \$ per month		
1004 County Property Taxes	months \$ per month		
1005 Annual Assessments	months \$ per month		
1006 Flood Insurance	months \$ per month		
1007 Sanitary Tax	months \$ per month		
1008 AGGREGATE ACCOUNTING ADJ	months \$ per month	0 00	
1100 Title Charges			
1101 Settlement or closing fee	to		
1102 Abstract or title search	to		
1103 Title examination	to		
1104 Title insurance order	to		
1105 Document preparation	to DOC PREP	75 00	
1106 Notary fees	to		
1107 Attorney's fees	to TIM QUINN, ATTORNEY AT LAW	350 00	
(includes above item numbers	1101-1107		
1108 Title insurance	to PERPETUAL TITLE	718 92	
(include above item numbers			
1109 Lender's coverage	\$ 285,200 00		
1110 Owner's coverage	\$		
1111			
1112			
1113			
1200 Government Recording and Transfer Charges			
1201 Recording fees Deed \$ 00 Mortgage \$ 20 20 Releases \$ 8 20		28 40	
1202 City/county tax/stamps, Deed \$ Mortgage \$			
1203 State tax/stamps Deed \$ 00 Mortgage \$ 00			0 00
1204			
1205			
1300 Additional Settlement Charges			
1301 Survey to			
1302 Pest inspection to			
1303 NBSC PARTIAL RELEASE		31,600 00	
1304 LOT CLEARING		3,500.00	
1305			
1400 Total Settlement Charges (enter on lines 01, Section J and 502, Section K)		39,436.32	0 00

I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction. I further certify that I have received a copy of the HUD-1 Settlement Statement.

Tim Quinn
TIM QUINN, ATTORNEY AT LAW
K & L CONTRACTING LLC

Borrower's

Seller's

The HUD-1 Settlement Statement which I have prepared is a true and accurate account of this transaction. I have caused or will cause the funds to be disbursed in accordance with the statement.

Tim Quinn
TIM QUINN, ATTORNEY AT LAW

9/30/02

Date

WARNING: It is a crime knowingly to make false statements to the United States on this or any other similar form. Penalties upon conviction can include a fine or imprisonment. For details see Title 18 U.S. Code Section 1001 and Section 1002.

Instrument: 2003065028

Book/Pages: R810 1310

Date/Time: 6/23/2003 9:33:15 AM

STATE OF SOUTH CAROLINA)
) TITLE TO REAL ESTATE
COUNTY OF RICHLAND)

KNOW ALL MEN BY THESE PRESENTS that SEL Properties, LLC, (hereinafter referred to as Grantor), of the State of South Carolina, in consideration for no cash consideration to it, in hand, paid on this date by K&L Contracting, LLC (hereinafter referred to as Grantee) in the State aforesaid the receipt whereof is hereby acknowledged has granted, bargained, sold and released, and by these Presents, does grant, bargain sell and release all of Grantor's right, title and interest in the property described below unto Grantee, its successors and assigns, all of its right, title and interest in and to

Legal Description See Exhibit "A" attached

Together with all and singular, the rights, members hereditaments, and appurtenances to the said premises belonging or in anywise incident or appertaining

To have and to hold all and singular the premises before mentioned unto the said Grantee, its successors and assigns forever and it does hereby bind itself and its successors and assigns to warrant and forever defend all and singular the said premises unto the said Grantee, its successors and assigns against it and its heirs and against every person whomsoever claiming or to claim, the same or any part thereof

IN WITNESS WHEREOF the execution hereof this 20th day of
Aug, 2003

WITNESSES

SBL Properties LLC

Laura McDonald
Terrell A. Hunt

By Stephen E. Lipscomb (SEAL)
Its Manager

Book 00810-1310
 20000525 05/25/2000 09:39:19.30
 Fee: \$10.00 Copy: Tax \$0.00 State Tax \$0.00

Richard County FID

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**PLAINTIFF'S
EXHIBIT**

49

Instrument: 2003065029

Book/Page: RB10 1311

Date/Time: 6/23/2003 9:32:15 AM

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

P R O B A T E

PERSONALLY APPEARED before me the undersigned witness, who being duly sworn deposes and says that s/he saw the within named SRL Properties, LLC by Stephen B Lipscomb, its Margaret sign, seal and as its act and deed, deliver the within written Deed for the uses and purposes therein mentioned and that s/he with the other witness whose name appears above, witnessed the execution thereof

SWORN TO BEFORE ME THIS

20th day of June, 2003Timothy A. Davis (L S)
Notary Public for South CarolinaLaura McDonaldMy Commission Expires 1/17/2010

Grantee's Address PO Box 11641, Columbia, SC 29211

Richland County, SC

John G. North

This document is not to scale

Instrument: 2003086026

Book/Page: RB10 1312

Date/Time: 8/23/2003 9:33:15 AM

EXHIBIT A

All those pieces, parcels and lots of land together with any improvements thereon, situate, lying and being in the County of Richland, State of South Carolina, being known as designated as Lot 57 on a bounded plat of The Courtyards at Rolling Creek, Phase I prepared by Associated E & S, Inc., and being dated June 20, 2002 and last revised August 20, 2002 and recorded in the Richland County ROD in Book RB696 at Page 1031 on August 22, 2002 and having the same boundaries and measurements as shown on said plat

TMS The above being a portion of TMS # 02600-04-02

Derivation: This being the same property conveyed to SRL Properties, LLC from Robert E Cripps, II by deed recorded in the Richland County ROD on 10/6/2000 in Book 449 at Page 37

Richland County, ROC

John A. Norton

This document is not to scale

0001848

Instrument: 2003065026

Book/Page Ref: 1313

Date/Time: 8/23/2003 9:33:19 AM

STATE OF SOUTH CAROLINA)
COUNTY OF Richland

AFFIDAVIT FOR EXEMPT TRANSFERS

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1 I have read the information on the back of this affidavit and I understand such information.

2. The property being transferred is located at Lot 57 Rolling Creek
bearing Richland County Tax Map Number Portion of
26-00-01-02 was transferred by SEL Properties, LLC
to K&L Contracting, LLC
on July 30, 20033 The deed is exempt from the deed recording fee because (See Information section of
affidavit).12 40-40614 As required by Code Section 12-24-70, I state that I am a responsible person who was
connected with the transaction as, Timothy L. Quinn, Attorney
at Law5 I understand that a person required to furnish this affidavit who wilfully furnishes a false or
fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more
than one thousand dollars or imprisoned not more than one year, or both.

Responsible Person Connected with the Transaction

SWORN to before me this 20th
day of August 2003
Paul McDowell
Notary Public for SC
My Commission Expires 11/23/08Timothy L. Quinn
Print or Type Name Here

Page 54

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0001849

THIS AGREEMENT IS SUBJECT TO ARBITRATION PURSUANT TO THE UNIFORM ARBITRATION ACT, SECTION 15-48-10, ET SEQ., CODE OF LAWS OF SOUTH CAROLINA, 1976 (AS AMENDED)

LOAN AGREEMENT

This Agreement is dated as of the 19 day of ~~November~~ 2001 by and between SEL Properties L L C a South Carolina limited liability company ("Borrower") having an address at 1105 Pulaski Street, Columbia, South Carolina 29201 and THE NATIONAL BANK OF SOUTH CAROLINA a national banking association ("Bank") having an address at Post Office Box 1457, Columbia South Carolina 29202-1457

In consideration of the Loan described below and the mutual covenants and agreements contained herein and intending to be legally bound hereby Bank and Borrower agree as follows

1 Definitions and Reference Terms In addition to any other terms defined herein the following terms shall have the meanings set forth with respect thereto

(a) Agent to Request Disbursements Stephen E Lipscomb or his designee

(b) Budget The budget attached hereto as Exhibit A setting forth in detail all direct and indirect costs for the construction of the Improvements

(c) Completion Date With regard to the Loan, the date specified by the Contractor as the anticipated date that the Improvements will be substantially completed

(d) Commitment Letter The agreement between Borrower and Bank dated August 1 2001

(e) Contractor DUTCH FORK DEVELOPMENT GROUP

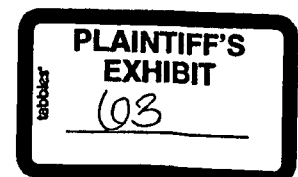
(f) Force Majeure Labor strikes riots Acts of God or other causes which are beyond the control of the parties and which could not be avoided by exercise of due care

(g) Guarantor Stephen E Lipscomb

(h) Hazardous Materials All materials defined as hazardous wastes or substances under any local, state or federal environmental laws rules or regulations, and petroleum petroleum products oil and asbestos

(i) Interest Reserve The Loan amount contains an interest reserve of \$250,000.00 which amount shall be advanced and deposited at closing into a NBSC premium money market account The interest reserve may only be used to pay accrued interest as required

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under the Note and may not be used to pay the first four monthly interest payments under the Note

(j) Improvements The infrastructure and other improvements constructed or to be constructed on the Land

(k) Land Approximately 130.37 acres located on the Northeast side of U S Highway 176 near Irmo South Carolina, as more particularly described in the Mortgage

(l) Loan The \$2,001,375.00 Real Estate Development Line of Credit The Loan shall be secured by (i) a title-insured first priority mortgage lien on each Property and (ii) an assignment of NBSC Certificate of Deposit Number 4553982733

(m) Loan Documents This Agreement and the Commitment Letter (and all items and documents required therein) the Note the Mortgage, and all other instruments documents and agreements required by Bank which evidence, secure or otherwise relate to the Loan including without limitation any guaranties financing statements, assignments of lessor's interest in leases rents and profits and assignments of construction documents together with any amendments renewals and extensions thereof all of which are incorporated herein by reference and made a part hereof References herein to the Loan Documents shall include all such documents instruments and other agreements collectively except that any such reference shall mean the appropriate individual document instrument or agreement if the context shall so require

(n) Mortgage The first lien mortgage and security agreements securing the Loan and the performance of Borrower's obligations with respect to the Loan and all amendments, renewals and extensions thereof

(o) Note The promissory note and other instruments documents or agreements evidencing Borrower's indebtedness for the Loan and all amendments renewals and extensions thereof

(p) Obligors The Borrower and ~~all other makers co-makers endorers~~ guarantors and others obligated primarily or secondarily for the payment of the indebtedness evidenced by the Note or performance of Borrower's obligations under the Loan Documents

(q) Plans The plans and specifications entitled **THE COURTYARDS AT BILLING CREEK APART I** prepared by the Engineer and dated **SEPT 14, 2001** 2001 and all amendments thereto approved by Bank

(r) Premises ~~The Land and the Improvements~~

2 Loan Subject to the terms and conditions of this Agreement and the Loan Documents Bank agrees to extend to Borrower (in periodic disbursements) up to the principal sums set forth herein, the Loan The Loan shall bear interest at the rate or rates set forth in the Note

3 Representatives and Warranties of Borrower As an inducement to Bank to enter into this Agreement and to make the Loan Borrower represents and warrants to Bank as follows

(a) The financial information furnished to Bank in connection with its application for the Loan and in the financial statements submitted to Bank is complete and accurate and Borrower has no undisclosed direct or contingent liabilities There has been no material adverse change in Borrower's financial conditions since the preparation of this information

(b) Borrower has no pending or threatened litigation, actions or proceedings which involve the possibility of materially and adversely affecting its business assets operations condition or prospects financial or otherwise

(c) Borrower has been issued all required federal state or local licenses certificates or permits relating to all applicable environmental laws

(d) Borrower shall provide Bank with a legal opinion from Borrower's counsel stating among other matters, that (i) Borrower and Guarantor have the capacity and power to borrow as contemplated hereby and to perform their obligations under the respective loan documents (ii) the execution and delivery of and performance by the Borrower and Guarantor of their obligations pursuant to the terms of the Loan will not conflict with or violate or constitute a default under any existing statute rule or regulation applicable to or the terms or conditions or provisions of any agreement or instrument to which the Borrower or the Guarantor is a party or by which their assets are bound or affected

4 Construction Covenants of Borrower Borrower covenants and agrees with Bank as follows

(a) Progress of Work Lien-Free Completion Borrower will continually prosecute the work and complete the Improvements on or before the Completion Date subject to Force Majeure all in conformity with the approved Plans and the Budget and in compliance with all legal requirements and restrictions Borrower will not permit cessation of work on the Improvements for a period in excess of ten (10) business days (whether or not consecutive, but excluding federal holidays and days on which work cannot be performed because of inclement weather or Force Majeure) without Bank's prior written consent Borrower will within fifteen (15) days after Borrower obtains knowledge thereof correct any material defect in the Improvements, any material departure from the Plans, legal requirements or good construction practices and any encroachment by the Improvements on any property line, set-back line easement or other restricted area Borrower will keep the Improvements free at all times from all

liens for services labor materials or indebtedness (other than the Loan and the liens securing the Loan) Provided however that Borrower shall have thirty (30) days in which to dispose of or bond any mechanic s liens or materialman s liens after the filing thereof On the Completion Date, the Improvements will be fully equipped and ready for use for its intended purposes

(b) Plans Contracts and Budget Approval Assignment of Contracts Borrower will submit all contracts for construction and other services to the Improvements, the Plans the Budget surveys of the Land and all other items required by the Loan Documents to Bank for its approval, and Bank shall have no obligation to make any disbursement hereunder until it has approved those items Borrower agrees that the approved construction contract will not be terminated and that it and the Plans and Budget will not be modified or otherwise changed in any material manner, without the prior written consent of Bank (Provided, however Borrower may make changes to the Plans without Bank's consent as long as the aggregate amount of such changes does not exceed \$25 000 00) Borrower further agrees to perform all of its obligations under the approved construction contracts in a timely manner Borrower hereby assigns to Bank and grants Bank a security interest in all Borrower s rights and interests, but not the obligations in and to the Plans and all construction and architectural contracts related to the Improvements

(c) Insurance Bank must be provided with satisfactory evidence of extended coverage hazard if applicable and casualty and liability insurance on the Premises as well as builder s risk insurance if applicable with Bank appearing as first-mortgagee loss-payee The coverage types and amounts of all required insurance must be satisfactory to Bank Bank reserves the right to require flood insurance if any of the Improvements are to be located in a flood hazard area All policies must be from companies satisfactory to Bank must be in an amount satisfactory to Bank and sufficient to avoid the application of any co-insurance provisions and must include provisions for a minimum 30-day advance written notice to Bank of any intended policy cancellation or non-renewal Satisfactory evidence of premium payments must be provided along with an appropriate binder or commitment (in advance of the policy) at the closing of the Loan and prior to each anniversary thereof

(d) Survey Prior to closing Borrower will promptly provide to Bank a subdivision survey showing the location of the lots and all infrastructure for the development and any set back lines, easements and other restricted areas

(e) Environmental Compliance An Environmental Audit of the Land must be completed The form and content of the report must be reasonably acceptable to Bank and any costs associated therewith shall be borne by the Borrower

(f) Appraisal Borrower shall pay when due the cost of providing to Bank at its request from time to time a then-current appraisal of the market value of the Property prepared by an MAI appraiser or by another appraiser acceptable to Mortgagee in its discretion provided however that Bank shall make such request no more frequently than once every third year unless Bank is required by any law regulation order or other directive from any regulatory

agency having jurisdiction over Bank to obtain any such appraisal more frequently than every third year. If Borrower fails to pay such cost when due, Bank may pay such cost on Borrower's behalf and the same shall constitute principal under the Note. shall bear interest at the applicable rate provided in the Note and shall be due and payable on demand. Borrower's failure to pay such amount (with all accrued interest) in full within ten (10) days of the date of such demand shall constitute an event of default entitling the Bank to accelerate the maturity of the Note.

(g) Title Instruments. Borrower will submit all proposed easements, permits, licenses and other instruments which would or may affect title to the Premises to Bank for approval prior to the execution thereof by Borrower.

(h) Consent to Leases. Borrower will not enter into any leases or occupancy agreements affecting the Land or any amendments or renewals thereof without the prior written consent of Bank.

(i) Use of Proceeds. Borrower will use the proceeds of the Loan solely for the purpose of paying for the costs of construction of the Improvements in accordance with the Plans and the Budget and as set forth in the requests for disbursements required herein and for such other purposes associated therewith as Bank shall have specifically approved in writing.

(j) Sufficient Funding. Borrower's Equity Investment Obligation. If the undisbursed portion of the Loan and any sums deposited by Borrower with Bank hereunder are at any time insufficient in Bank's reasonable judgment to fully complete the Improvements in accordance with the Plans and to pay all other sums under the Loan Documents when due, Borrower will within seven (7) days after written notice thereof from Bank, deposit with Bank such sums of money in cash as Bank may reasonably require to remedy such condition and to pay any liens for services and materials alleged to be due and payable at that time. At Bank's option, no further disbursements of such Loan proceeds shall be made until Borrower has fully complied with this requirement. All deposited sums shall stand as additional security for Borrower's obligations under this Agreement and may be disbursed at Bank's option before any further Loan disbursements.

(k) Environmental Inspections. Inspection of Improvements. Borrower agrees to permit Bank, its agents, contractors and employees to enter and inspect the Premises at any reasonable time during normal business hours upon three (3) days prior notice for the purposes of conducting an environmental investigation and audit (including taking physical samples) to insure that Borrower is complying with the provisions hereof. Such inspections shall be conducted so as to cause minimal interference with Borrower's business. Subject to the limitations stated in the Mortgage, Borrower shall reimburse Bank on demand for the costs of any such environmental investigations and audit. Borrower shall provide Bank, its agents, contractors, employees and representative with access to and copies of any and all data and documents relating to or dealing with any Hazardous Materials used, generated, manufactured, stored or disposed on the Premises within five (5) days of the request thereof.

Borrower will permit Bank and its representatives to enter upon the Premises and to inspect the Improvements and all materials used in the construction thereof during normal business hours. Bank shall have the right to reject and require Borrower to replace any material or work which does not comply with the Plans (except as provided above) or good construction practices.

It is understood and agreed that Bank's rights under this provision are solely for Bank's loan administration purposes and do not impose any duty of care of Bank to Borrower or to any other person or entity. Bank shall have no liability, obligation or responsibility whatsoever with respect to the construction of the Improvements except to disburse the Construction/Permanent Loan proceeds pursuant to this Agreement. Bank shall not be obligated to cause to be performed any environmental audit or investigation or inspect the Premises or the construction of the Improvements. Bank shall not be liable for any defect in the Improvements by reason of inspecting or not inspecting the same. Bank shall not be liable for the performance or default of Borrower, any architect, engineer, contractor, construction consultant or any other party, nor for any failure to construct, complete, protect or insure the improvements, nor for the payment of the costs of labor, materials or services supplied for the construction of the Improvements, nor for the performance of any obligation of Borrower.

5 Disbursements

(a) Loan Disbursement Conditions. Bank shall not be obligated at any time to disburse any proceeds of a Construction/Permanent Loan unless the following conditions have been satisfied:

i. Bank receives a copy of fully executed guaranteed maximum and fixed price AIA form construction contract in an amount and in form and content acceptable to Bank related to the Improvements.

ii. Bank receives a copy of the fully executed Engineer's contract in form and content acceptable to Bank related to the Improvements.

iii. Bank receives an appropriate assignment for the benefit of Bank of all Borrower's development rights and contracts for the development of the Land.

iv. Bank receives a copy of the building permit for the Improvements.

v. Bank receives evidence of the availability of utilities for the Improvements and evidence of appropriate zoning for the Improvements.

vi. Bank receives evidence in form and content acceptable to Bank that all applicable laws have been and will be complied with as they relate to the

construction of the Improvements, including any and all laws or regulations for facilities for the handicapped

vii Bank receives a copy of all plans and specifications for the Improvements

viii If required in Bank's title insurance policy or if otherwise required by Bank Bank shall have received an endorsement to such policy advancing the effective date of its coverage to the date of the disbursement increasing the amount of coverage to include such disbursement, and indicating no liens, encumbrances, and other matters not previously approved by Bank The costs of such endorsements shall be borne by Borrower

ix Bank receives a cost breakdown and Budget for the Improvements

x Bank receives geotechnical investigation engineer's certificate, construction schedule, development budget wetlands delineation, evidence that developer and contractor are bonded

xi Prior to the final Loan disbursement with respect to construction work on the Improvements Borrower shall have satisfied all requirements of this Agreement and shall have delivered to Bank such certificates documents and other evidence of completion of the Improvements required by the Commitment Letter or as Bank may reasonably require including but not limited to evidence that all sums due for construction costs have been paid or will be paid out of the final disbursement

(b) Loan Disbursement Procedures At the closing of the Loan Bank will disburse proceeds of the Loan for the purpose of paying the current indebtedness on the Land and the costs of all budgeted site preparation work Closing costs shall be borne by the parties pursuant to the terms of the Commitment Letter So long as all the requirements of the Loan are satisfied Bank will make disbursements during the Loan term with five (5) banking days notice for requests in a form and substance acceptable to Bank Requests for advances shall be submitted on AIA application for payment forms signed by the Borrower the contractor and certified by the engineer for the Improvements showing the percentage of completion of the Improvements and setting forth in detail the amounts expended or costs incurred for work done and materials incorporated in the Improvements The Borrower shall not make more than one request for an advance per calendar month

6 Prepayment Borrower shall have the option of prepaying the principal outstanding under the Loan in whole or in part at any time provided that any such prepayment shall be applied by Bank against principal in the inverse order of maturity

7 Financial Information During the terms of the Loan Borrower will be required to furnish to Bank (i) within one-hundred and twenty (120) days from the end of Borrowers fiscal year current CPA reviewed fiscal year-end consolidating financial statements for the Borrower (ii) within forty-five (45) days of the end of each calendar quarter, internally prepared consolidating financial statements for the Borrower (iii) not later than May 31 of each year, furnish to Bank copies of Borrower s and Guarantor s tax returns and (iv) on an annual basis, Guarantor s current financial statements All financial statements must be in accordance with generally accepted accounting principles consistently applied and must include balance sheets income information and a list of contingent liabilities and must otherwise be in form and content reasonably acceptable to Bank

8 Financial Covenants and Other Conditions During the terms of the Loan Borrower will be required to comply with certain financial covenants and other conditions including, without limitation the following

(a) Borrower will not, without the prior consent of Bank effect a change in its management or ownership, enter into any merger or consolidation, lend money or credit to or make or permit to be made outstanding loans or advances to any person firm or corporation or change the basic character of its business

(b) Borrower shall comply with all regulatory requirements reserve and keep in force all licenses permits and franchises necessary for the proper conduct of its business and duly pay and discharge all taxes assessments and governmental charges upon Borrower or against the Property before the date on which penalties attached thereto unless and to the extent only that the same shall be contested in good faith and by appropriate proceedings

(c) Borrower shall promptly notify Bank of all actual or contingent liabilities of Borrower

(d) Bank must be provided with satisfactory evidence of builder's risk insurance if applicable (during the construction period) extended coverage hazard if applicable and casualty insurance (throughout the remainder of the term of the Loan) and liability insurance on the Land with Bank appearing as first mortgagee loss-payee The coverage types and amounts of all required insurance must be reasonably satisfactory to Bank Bank reserves the right to require flood insurance if any of the improvements are to be located in a flood hazard area All policies must be from companies reasonably satisfactory to Bank must be in an amount reasonably satisfactory to Bank and sufficient to avoid the application of any co-insurance provisions and must include provisions for a minimum 30-day advance written notice to Bank of any intended policy cancellation or non-renewal Satisfactory evidence of premium payments must be provided along with an appropriate binder or commitment (in advance of the policy) prior to the intended date of the loan closing -----

9 Defaults and Remedies

(a) Defaults An event of default under this Loan Agreement shall be the occurrence of any one of the following events or conditions and the continuance thereof for either (i) the specific period of time if any, herein specified with respect to such event or condition (ii) a period of ten (10) days after written notice thereof to the Borrower from the Bank if no period is specified and the event or condition is a failure to pay money to the Bank as and when due, (iii) a period of thirty (30) days after written notice thereof to Borrower if no period is specified and the event or condition is not a failure to pay money (each a 'default')

i Any voluntary or involuntary Bankruptcy, reorganization, insolvency, arrangement, receivership, or similar proceeding is commenced by or against Borrower under any federal or state law or Borrower makes any assignment for the benefit of creditors

ii Borrower fails to make a payment of principal or interest on any of the Loan and fails to cure such default within any cure period provided by the loan documents

iii Any warranty representation or statement made or furnished by Borrower in connection with the Loan and the commitment letter (including any warranty representation or statement in the Borrower's or any Guarantor's financial statements) or to induce Bank to make the Loan is untrue or misleading in any material adverse respect

iv Borrower violates any of the financial covenants contained herein

If such default is not a monetary default the Borrower shall have a period of thirty (30) days within which to cure such default Each of the cure periods herein set forth shall commence on the date of the mailing of such notice by the Bank to the Borrower

(b) Remedies In the event of any default hereunder, Bank may, at its option exercise any or all of the rights options privileges and remedies provided by this Agreement or by the other Loan Documents (including without limitation the right to accelerate the indebtedness evidenced by the Note and to commence foreclosure proceedings) or otherwise available to Bank at law in equity or under any other contract In addition Bank may at its option and at the risk cost and expense of Borrower (i) enter upon and take possession of the Premises and the materials and equipment being used in the construction of the Improvements (ii) take such action as Bank shall deem appropriate to protect the Premises and (iii) take such action as Bank shall deem appropriate to continue construction of the Improvements with such changes therein as Bank may elect to make

If Bank shall elect to continue construction, Bank may (i) assume or reject any construction or other contracts made by Borrower in connection with the construction or operation of the Improvements (ii) engage or employ contractors subcontractors architects engineers and others for the construction of the Improvements, (iii) pay, settle or compromise existing or future bills or claims relating to the construction of the Improvements or the Premises or affecting title thereto (iv) and take or refrain from taking such other action (including without limitation discontinuing construction) in its name or in the name of Borrower as Bank may determine

All costs and expenses incurred by Bank in taking and protecting the Premises and in constructing the Improvements shall be paid by Borrower to Bank upon demand with interest at the rate provided in the Note from the date of disbursement to the date of payment to Bank, and the payment of such sums shall be secured by the Mortgage and the other Loan Documents Bank shall have no obligation to take any of the foregoing actions and if Bank should do so, it shall have no liability to Borrower or any other Obligor for the sufficiency of any such actions or otherwise

(c) Set Off Bank shall also have a continuing security interest in, lien on and right of set off against all property and deposit accounts belonging to Borrower or any other Obligor which are at or under the control of Bank

(d) Cumulative Rights and Remedies All rights options privileges and remedies provided by this Agreement and the other Loan Documents and otherwise available to Bank at law in equity or under any other contract shall be cumulative and no such right option privilege or remedy shall be deemed to be exclusive or alternative

10 General Conditions

(a) Bank Approvals All surveys appraisals insurance policies construction contracts and subcontracts leases plans and specifications legal opinions requests for disbursement and other Loan Documents and items required for the Loan shall be reasonably satisfactory to Bank in all respects

(b) Appraisal Bank shall engage a certified appraiser to perform an appraisal of the Property The fees charged by the appraiser shall be paid by the Borrower

(c) Costs and Expenses Borrower will pay when due, and if paid by Bank reimburse Bank on demand for all reasonable costs and expenses (including without limitation the costs and expense for insurance premiums appraisals surveys recording documents environmental assessments title insurance taxes due on Loan Documents and legal counsel for Bank) in connection with the preparation administration (after a default) modification or enforcement of this Agreement and the other Loan Documents

(d) No Third Party Beneficiaries This Agreement is for the sole protection and benefit of Bank and Borrower, and no other person or entity shall have any right as a third party beneficiary hereunder or any right to bring an action hereon or claim the proceeds of the Loan hereunder

(e) No Waiver No failure on the part of Bank to exercise any right option privilege or remedy available to Bank shall operate as a waiver thereof nor shall any single or partial exercise or waiver of any such right option privilege or remedy preclude any other or further exercise thereof to its fullest extent or the exercise of any other right option privilege or remedy

(f) Notices Notices requests demands and other communications which any party is required or may desire to give to any other party under any provision of this Agreement must be in writing and delivered to the other party at the address set forth in the first paragraph of this Agreement (or to such other address as any party may designate by written notice to the other party) Each such notice, request, demand or other communication shall be deemed given or made as follows If sent by mail upon the earlier of the date of receipt or five (5) days after deposit in the U S Mail certified with first class postage prepaid and return receipt requested if sent by any other means, upon delivery

(g) Transfer of Rights Borrower shall not assign or otherwise transfer this Agreement or the Loan Documents in whole or in part without the prior written consent of Bank Bank may create and sell participation interests in the Loan or otherwise assign or transfer this Agreement and the Loan Documents in whole or in part at any time and in the event of an assignment or transfer by Bank the term "Bank" shall include any such assignee or transferee to the extent of the interest assigned or transferred This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs successors personal representatives and assigns

(h) Indemnification Borrower shall indemnify defend and hold Bank and its successors and assigns harmless from and against any and all actual out-of-pocket claims demands suits losses damages assessments fines penalties costs or other expenses (including reasonable attorneys fees and court costs) arising from or in any way related to actual or threatened damage to the environment agency costs of investigation personal injury or death or property damage due to a release or alleged release of Hazardous Materials on or under the Premises or arising from any other conditions existing on or under the Premises or from any business operations conducted thereon resulting from the use or existence of Hazardous Materials (except for claims resulting from the release or storage of Hazardous Materials on or under the Premises subsequent to payment of the Loan in full and Borrower's conveyance of the Premises to a third party) whether such claim proves to be true or false Borrower further agrees that its indemnity obligations shall include but are not limited to liability for damages resulting from the personal injury or death of an employee of the Borrower regardless of whether the Borrower has paid the employee under the worker's compensation laws of any state or other similar federal or

state legislation for the protection of employees. The term "property damage" as used in this paragraph includes but is not limited to damage to any real or personal property of Borrower Bank and of any third parties. Borrower's obligations under this paragraph shall survive the repayment of the Loan and any deed in lieu of foreclosure or foreclosure of the Mortgage and/or any security agreement securing the Loan.

(i) Joint and Several Obligations. If more than one person or entity is named as Borrower herein, this Agreement shall be binding upon all such persons and entities jointly and severally.

(j) Severability. The unenforceability or invalidity of any provision of this Agreement shall not affect the enforceability or validity of any other provision herein and the invalidity or unenforceability of any provision of any Loan Document to any person or circumstance shall not affect the enforceability or validity of such provision as it may apply to other persons or circumstances.

(k) Advertising. Bank shall have the right to erect one or more signs on the Premises advertising its financing of the Improvements.

(l) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina and applicable laws of the United States of America.

(m) Release. Lender agrees to release lots under the terms set forth in the Mortgage of even date hereof.

11 Exhibits/Additional Provisions. This Agreement includes any exhibits and attachments referred to herein. The terms of such exhibits and attachments are made a part hereof whether actually attached hereto or not. If any additional provision contained in any such exhibit or attachment is in conflict with another term or condition of this Agreement, the additional provision shall control.

12 ARBITRATION. ANY CONTROVERSY OR CLAIM BETWEEN OR AMONG THE PARTIES HERETO INCLUDING BUT NOT LIMITED TO THOSE ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY RELATED AGREEMENTS OR INSTRUMENTS INCLUDING ANY CLAIM BASED ON OR ARISING FROM AN ALLEGED TORT SHALL BE DETERMINED BY BINDING ARBITRATION IN ACCORDANCE WITH THE FEDERAL ARBITRATION ACT (OR IF NOT APPLICABLE, THE APPLICABLE STATE LAW) THE RULES OF PRACTICE AND PROCEDURE FOR THE ARBITRATION OF COMMERCIAL DISPUTES OF JUDICIAL ARBITRATION AND MEDIATION SERVICES INC (J A M S) AND THE SPECIAL RULES SET FORTH BELOW. IN THE EVENT OF ANY INCONSISTENCY, THE SPECIAL RULES SHALL CONTROL. JUDGMENT UPON ANY ARBITRATION AWARD MAY BE ENTERED IN

ANY COURT HAVING JURISDICTION ANY PARTY TO THIS AGREEMENT MAY BRING AN ACTION INCLUDING A SUMMARY OR EXPEDITED PROCEEDING TO COMPEL ARBITRATION OF ANY CONTROVERSY OR CLAIM TO WHICH THIS AGREEMENT APPLIES IN ANY COURT HAVING JURISDICTION OVER SUCH ACTION

SPECIAL RULES THE ARBITRATION SHALL BE CONDUCTED IN THE CITY OF THE BORROWER'S DOMICILE AT THE TIME OF THIS AGREEMENT'S EXECUTION AND ADMINISTERED BY J A M S WHICH WILL APPOINT AN ARBITRATOR IF J A M S IS UNABLE OR LEGALLY PRECLUDED FROM ADMINISTERING THE ARBITRATION THEN THE AMERICAN ARBITRATION ASSOCIATION WILL SERVE ALL ARBITRATION HEARINGS WILL BE COMMENCED WITHIN 90 DAYS OF THE DEMAND FOR ARBITRATION FURTHER THE ARBITRATOR SHALL ONLY, UPON A SHOWING OF CAUSE BE PERMITTED TO EXTEND THE COMMENCEMENT OF SUCH HEARING FOR UP TO AN ADDITIONAL 60 DAYS

RESERVATION OF RIGHTS NOTHING IN THIS AGREEMENT SHALL BE DEEMED TO (I) LIMIT THE APPLICABILITY OF ANY OTHERWISE APPLICABLE STATUTES OF LIMITATION OR REPOSE AND ANY WAIVERS CONTAINED IN THIS AGREEMENT OR (II) BE A WAIVER BY BANK OF THE PROTECTION AFFORDED TO IT BY 12 U S C SEC 91 OR ANY SUBSTANTIALLY EQUIVALENT STATE LAW OR (III) LIMIT THE RIGHT OF THE BANK HERETO (A) TO EXERCISE SELF HELP REMEDIES SUCH AS (BUT NOT LIMITED TO) SETOFF OR (B) TO FORECLOSE AGAINST ANY REAL OR PERSONAL PROPERTY COLLATERAL OR (C) TO OBTAIN FROM A COURT PROVISIONAL OR ANCILLARY REMEDIES SUCH AS (BUT NOT LIMITED TO) INJUNCTIVE RELIEF WRIT OF POSSESSION OR THE APPOINTMENT OF A RECEIVER BANK MAY EXERCISE SUCH SELF HELP RIGHTS FORECLOSE UPON SUCH PROPERTY OR OBTAIN SUCH PROVISIONAL OR ANCILLARY REMEDIES BEFORE DURING OR AFTER THE PENDENCY OF ANY ARBITRATION PROCEEDING BROUGHT PURSUANT TO THIS AGREEMENT NEITHER THIS EXERCISE OF SELF HELP REMEDIES NOR THE INSTITUTION OR MAINTENANCE OF AN ACTION FOR FORECLOSURE OR PROVISIONAL OR ANCILLARY REMEDIES SHALL CONSTITUTE A WAIVER OF THE RIGHT OF ANY PARTY, INCLUDING THE CLAIMANT IN ANY SUCH ACTION TO ARBITRATE THE MERITS OF THE CONTROVERSY OR CLAIM OCCASIONING RESORT TO SUCH REMEDIES

13 NO ORAL AGREEMENT THIS WRITTEN LOAN AGREEMENT AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES

In Witness Whereof the parties have duly executed this Agreement under seal as of the day and year first above written

Witnesses

SEL PROPERTIES, L L C

Rose A. Kocer
[Signature]

By [Signature]
Stephen E Libpscomb

THE NATIONAL BANK OF SOUTH CAROLINA

Rose A. Kocer
[Signature]

By [Signature]
Its Authorized Officer

LEGAL DESCRIPTION

EXHIBIT A

All that certain piece, parcel or tract of land, situate, lying and being on the northern side of US Highway #176 about 16 miles northwest of the City of Columbia, School District #6 of Richland County near the Town of Peak, in the State of South Carolina, being shown and delineated as tract 'A' containing 122.28 acres on plat prepared for Michael J. Mungo by Belter and Smith, Inc., Engineers and surveyors, dated November 1, 1972, recorded in Office of the Clerk of Court for Richland County in Plat Book X at Page 2151, said plat being expressly incorporated herein by reference



RC22

INSPECTION DIARY

Project Courtyards at Rolling Creek

Project No _____ Engineer _____

Date 10/15/13 Contractor Therman

Inspector S. Smith

Weather Conditions Fair - Cold

Inspector's Observations Contractor has excavated all areas of roadway where failures were noted. Substantial amount of under drain has been installed areas are back filled with macadam base. Compaction has been confirmed by lab. I did a pump out on these areas and all passed.

Communication with Contractor Over ready to refer

Receipt Acknowledged Mike Brown



NEWMAN CONSTRUCTION, INC
500 Myrtle Beach Hwy
Sumter, S C 29153-5014
(803) 775-2385 Fax (803) 775-1040

LETTER OF TRANSMITTAL

To Richland County
400 Powell Road
Columbia S C 29203

Date October 27 2003
Attn Steve Amick
Re The Courtyards at Rolling Creek
Phase 1

We are sending you the following items

<u>No</u> <u>Copies</u>	<u>Date</u>	<u>Description</u>
<u>1</u>	<u>10/15/03</u>	<u>Compaction test results on subgrade</u>
<u>1</u>	<u>10/21/03</u>	<u>Compaction test results on subgrade</u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>
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<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>

These are transmitted as checked below

<u> </u>	For approval	<u> </u>	For bids due <u> </u>
<u> </u>	Approved as noted	<u> </u>	Approved as submitted
<u> </u>	As requested	<u> </u>	Returned for corrections
<u>x</u>	For your use	<u> </u>	For review and comment
<u> </u>	Return <u> </u> corrected copies		

Remarks

Copy To

Signed Darlene V. Ivey



REPORT OF FIELD COMPACTION TESTS

TESTED FOR **NEWMAN CONSTRUCTION COMPANY** PROJECT **THE COURTYARDS AT**
500 MYRTLE BEACH HIGHWAY ROLLING CREEK
SUMTER SC 29150

DATE **October 15 2003** OUR REPORT NO **451-20007-15** PAGE 1 OF 2

TEST DATA (14) Stone Base OPT MOIST = 6 5%

TEST NO	TEST DEPTH	ELEVATION	SOIL ID NUMBER	MAXIMUM LAB DRY DENSITY *	WATER CONTENT	WET DENSITY	DRY DENSITY	PERCENT COMPACTION	COMMENTS
1	6'	SG	14	137 0	3 4	138 5	133 9	97 7	3
2	6	SG	14	137 0	3 6	137 8	133 0	97 1	3
3	6"	SG	14	137 0	3 1	141 6	137 3	100 2	3
4	6"	SG	14	137 0	3 2	141 7	137 3	100 2	3
	6	SG	14	137 0	3 0	140 5	136 4	99 6	3
6	6"	SG	14	137 0	3 9	144 6	139 2	101 6	3

TEST LOCATION

1	See Attached Drawing
2	See Attached Drawing
3	See Attached Drawing
4	See Attached Drawing
5	See Attached Drawing
6	See Attached Drawing

NOTES TESTS PERFORMED PER ASTM D2922 96 & ASTM D3017 96
DENSITIES SHOWN Lbs per cubic foot
WATER CONTENT Percent of dry weight
PERCENT COMPACTION Based on maximum dry density obtained on sample indicated by soil ID number

* (14) ASTM D1557-00 METHOD A

TEST INSTRUMENT Troxler
REMARKS SG = Subgrade

COMMENTS

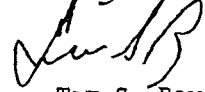
1 FILL MATERIAL
2 BACKFILL
3 BASE COURSE
4 SUBBASE
5 SOIL CEMENT
6 OTHER

A. TEST RESULTS COMPLY WITH SPECIFICATIONS
B. PERCENT COMPACTION DOES NOT COMPLY WITH SPECIFICATIONS
C. RETEST OF PREVIOUS TEST
D. MOISTURE IN EXCESS OF SPECIFICATIONS
E. MOISTURE BELOW SPECIFICATIONS

STANDARD COUNT M D
ADJUSTMENT DATA M D

TECHNICIAN James Cann

Respectfully submitted
Professional Service Industries Inc


Tim S Ray P E
Senior Engineer

THESE TEST RESULTS APPLY ONLY TO THE SPECIFIC LOCATIONS NOTED AND MAY NOT REPRESENT ANY OTHER LOCATIONS OR ELEVATIONS
REPORTS MAY NOT BE REPRODUCED EXCEPT IN FULL WITHOUT WRITTEN PERMISSION BY PROFESSIONAL SERVICE INDUSTRIES INC

REPORT OF FIELD COMPACTION TESTS

TESTED FOR NEWMAN CONSTRUCTION COMPANY PROJECT ROLLING CREEK
500 MYRTLE BEACH HIGHWAY
SUMTER SC 29150

DATE October 15, 2003 OUR REPORT NO 451-20007-15 PAGE 2 OF 2

TEST DATA (14) Stone Base OPT MOIST = 6.5%

TEST NO	TEST DEPTH	ELEVATION	SOIL ID NUMBER	MAXIMUM LAB DRY DENSITY *	WATER CONTENT	WET DENSITY	DRY DENSITY	PERCENT COMPACTION	COMMENTS
7	6"	SG	14	137.0	4.2	144.8	139.0	101.5	3
8	6	SG	14	137.0	4.1	145.2	139.5	101.8	3
9	6"	SG	14	137.0	3.8	145.4	140.1	102.3	3
10	6"	SG	14	137.0	4.0	148.7	143.0	104.4	3
	6	SG	14	137.0	4.6	151.1	144.5	105.5	3
12	6"	SG	14	137.0	3.7	151.0	145.6	106.3	3

TEST LOCATION

7	See Attached Drawing
8	See Attached Drawing
9	See Attached Drawing
10	See Attached Drawing
11	See Attached Drawing
12	

NOTES TESTS PERFORMED PER ASTM D2922 96 & ASTM D3017 96
DENSITIES SHOWN Lbs per cubic foot
WATER CONTENT Percent of dry weight
PERCENT COMPACTION Based on maximum dry density obtained on sample indicated by soil ID number

* (14) ASTM D1557-00 METHOD A

TEST INSTRUMENT Troxler

REMARKS SG = Subgrade

COMMENTS

1 FILL MATERIAL
2 BACKFILL
3 BASE COURSE
4 SUBBASE
5 SOIL CEMENT
6 OTHER

A TEST RESULTS COMPLY WITH SPECIFICATIONS
B PERCENT COMPACTION DOES NOT COMPLY WITH SPECIFICATIONS
C RETEST OF PREVIOUS TEST
D MOISTURE IN EXCESS OF SPECIFICATIONS
E MOISTURE BELOW SPECIFICATIONS

STANDARD COUNT M D
ADJUSTMENT DATA M D

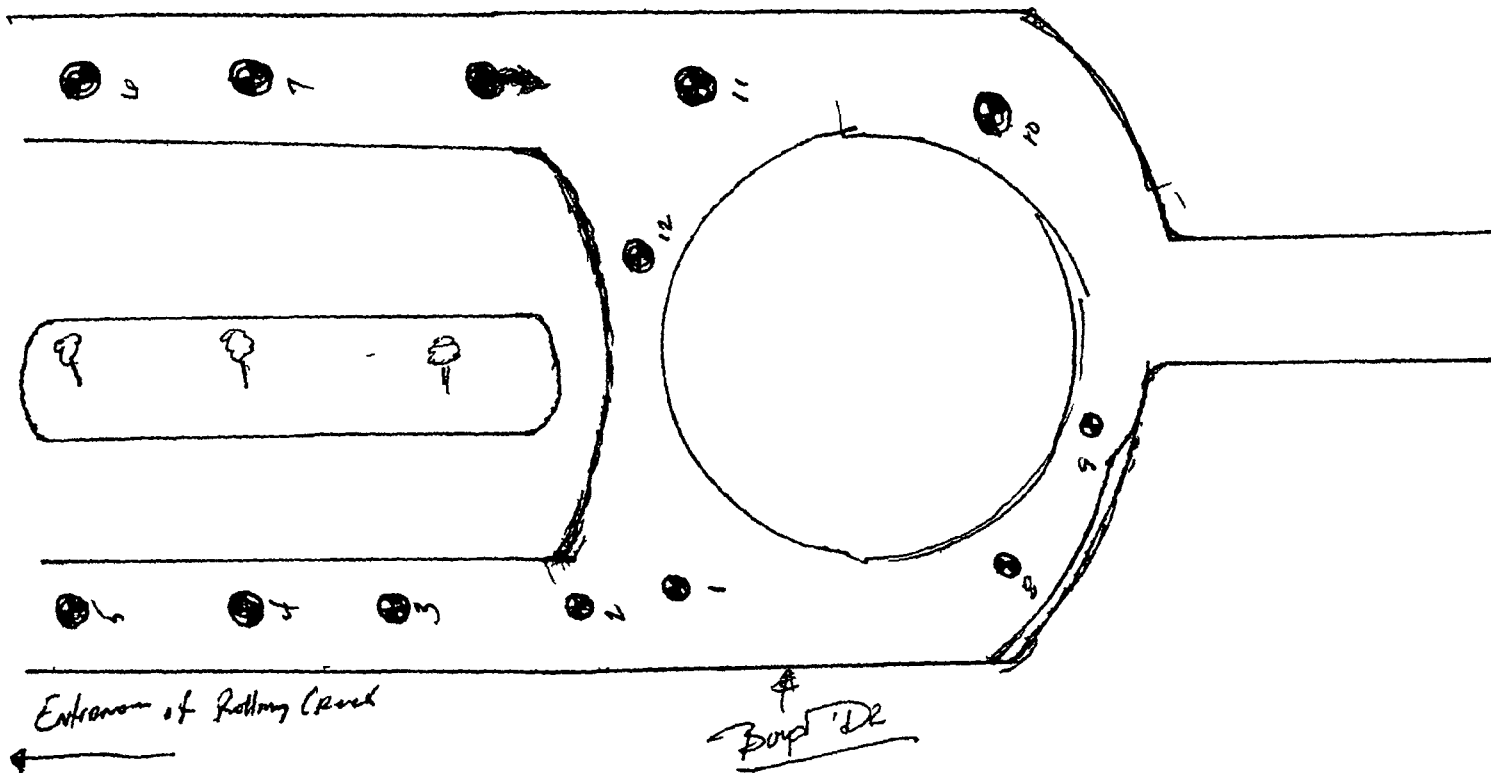
TECHNICIAN James Cann

Respectfully submitted
Professional Service Industries Inc


Tim S. Ray, P.E.
Senior Engineer

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Professional Service Industries, Inc



PROJECT NAME

Rolling Creek

Columbia, SC

PROJECT NO

#RC-22-SG-MB

DATE

10/9/03

0001869

REPORT OF FIELD COMPACTION TESTS

TESTED FOR **NEWMAN CONSTRUCTION COMPANY** PROJECT **THE COURTYARDS AT**
500 MYRTLE BEACH HIGHWAY ROLLING CREEK
SUMTER SC 29150

DATE **October 21, 2003** OUR REPORT NO **451-20007-16** PAGE 1 OF 3

TEST DATA. (14) Stone Base OPT MOIST = 6.5%

TEST NO	TEST DEPTH	ELEVATION	SOIL ID NUMBER	MAXIMUM LAB DRY DENSITY *	WATER CONTENT	WET DENSITY	DRY DENSITY	PERCENT COMPACTION	COMMENTS
1	6	SG	14	137.0	1.8	136.8	134.4	98.1	3 - A - C
2	6"	SG	14	137.0	1.5	137.0	135.0	98.5	3 - A - C

TEST LOCATION **Boyd Branch Road**

1	See Attached Drawing
2	See Attached Drawing

NOTES TESTS PERFORMED PER ASTM D2922 96 & ASTM D3017 96
DENSITIES SHOWN Lbs per cubic foot
WATER CONTENT Percent of dry weight
PERCENT COMPACTION Based on maximum dry density obtained on sample indicated by soil ID number

COMMENTS 1 FILL MATERIAL
2 BACKFILL
3 BASE COURSE
4 SUBBASE
5 SOIL CEMENT
6 OTHER

A TEST RESULTS COMPLY WITH SPECIFICATIONS
B PERCENT COMPACTION DOES NOT COMPLY WITH SPECIFICATIONS
C RETEST OF PREVIOUS TEST
D MOISTURE IN EXCESS OF SPECIFICATIONS
E MOISTURE BELOW SPECIFICATIONS

* (14) ASTM D1557-00 METHOD A

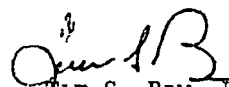
TEST INSTRUMENT **Troxler**

REMARKS **SG = Subgrade**

STANDARD COUNT **M D**
ADJUSTMENT DATA **M D**

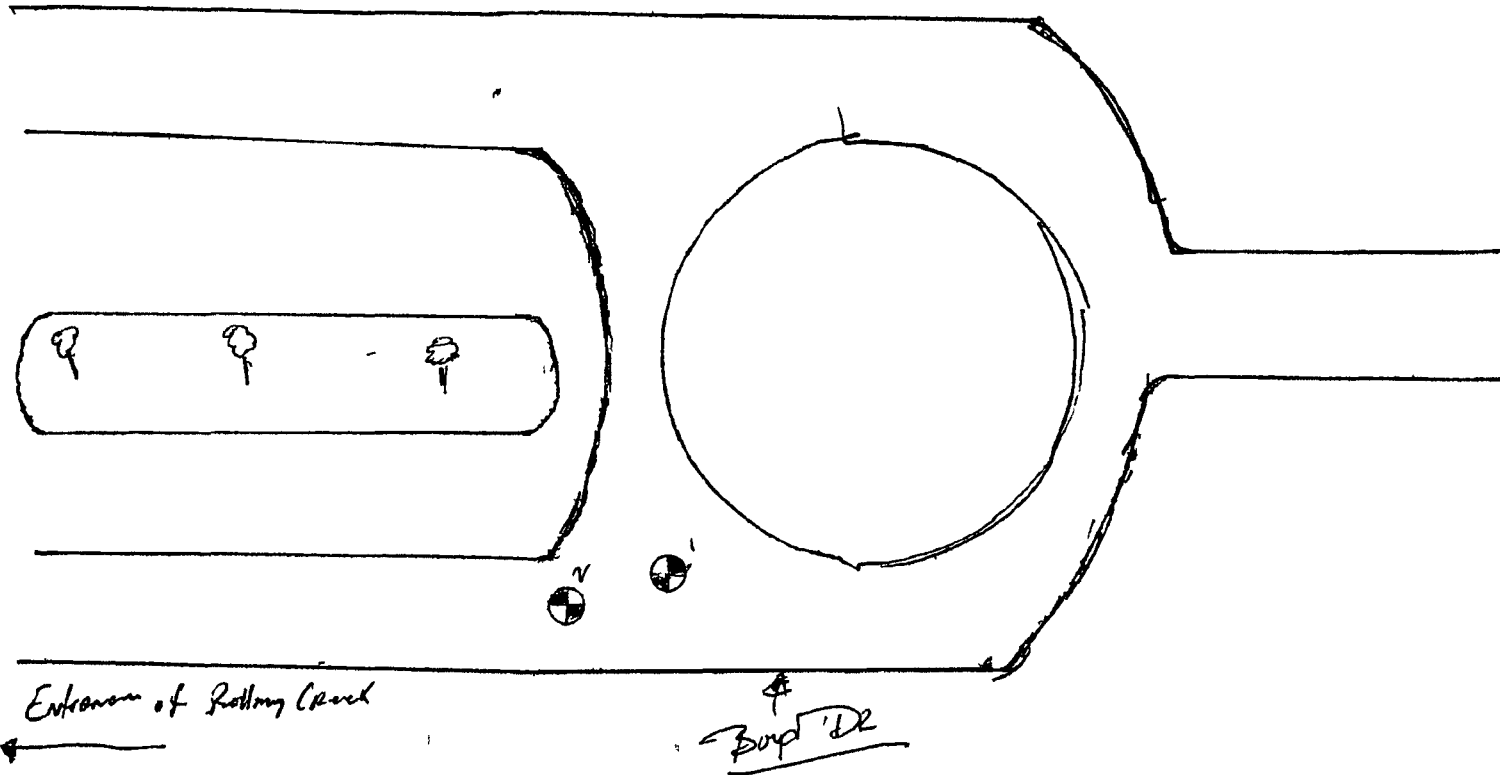
TECHNICIAN **James Cann**

Respectfully submitted
Professional Service Industries Inc


Tim S. Ray, P.E.
Senior Engineer

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Professional Service Industries Inc



PROJECT NAME

Rolling Creek

Field Density Test Locations

Not To Scale

PROJECT NO

451-20007-16

DATE

October 21, 2003

0001871

8 30 AM
02/04/05

K & L Contracting, LLC
Job Profitability Summary
1/1/04 to 12/31/04

	<u>Revenue</u>	<u>Direct Cost</u>	<u>(\$)</u> Diff
Arcadia			
Lot 03 296 Berry Tree Lane	268 156 00	237 875 00	30 281 00
Lot 29 143 Berry Tree Lane	294 687 00	255 822 00	38 865 00
Total Arcadia	562 843 00	493 697 00	69 146 00
Courtyards at RC			
Lot 12 104 Summer Branch Lane	255 690 00	234 060 00	21 630 00
Lot 14 2 Whetstone Creek Court	295 000 00	240 999 00	54 001 00
Lot 15 4 Whetstone Creek Court	235 000 00	204 502 00	30 498 00
Lot 16 6 Whetstone Creek Court	239 216 00	232,762.00	6 454 00
Lot 17 8 Whetstone Creek Court	228 000 00	215 694 00	12,306 00
Lot 19 11 Whet Creek Ct Claude Mobley	241 456.00	239 139 00	2 317 00
Lot 21 - 7 Whetstone Fehl	328 712 00	279 010 00	49 702 00
Lot 22 5 Whetstone Creek Court	298 683 00	278 846 00	19 837 00
Lot 25 102 Savannah Br Tr - Fulcher	248 000 00	238 928 00	9 072 00
Lot 26 104 Savannah Branch Trl J Dewar	246 000 00	248 945 00	2,945 00
Lot 47 205 Savannah Branch Tr	298 598 00	277 448 00	21 150 00
Lot 57 101 Savannah Branch Trail	280 000 00	260 772 00	19,228 00
Total Courtyards at RC	3 194 355 00	2 951 105 00	243,250.00
Golden Spur Lot 37B	57 381 00	44 118 00	13 263 00
Total SEL Properties	57 381 00	44 118 00	13 263 00
Stonington Sect 1			
Lot 01 2 Rose Dew Ln Hawkins	259 900 00	225 190 00	34 710 00
Lot 02 4 Rose Dew Lane	249 900 00	245 392 00	4 508 00
Lot 72 201 Stonington Drive J Goodwin	271 900 00	260 267 00	11 633 00
Total Stonington Sect 1	781 700 00	730 849 00	50 851 00
Other Misc Revenue / Cost	1 263 00	1 369 00	
TOTAL	<u>4,597 542.00</u>	<u>4,218 400 00</u>	<u>379 142.00</u>





August 1, 2001

Mr Stephen E Lipscomb
SEL Properties, L L C
1105 Pulaski Street
Columbia, SC 29201



Dear Mr Lipscomb

The National Bank of South Carolina (Lender") is pleased to commit and extend to SEL Properties, L L C ("Borrower") the following credit facility (the "Loan")

1 Borrower SEL Properties L L C

2 Amount \$2 001,375 00 Real Estate Development Line of Credit

3 Purpose To provide funds for the development of lots for The Courtyards at Rolling Creek, Phase I

4 Pricing NBSC Prime floating plus 1 %

5 Terms Interest monthly only for two years with a final payment of all sums due on the second anniversary of the note date The loan amount includes an interest reserve of \$250 000 00 however, such interest reserve may not be used to pay the first four monthly interest payments, which payments shall be made from Borrower's own funds

6 Release Payments The Borrower shall pay to Lender a release payment, to be applied to the outstanding principal balance of the Loan in an amount equal to the 80% of the gross proceeds of the lot sale

7 Collateral (i) Title insured first real estate mortgage on 130 37 acres located on the Northeast side of U S Highway 176 near Irmo South Carolina, (ii) and all improvements to 30 acres of Phase I of the Courtyards at Rolling Creek, (iii) and assignment of NBSC Certificate of Deposit Number 4553982733 in the amount of \$200,000 00

8 Guaranties Unconditional joint and several guaranty of Stephen E Lipscomb

9 Pre-Payment Penalty None

Post Office Box 1457 / Columbia South Carolina 29202 1457 / (803) 929 2145
www.NationalBankSC.com
A MEMBER OF THE SYNOVUS FINANCIAL CORP FAMILY OF COMPANIES



0001873

Mr Stephen E Lipscomb
August 13, 2001
Page 2

10 Commitment Fee \$12,013 75 (1% of new funds advanced) shall be fully earned and due and payable to NBSC upon closing of this Loan

11 Approval of Loan Documents All the loan documents and other requirements for the consummation of the Loan must be acceptable to NBSC in form and substance. The loan documents will be NBSC's standard documents and will include material obligations and requirements of the Borrowers in addition to, but not inconsistent with the terms of this commitment.

12 Appraisal The Commitment is subject to receipt and approval of an acceptable appraisal, which appraisal shall be conducted by an appraiser satisfactory to Lender.

13 Costs and Expenses All costs incurred by Lender in making the Loan available to the Borrower shall be paid by Borrower regardless of whether the Loan closes, unless failure to close is the fault of Lender. The law firm of Ellis, Lawhorne & Sims, P A, Columbia, South Carolina, will represent Lender in this transaction and reasonable fees will be determined on the basis of time and efforts expended in connection with the Loan; however, such fees not to exceed \$2 000 00. Ellis, Lawhorne & Sims, P A will not represent the Borrower in any capacity in connection with the Loan except as specifically set forth in writing and as approved by Lender.

14 Conditions This Commitment shall be contingent upon review by Lender and Lender's counsel of all contracts between Borrower and developers for the development of The Courtyards at Rolling Creek.

15 Authority Borrower shall provide Lender with corporate and company documents, resolutions and such other information, certificates and affidavits as Lender may require evidencing the parties' authority and capacity to consummate the transactions contemplated herein. Borrower shall also provide Lender an opinion letter prepared by Borrower's counsel in a form acceptable to Lender and Lender's counsel.

16 Administration The loan will be administered by the NBSC Real Estate Department. The development will be monitored by periodic inspections by an engineer chosen by NBSC. Any costs and expenses associated with the inspections shall be the responsibility of the Borrower.

17 Survival To the extent not otherwise provided by the loan documents, the terms and conditions of this commitment letter shall survive the closing of the Loan.

18 Time Limitations The Loan shall be closed as soon as all the requirements and conditions of the commitment have been met, provided, however, this commitment will expire unless accepted by August 10, 2001, and closed by September 15, 2001.

Mr Stephen E Lipscomb
August 13, 2001
Page 3

19 South Carolina Law This Commitment and the rights and obligations of the parties hereunder and any other instruments or documents issued hereunder shall be construed and interpreted in accordance with the laws of the State of South Carolina and shall be binding upon and mure to the benefit of the successors and assigns of the parties hereto

The undersigned acknowledge that Borrower, Guarantors and any other party liable for the Loan will be required to execute a waiver of appraisal rights at closing, containing the following or similar language The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within thirty (30) days after the sale of the mortgage property apply to the court for an order of appraisal The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction THE UNDERSIGNED HEREBY WAIVES AND RELINQUISHES THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE MORTGAGED PROPERTY

I hope you find this commitment on this financing package acceptable and of benefit to your Company We are excited about the opportunity to provide this credit facility To accept our commitment, please signify by signing below

Sincerely,



Ronnie Colson
Senior Vice President

WE HEREBY ACCEPT THIS COMMITMENT THIS ____ DAY OF _____ 2001
AND AGREE TO CLOSE THE LOAN IN ACCORDANCE WITH THE ABOVE TERMS

SEL Properties L L C

By 
Its 

Guarantor

Stephen E Lipscomb

8 11/19

PROMISSORY NOTE

Columbia, South Carolina

November 19 2001

FOR VALUE RECEIVED SEL PROPERTIES L L C , a South Carolina limited liability company (the "Borrower"), promises to pay to the order of THE NATIONAL BANK OF SOUTH CAROLINA (the "Lender"), at Post Office Box 1457, Columbia, South Carolina 29202, the principal sum of up to TWO MILLION ONE THOUSAND THREE HUNDRED SEVENTY FIVE AND 00/100 (\$2,001,375 00) DOLLARS, or so much thereof as may be advanced, with interest thereon computed from date of each advance at the floating rate of The National Bank of South Carolina prime rate ("NBSC Prime") plus one (1%) percent, to change as NBSC Prime changes. The loan amount includes \$250,000 00 which shall be advanced at closing and held by Lender in a NBSC premium money market account. However, such interest reserve may not be used to pay the first four monthly interest only payments. Interest shall be computed on the actual number of days elapsed divided by a 360-day year and shall be payable monthly, on the fifth day of each month, on those sums actually advanced beginning with the fifth day of the first month following the first advance under this Note and continuing on the fifth day of each month thereafter. At the option of Lender it may collect interest due by deducting on the fifth day of each month the amount of interest for the preceding month from any interest reserve established or credited (other than provided for in this Note) and by adding the same to the outstanding principal balance or it may deduct the amount of such interest from any advance of this Note. After the entire principal amount of this Note has been advanced, or earlier at the option of Lender interest may be billed by it directly to Borrower.

The entire outstanding principal balance of this Note and any outstanding accrued interest shall be due and payable in full on November 19 2003 (the "Maturity Date")

All payments under this Note shall be applied first to accrued interest then to principal, if applicable, and then to late charges if any. All installments of principal, if applicable, and all interest are payable in lawful money of the United States of America which shall be legal tender in payment of all debts and dues public and private at the time of payment, and in the event of (a) failure to pay this Note in full on the Maturity Date, or (b) default in the payment of any other installment of principal, if applicable or interest or any other sum payable pursuant to the terms of this Note or any lien document securing this Note not cured within ten (10) days after written notice from Lender or (c) an "Event of Default" as such term is defined in the mortgage executed of even date (the "Mortgage"), then or at any time thereafter, at the option of Lender, the whole of the principal sum then remaining unpaid hereunder together with all interest accrued thereon, shall immediately become due and payable without further notice and the lien given to secure the payment of this Note may be foreclosed. From and after the maturity of this Note either according to its terms or as the result of a declaration of maturity the entire principal remaining unpaid hereunder shall bear interest at a rate of three (3%) percent per annum above the rate otherwise in effect hereunder (the "Default Rate"), or the highest applicable lawful rate, whichever is the lesser provided that there shall be no automatic reduction to the highest lawful rate as to Borrower or any endorser or guarantor barred by law from availing itself in any action or

\\ELLIS_41\SYSTEMS\USERS\TOM\CLIENTS\NBSC\SEL Properties\Note.doc



0001876

proceeding of the defense of usury, or Borrower or any endorser or guarantor barred or exempted from the operation of any law limiting the amount of interest that may be paid for the loan or use of money, or in the event this transaction, because of its amount or purpose or for any other reason is exempt from the operation of any statute limiting the amount of interest that may be paid for the loan or use of money. Failure to exercise such option or any other rights Lender may in the event of any such default be entitled to shall not constitute a waiver of the right to exercise such option or any other rights in the event of any subsequent default, whether of the same or different nature

If this Note is placed in the hands of an attorney for collection or is collected through any legal proceedings, Borrower promises to pay all reasonable expenses of collection and reasonable attorney's fees incurred by Lender

In the event the interest provisions hereof or any exactions provided for herein or in the lien documents or any other instruments securing this Note shall result because of the monthly deduction of principal or any other reason related or unrelated to the interest provisions, at any time during the life of the loan, in an effective rate of interest which, for any period of time, transcends the limit of the usury or any other law applicable to the loan evidenced hereby, all sums in excess of those lawfully collectible as interest for the period in question shall without further agreement or notice between or by any party hereto be applied to principal immediately upon receipt of such monies by Lender with the same force and effect as though the payor had specifically designated such and agreed to accept such extra payment(s) as a premium free payment. Notwithstanding the foregoing, however, Lender may at any time and from time to time elect by notice in writing to the owners of the property affected by the lien document securing this Note, to reduce or limit the collection of any interest to such sums which, when added to the said first-stated interest, shall not result in any payments toward principal in accordance with the requirement of the preceding sentence. In no event shall any agreed to or actual exaction as consideration for this loan transcend the limits imposed or provided by the law applicable to this transaction or Borrower in the jurisdiction in which the land is located for the use or detention of money or for forbearance in seeking its collection

This Note is secured by that certain Mortgage and Security Agreement of even date herewith (the "Mortgage") to which reference is made from the terms thereof and the same are made a part of this Note

Lender may collect a late charge of five (5%) percent of any regular installment of principal or interest which is not paid within twenty (20) days of the due date thereof to cover the extra time and expense involved in handling delinquent payments. Such late charge shall apply only to late payments prior to maturity or acceleration. Upon maturity or acceleration no further late charges shall be assessed but Borrower shall pay the Default Rate of interest on all amounts due from the date of maturity or acceleration until the Note is paid in full. The collection of the late charge shall not be deemed a waiver by Lender of interest accruing after the due date of any installment or of any of Lender's other rights under this Note

4

Borrower agrees that the late charge provided above is fair and reasonable compensation to Lender for the additional administrative time and effort incurred in collecting and processing delinquent payments. Borrower further agrees that the Default Rate is a fair and reasonable rate of interest to be charged after maturity or acceleration of this Note in light of the increased risks to Lender inherent in a past due loan and the administrative time and effort incurred in collecting a past due loan.

Borrower and all endorsers, guarantors and all persons liable or to become liable on this Note waive presentment, protest and demand, notice of protest, demand and dishonor and nonpayment of this Note, and consent to any and all renewals and extensions of the time of payment hereof, and agree further that at any time and from time to time without notice, the terms of payment herein may be modified or the security described in the lien document securing the Note released in whole or in part, or increased, changed or exchanged by agreement between Lender and any owner of premises affected by said lien document securing this Note without in anywise affecting the liability of any party to this instrument or any person liable with respect to any indebtedness evidenced hereby.

Lender is not required to rely on the collateral for the payment of the Note in the event of default by the maker but may proceed directly against the maker, endorsers, or guarantors, if any, in such manner as it deems desirable. None of the rights and remedies of Lender hereunder is to be waived or affected by failure or delay to exercise them. All remedies conferred on Lender by this Note or any other instrument or agreement shall be cumulative, and none is exclusive. Such remedies may be exercised concurrently or consecutively at Lender's option.

This Note may be prepaid in whole or in part at any time without penalty.

This Note shall be governed as to validity, interpretation, construction, effect, and in all other respects by the laws and decisions of the State of South Carolina.

Wherever possible each provision of this Note shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Note or portion thereof shall be prohibited by or be invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Note.

This Note may be assigned by Lender with or without recourse.

Borrower submits to the jurisdiction of any court of competent jurisdiction within the State of South Carolina. Borrower agrees that any action concerning this Note or any instrument securing this Note, whether initiated by Lender, Borrower or any other party, shall be tried only in a court of competent jurisdiction within the State of South Carolina, and Borrower waives all objections to venue. All matters arising hereunder shall be determined in accordance with the law and practice of such South Carolina court. Borrower further agrees to comply with all requirements necessary to give such court in personam jurisdiction and agrees that service of

process may be accomplished by in addition to any other lawful means certified mail return receipt requested

WAIVER OF JURY TRIAL BY THE EXECUTION HEREOF BORROWER KNOWINGLY, VOLUNTARILY AND INTENTIONALLY HEREBY AGREES THAT

(A) NEITHER BORROWER NOR LENDER, NOR ANY ASSIGNEE, SUCCESSOR HEIR OR LEGAL REPRESENTATIVE OF BORROWER OR LENDER, SHALL SEEK A JURY TRIAL IN ANY LAWSUIT, PROCEEDING, COUNTERCLAIM OR ANY OTHER LITIGATION PROCEDURE ARISING FROM OR BASED UPON THIS NOTE, THE MORTGAGE, THE LOAN AGREEMENT (IF ANY) OR ANY OF THE LOAN DOCUMENTS EVIDENCING, SECURING, OR RELATING TO THE LOAN EVIDENCED HEREBY, OR TO THE DEALINGS OR RELATIONSHIP BETWEEN OR AMONG THE PARTIES HERETO

(B) NEITHER BORROWER NOR LENDER WILL SEEK TO CONSOLIDATE ANY SUCH ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL HAS NOT BEEN OR CANNOT BE WAIVED,

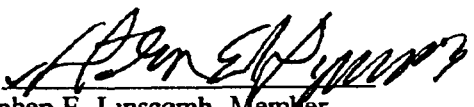
(C) THE PROVISIONS OF THIS PARAGRAPH HAVE BEEN FULLY NEGOTIATED BY THE PARTIES HERETO AND THESE PROVISIONS SHALL BE SUBJECT TO NO EXCEPTIONS,

(D) NEITHER BORROWER NOR LENDER HAS IN ANY WAY AGREED WITH OR REPRESENTED TO ANY OTHER PARTY THAT THE PROVISIONS OF THIS PARAGRAPH WILL NOT BE FULLY ENFORCED IN ALL INSTANCES, AND

(E) THIS PROVISION IS A MATERIAL INDUCEMENT FOR LENDER TO MAKE THE LOAN EVIDENCED BY THIS NOTE

IN WITNESS WHEREOF Maker has executed this Note under seal as of the date first above written

SEL PROPERTIES L L C a South Carolina
limited liability company

By 
Stephen E Lipscomb, Member

Tax ID 57-1039150

1/19
F:\USERS\TOM\CLIENTS\NBSC\SEL Properties\mortgage.doc

3
Book 00591-1867
2001090394 11/19/2001 16:31:52:18 Mortgage
Fee \$20.00 County Tax \$0.00 State Tax \$0.00



STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

MORTGAGE OF REAL ESTATE
AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT is made this 19th day of November 2001 by SEL PROPERTIES, L L C., a South Carolina limited liability company, whose address is 3913 Kilbourne Road, Columbia, South Carolina 29205 (hereinafter referred to as "Mortgagor") and given to THE NATIONAL BANK OF SOUTH CAROLINA (hereinafter referred to as "Mortgagee") whose address is Post Office Box 1457, Columbia, South Carolina 29202

WITNESSETH

THAT WHEREAS Mortgagor is indebted to Mortgagee in the maximum principal sum of \$2,001 375 00, which indebtedness is evidenced by the Note made by Mortgagor dated of even date, said principal (plus interest thereon) being payable as provided for in said Note (having a final maturity of November 19, 2003) the terms of said Note and any agreement modifying it are incorporated herein by reference

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS that the said Mortgagor, for and in consideration of the aforesaid indebtedness and in order to secure the payment thereof together with any renewals or extensions or modifications thereof upon the same or different terms or at the same or different rate of interest and also to secure in accordance with Section 29-3-50, as amended, Code of Laws of South Carolina (1976) (i) all future advances and re-advances that may subsequently be made to Mortgagor by Mortgagee evidenced by the aforesaid Note or by other promissory notes and all modifications, renewals and extensions thereof, and (ii) all other indebtedness of Mortgagor to Mortgagee, now or hereafter existing, whether direct or indirect, the maximum amount of all indebtedness outstanding at any one time secured hereby not to exceed \$4,000 000 00, plus interest thereon all charges and expenses of collection incurred by Mortgagee including court costs and reasonable attorney's fees, has granted bargained sold, released and by

TO THE EXTENT IF ANY PROVIDED IN THE NOTE INTEREST OR DISCOUNT
WILL BE DEFERRED, ACCRUED, OR CAPITALIZED

THIS MORTGAGE COVERS GOODS WHICH ARE OR ARE TO BECOME FIXTURES
ON THE REAL PROPERTY DESCRIBED HEREIN AND CONSTITUTES A FIXTURE
FINANCING STATEMENT GRANTOR IS THE RECORD OWNER OF THE
FOREGOING REAL PROPERTY



these presents does grant, bargain, sell and release unto the Mortgagee, its successors and assigns, the following described property (collectively hereinafter referred to as the "Property" or "Land")

SEE ATTACHED EXHIBIT "A" FOR LEGAL DESCRIPTION

TOGETHER WITH

(a) all singular rights, members, hereditaments and appurtenances belonging or in any way incident or appertaining thereto,

(b) all buildings and improvements of every kind and description now or hereafter erected or placed on the Land (the "Improvements") and all materials intended for construction, reconstruction, alteration and repair of such improvements now or hereafter erected thereon, all of which materials shall be deemed to be included within the premises hereby conveyed immediately upon the delivery thereof to the aforesaid Land and all fixtures and articles of personal property now or hereafter owned by the Mortgagor and attached to or contained in and used in connection with the aforesaid Land and Improvements or any part thereof or derived from or acquired by any proceeds of the Land or Improvements or any part thereof, including, but not limited to, all goods, furniture, appliances, furnishings, apparatus, machinery, equipment, motors, elevators, fittings, radiators, ranges, refrigerators, awnings, shades, screens, blinds, carpeting, office equipment and other furnishings and all plumbing, heating, lighting, cooking, laundry, ventilating, refrigerating, incinerating, air conditioning and sprinkler equipment, telephone systems, televisions and television systems, computer systems and fixtures and appurtenances thereto and all renewals or replacements thereof or articles in substitution thereof, whether or not the same are or shall be attached to the Land and Improvements in any manner (the "Tangible Personalty")

(c) all easements, rights of way, gores of land, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances whatsoever, in any way belonging, relating or appertaining to any of the property hereinabove described, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by Mortgagor, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, property, possession, claim and demand whatsoever, at law as well as in equity, of Mortgagor of, in and to the same, including but not limited to all judgments, awards of damages and settlements hereafter made resulting from condemnation proceedings or the taking of the property described in paragraphs (a) and (b) hereof or any part thereof under the power of eminent domain, or for any damage (whether caused by such taking or otherwise) to the property described in paragraphs (a) and (b) hereof or any part hereof, or to any rights appurtenant thereto (together the "Easements and Other Interests"),

(d) as additional collateral and further security for the indebtedness the Mortgagor hereby conditionally assigns to the Mortgagee all the security deposits rents issues profits, revenues, accounts, accounts receivable, contract rights, rights to payments for goods sold or leased or services rendered, checks, notes, drafts, acceptances, instruments, deposit accounts, chattel paper documents, securities, rentals receivables, installment payment obligations, book debts, actions, choses in action, judgments, awards, money, general intangibles, other forms of obligations and receivables all monies due or to become due and all returned or repossessed goods now or hereafter pertaining to or resulting from the Property or any part hereof or constituting or derived from or acquired by any proceeds of the Property or any part thereof (the "Rents and Profits") reserving only the right to the Mortgagor to collect the same as long as there shall exist no Default (as hereinafter defined) Together with all proceeds, including cash proceeds noncash proceeds, insurance proceeds products, replacements, additions, substitutions, renewals and accessions of the Rents and Profits or any part hereof, and all replacements, modifications, renewals and substitutions thereof or therefore

(e) as additional collateral and further security for the indebtedness, the Mortgagor does hereby assign to the Mortgagee and grants to the Mortgagee a security interest in all of the right, title and the interest of the Mortgagor in and to any and all leases (including equipment leases) rental agreements, management contracts, franchise agreements, construction contracts, architect's contracts, technical services agreements, licenses and permits now or hereafter affecting the Property (the "Intangible Personalty") or any part hereof, and the Mortgagor agrees to execute and deliver to the Mortgagee such additional instruments, in form and substance satisfactory to the Mortgagee, as may hereafter be requested by the Mortgagee to evidence and confirm said assignment, provided however, the acceptance of any such assignment shall not be construed as a consent by the Mortgagee to any lease, rental agreement, management contract, franchise agreement, construction contract, technical services agreement or other contract, license or permit, or to impose upon the Mortgagee any obligation with respect hereto,

(f) any proceeds of any sales or other dispositions of the property described in paragraphs (a) (b), (c) (d) and (e) hereof or any part hereof, including cash proceeds, noncash proceeds insurance proceeds products replacements additions substitutions renewals and accessions of any of the foregoing ("Proceeds"), and

(g) all the Tangible Personalty which comprise a part of the Property shall, as far as permitted by law, be deemed to be affixed to the aforesaid land and conveyed therewith As to the balance of the Tangible Personalty and the Intangible Personalty, this Mortgage shall be considered to be a security agreement which creates a security interest in such items for the benefit of the Mortgagor In that regard, the Mortgagor grants to the Mortgagee a security interest in the Tangible Personalty the Intangible Personalty and the Rents and Profits and grants to Mortgagee all of the rights and remedies of a secured party under the South Carolina Uniform Commercial Code

TO HAVE AND TO HOLD all and singular the Property unto Mortgagee and the successors or assigns of Mortgagee forever

MORTGAGOR covenants that Mortgagor is lawfully seized of the Property in fee simple absolute, that Mortgagor has good right and is lawfully authorized to sell, convey or encumber the same, and that the Property is free and clear of all encumbrances except as expressly disclosed to Mortgagee. Mortgagor further covenants to warrant and forever defend all and singular the Property unto Mortgagee and the successors or assigns of Mortgagee from and against Mortgagor and all persons whomsoever lawfully claiming the same or any part thereof.

PROVIDED ALWAYS nevertheless and it is the true intent and meaning of Mortgagor and Mortgagee, that if Mortgagor pays or causes to be paid to Mortgagee the debt secured hereby, the estate hereby granted shall cease, determine and be utterly null and void, otherwise said estate shall remain in full force and effect.

IT IS AGREED that Mortgagor shall be entitled to hold and enjoy the Property until a Default has occurred.

MORTGAGOR further covenants and agrees with Mortgagee as follows:

1. Assignment of Rents and Profits. As further security for all sums secured by this Mortgage, Mortgagor absolutely and unconditionally assigns to Mortgagee all Rents and Profits arising from the Property, provided however, that so long as no Default has occurred, Mortgagor shall be entitled, as trustee for the use and benefit of the Mortgagee, to collect and retain all such Rents and Profits as they become due and payable (but in no event for more than two (2) months in advance) provided however that if the Rents and Profits exceed the payments due under the Note, Mortgagor may use such excess, first, for the operation and benefit of the Property and, second, for the general benefit of Mortgagor. Upon the occurrence of a Default, Mortgagee may, at its option, remove the Mortgagor as trustee for the collection of the Rents and Profits and appoint any other person including but not limited to itself as a substitute trustee to collect, receive, accept and use all such Rents and Profits in payment of the obligations secured by this Mortgage in such order as Mortgagee shall elect in its sole and absolute discretion, whether or not Mortgagee takes possession of the Property. Mortgagor hereby directs each of the respective tenants under all leases of any part of the Property now and hereafter existing (the "Leases"), and any rental agent, to pay to Mortgagee all such Rents and Profits as may now be due or shall hereafter become due upon demand for payment thereof by Mortgagee without any obligation on the part of any such tenant or rental agent to determine whether or not a Default has in fact occurred. Upon a Default, the permission hereby given to Mortgagor to collect, receive and accept such Rents and Profits as trustee shall terminate and such permission shall not be reinstated upon a cure of the Default without Mortgagee's specific written consent. Further upon a Default, Mortgagor shall immediately turn over to Mortgagee all Rents and Profits in the actual or constructive possession of Mortgagor, its affiliates, contractors, or its agents together with an accounting thereof. Exercise of Mortgagee's rights under this Section, and the application of any such Rents and Profits to the obligations secured by this Mortgage, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant hereto, but shall be cumulative and in addition to all other rights and remedies of Mortgagee.

2 Maintenance Mortgagor will maintain the Property in good condition and repair, normal wear and tear excepted, and will neither permit nor allow waste thereof. Mortgagor will promptly repair or restore any portion of the Property which is damaged or destroyed by any cause whatsoever and will promptly pay when due all costs and expenses of such repair or restoration. Mortgagor will not remove or demolish any improvement or fixture which is now or hereafter part of the Property, other than in the ordinary course of business, without the express written consent of Mortgagee. Mortgagee shall be entitled to specific performance of the provisions of this paragraph.

3 Insurance If applicable, Mortgagor will keep all improvements and fixtures which are now or hereafter part of the Property insured by such company or companies as Mortgagee may reasonably approve for the full insurable value thereof against all risks including, if coverage is available, flood and earthquake. Such insurance will be payable to Mortgagee as the interest of Mortgagee may appear pursuant to the New York standard form of mortgagee clause or such other form of mortgagee clause as may be required by the Mortgagee and will not be cancelable by either the insurer or the insured without at least thirty (30) days prior written notice to Mortgagee. Mortgagor hereby assigns to Mortgagee the right to collect and receive any indemnity payment otherwise owed to Mortgagor upon any policy of insurance insuring any portion of the Property, regardless of whether Mortgagee is named in such policy as a person entitled to collect upon the same. Any indemnity payment received by Mortgagee from any such policy of insurance may, at the option of Mortgagee, (i) be applied by Mortgagee to payment of any sum secured by this Mortgage in such order as Mortgagee may determine, or, (ii) be applied in a manner determined by Mortgagee to the replacement, repair or restoration to the portion of the Property damaged or destroyed, or, (iii) be released to Mortgagor upon such conditions as Mortgagee may determine, or, (iv) be used for any combination of the foregoing purposes. *The previous sentence notwithstanding any such indemnity payment shall at the option of the Mortgagor be applied to the replacement repair or restoration of the Property provided that (a) no Default has occurred and is continuing and (b) Mortgagor provides Mortgagee reasonable evidence that such indemnity payment (together with additional funds provided by Mortgagor if necessary) are sufficient to restore repair and/or replace the Property to the extent and condition existing prior to the casualty.* No portion of any indemnity payment which is applied to replacement, repair or restoration to any portion of the Property or which is released to Mortgagor shall be deemed a payment against any sums secured by this Mortgage. Mortgagor will keep the Property continuously insured as herein required and will deliver to Mortgagee the original of each policy of insurance required hereby. Mortgagor will pay each premium coming due on any such policy of insurance and will deliver to Mortgagee proof of such payment at least ten (10) days prior to the date such premium would become overdue or delinquent. Upon the expiration or termination of any such policy of insurance, Mortgagor will furnish to Mortgagee at least ten (10) days prior to such expiration or termination the original of a renewal or replacement policy of insurance meeting the requirements hereof. If Mortgagor fails to insure the Property as herein required, Mortgagee may, after giving (10) days written notice to Mortgagor, so insure the Property in the name of Mortgagor or in the name of Mortgagee or both, and the premiums for any such insurance obtained by Mortgagee shall be the obligation of Mortgagor. Upon foreclosure to this Mortgage, all right, title and interest of Mortgagor in and to

any policy of insurance upon the Property which is in the custody of Mortgagee including the right to unearned premiums shall vest in the purchaser of the Property at foreclosure, and Mortgagor hereby appoints Mortgagee as the attorney in fact of Mortgagor to assign all right, title and interest of Mortgagor in and to any such policy of insurance to such purchaser. This appointment is coupled with an interest and shall be irrevocable.

4 Taxes and Assessments Mortgagor will pay all taxes, assessments and other charges which constitute or are secured by a lien upon the Property which is superior to the lien of this Mortgage and will deliver to Mortgagee proof of payment of the same not less than ten (10) days prior to the date the same becomes delinquent, provided, however, that Mortgagor shall be entitled by appropriate proceedings to contest the amount or validity of such tax, assessment or charge so long as the collector of the same by foreclosure of the lien upon the Property is stayed during the pendency of such proceedings and Mortgagor deposits with the authority to which such tax, assessment or charge is payable or with Mortgagee appropriate security for payment of the same, together with any applicable interest and penalties should the same be determined due and owing.

5 Environmental Site Assessment The Mortgagor shall pay when due the reasonable cost of providing to Mortgagee, at Mortgagee's request from time to time, a then-current environmental site assessment, audit, or survey ("Assessment") of the Property, which Assessment shall be prepared by an environmental auditor acceptable to Mortgagee in Mortgagee's sole discretion, provided, however, that Mortgagee shall make such request no more frequently than once every two (2) years, or, in the Mortgagee's reasonable discretion, if the Note is being renewed, extended, modified, or accelerated, or unless Mortgagee is required by any law, regulation, order, or other directive from any regulatory agency having jurisdiction over Mortgagee to obtain any such Assessment more frequently than once every (2) years. Notwithstanding anything herein to the contrary, Mortgagee may require an Assessment upon each renewal, extension or modification of the Note or upon the occurrence of any Default under the Note or upon the commencement of any foreclosure proceedings against or acceptance of any deed in lieu of foreclosure on the Property. If Mortgagor fails to pay the cost of any Assessment or the cost of any remediation to the Property to correct deficiencies highlighted in the Assessment, when due, Mortgagee may pay such cost on Mortgagor's behalf and the same shall constitute principal under the Note and be secured by the Property, and shall be due and payable on demand. Borrower's failure to pay such amount (with all accrued interest) in full within ten (10) days of the date of such demand shall constitute an event of Default entitling the Mortgagee to accelerate the maturity of the Note.

6 Appraisal Mortgagor shall pay when due the reasonable cost of providing to Mortgagee, at its request from time to time, a then-current appraisal of the market value of the Property prepared by an appraiser or by another appraiser acceptable to Mortgagee in its discretion, provided however that Mortgagee shall make such request no more frequently than once every third year unless Mortgagee is required by any law, regulation, order or other directive from any regulatory agency having jurisdiction over Mortgagee to obtain any such appraisal more frequently than every third year. If Mortgagor fails to pay such cost when due, Mortgagee may pay such cost on Mortgagor's behalf and the same shall constitute principal under the Note. shall bear interest at

the applicable rate provided in the Note, and shall be due and payable on demand. Mortgagor's failure to pay such amount (with all accrued interest) in full within ten (10) days of the date of such demand shall constitute an event of Default entitling the Mortgagee to accelerate the maturity of the Note

7 Expenditures by Mortgagee If Mortgagor fails to make payment for restoration or repair to the Property, for insurance premiums or for taxes, assessments or other charges as required in this Mortgage Mortgagee may, but shall not be obligated to pay for the same and any such payment by Mortgagee will be secured by this Mortgage and have the same rank and priority as the principal debt secured hereby and bear interest from the date of payment at the legal rate Payments made for taxes by Mortgagee shall be a first lien on the Property to the extent of the taxes so paid with interest from the date of payment, regardless of the rank and priority of this Mortgage Mortgagor shall pay to Mortgagee in cash on demand an amount equal to any payment made by Mortgagee pursuant to this paragraph plus interest thereon as herein provided - - - - -

8 After Acquired Property The lien of this Mortgage will automatically attach, without further act, to all fixtures now or hereafter located in or on or attached to or used or intended to be used in connection with or with the operation of, the Property or any part thereof

9 Condemnation Mortgagee shall be entitled to be made a party to and to participate in any proceeding, whether formal or informal, for condemnation or acquisition pursuant to power or eminent domain of any portion of the Property Mortgagor hereby assigns to Mortgagee the right to collect and receive any payment or award to which Mortgagor would otherwise be entitled by reason of condemnation or acquisition pursuant to power of eminent domain of any portion of the Property Any such payment or award received by Mortgagee may, at the option of Mortgagee, (i) be applied by Mortgagee to payment to any sums secured by this Mortgage in such order as Mortgagee may determine, or (ii) be applied in a manner determined by Mortgagee to the replacement of the portion of the Property taken and to the repair or restoration of the remaining portion of the Property or, (iii) be released to Mortgagor upon such conditions as Mortgagee may determine, or (iv) be used for any combination of the foregoing purposes *The previous sentence notwithstanding, any such payment shall at the option of the Mortgagor be applied to the replacement repair, or restoration of the Property provided that (a) no Default has occurred and is continuing, and (b) Mortgagor provides Mortgagee reasonable evidence that such payment (together with additional funds provided by Mortgagor if necessary) are sufficient to restore repair and/or replace the Property to the extent and condition existing prior to the condemnation* No portion of an indemnity payment which is applied to replacement, repair or restoration to any portion to the Property or which is released to Mortgagor shall be deemed a payment against any sums secured by this Mortgage

10 Transfer At the option of the Mortgagee the indebtedness secured by this Mortgage shall become due and payable if, without the written consent to the Mortgagee the Mortgagor shall convey away the mortgaged premises, or if the title shall become vested in any other person in any manner whatsoever other than by death to the Mortgagor It is understood and agreed that in

consideration for the consent to the Mortgagee to any transfer of title to the mortgaged premises, the Mortgagee at its option may charge a loan transfer fee and/or require changes in the rate of interest, term of loan, monthly payments to principal and interest and other terms and conditions of this Mortgage and/or the Note secured hereby

11 Default A "Default" shall be the occurrence or existence of any of the events listed in the Note or the Loan Agreement ("Loan Agreement" being hereafter defined as that loan agreement between SEL Properties L L C and The National Bank of South Carolina of even date herewith), including any grace and/or cure periods provided for therein

12 Remedies In addition to the remedies set forth in the Note or the Loan Agreement, upon the occurrence of a Default, Mortgagee may, without notice to Mortgagor, declare all sums secured by this Mortgage immediately due and payable and may commence proceedings to collect such sums foreclose this Mortgage and sell the Property. If default shall be made in the payment of any amount due under the Note, the Mortgage or any other instrument securing the Note, then if such default is not cured within ten (10) days after written notice from Mortgagee, Mortgagor will pay to Mortgagee the whole amount due and payable under the Note and all other sums secured hereby, and if Mortgagor shall fail to pay the same forthwith upon such demand, Mortgagee shall be entitled to sue for and to recover judgment for the whole amount so due and unpaid together with costs and expenses including the reasonable compensation, expenses and disbursements of Mortgagee's agents and attorneys incurred in connection with such suit and any appeal in connection therewith. Mortgagee shall be entitled to sue and recover judgment as aforesaid either before, after or during the pendency of any proceedings for the enforcement of this Mortgage and the right of Mortgagee to recover such judgment shall not be affected by any taking, possession or foreclosure sale hereunder, or by the exercise of any other right, power or remedy for the enforcement of the terms of this Mortgage, or the foreclosure of the lien hereof. At the foreclosure Mortgagee shall be entitled to bid and to purchase the Property and shall be entitled to apply the debt secured hereby or any portion thereof, in payment for the Property. In case of a foreclosure sale of all or any part of the Property and of the application of the proceeds of sale to the payment of the sums secured hereby, Mortgagee shall be entitled to enforce payment of and to receive all amounts then remaining due and unpaid and to recover judgment for any portion thereof remaining unpaid with interest. The remedies provided to Mortgagee in this paragraph shall be in addition to and not in lieu of any other rights and remedies provided in this Mortgage or by law all of which rights and remedies may be exercised by Mortgagee independently, simultaneously or consecutively in any order without being deemed to have waived any right or remedy previously or not yet exercised. Without in any way limiting the generality of the foregoing, Mortgagee shall also have the following specific rights and remedies

(a) To make any repairs to the collateral which Mortgagee deems necessary or desirable for the purposes of sale

(b) To exercise any and all rights of set-off which Mortgagee may have against any account fund or property of any kind, tangible or intangible, belonging to Mortgagor which shall be in Mortgagee's possession or under its control

(c) To cure such defaults with the result that all reasonable costs and expenses incurred or paid by Mortgagee in effecting such cure shall be additional charges on the Note which bear interest at the interest rate of the Note and are payable upon demand

(d) If the Note is secured by a lien on any real property, to foreclose on such real property and to pursue any and all remedies available to Mortgagee at law or in equity, and in any order Mortgagee may desire, in Mortgagee's sole discretion.

13 No Waiver of One Default to Affect Another No waiver of Default hereunder shall extend to or affect any subsequent or any other Default then existing or impair any rights powers or remedies consequent thereon. If Mortgagee (a) grants forbearance or an extension of time for the payment of any sums secured hereby, (b) takes other or additional security for the payment thereof, (c) waives or does not exercise any right granted in the Note, this Mortgage or any other instrument securing the Note, (d) releases any part of the Property from the lien of this Mortgage or any other instrument securing the Note or (e) makes or consents to any agreement changing the terms of this Mortgage or subordinating the lien or any charge hereof no such act or omission shall release discharge, modify, change or affect the original liability under the Note, the Mortgage or otherwise of Mortgagor or any subsequent purchaser of the Property or any part thereof or any maker, cosigner, endorser surety or guarantor. No such act or omission shall preclude Mortgagee from exercising any right power or privilege herein granted or intended to be granted in case of any event of Default then existing or of any subsequent event of Default nor, except as otherwise expressly provided in an instrument or instruments executed by Mortgagee, shall the lien of this Mortgage be altered thereby.

14 Appointment of Receiver Upon the occurrence of a Default, Mortgagee shall be entitled to the appointment of a receiver to enter upon and take and maintain full control of the Property in order to perform all acts necessary and appropriate for the operation and maintenance thereof including but not limited to, the execution, cancellation or modification of leases, the making of repairs to the Property and the execution or termination of contracts providing for the management or maintenance of the Property all on such terms as are deemed best to protect the security of this Mortgage. The receiver shall be entitled to receive a reasonable fee for so managing the Property. All rents collected pursuant to this paragraph shall be applied first to the costs of taking control of and managing the Property and collecting the rents including, but not limited to, reasonable attorney's fees, receiver's fees, premiums on receiver's bonds costs of repairs to the Property, premiums in insurance policies, taxes, assessments and other charges on the Property, and the costs of discharging any obligation or liability of Mortgagor as lessor or landlord of the Property and then to the sums secured by this Mortgage. Mortgagee or the receiver shall have access to the books and records used in the operation and maintenance of the Property and shall be liable to account only for those rents actually received. Mortgagee shall not be liable to Mortgagor, anyone claiming

under or through Mortgagor, or anyone having an interest in the Property by reason of anything done or left undone by Mortgagor under this paragraph. If the rents of the Property are not sufficient to meet the costs of taking control of and managing the Property and collecting the rents, Mortgagee at its sole option, may advance moneys to meet the costs. Any funds expended by Mortgagee for such purposes shall become indebtedness of Mortgagor to Mortgagee secured by this Mortgage. Unless Mortgagee and Mortgagor agree in writing to other terms of payment, such amounts shall be payable upon notice from Mortgagee to Mortgagor requesting payment thereof and shall bear interest from the date of disbursement at the rate stated in the Note unless payment of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate which may be collected from Mortgagor under applicable law. The entering upon and taking and maintaining of control of the Property by Mortgagee or the receiver and the application of rents as provided herein shall not cure or waive any Default hereunder or invalidate any other right or remedy of Mortgagee hereunder.

15 Waiver by Mortgagee Mortgagee may, in the sole discretion of Mortgagee, from time to time waive or forbear from enforcing any provision of this Mortgage, and no such waiver or forbearance shall be deemed a waiver by Mortgagee of any other right or remedy provided herein or by law or be deemed a waiver of the right at any later time to enforce strictly all provisions of this Mortgage and to exercise any and all remedies provided herein and by law.

16 Notices Any notice given by either party hereto to the other party shall be in writing and shall be signed by the party giving notice. Any notice or other document to be delivered to either party hereto by the other party shall be deemed delivered if mailed postage prepaid by U.S. Mail, certified mail, return receipt requested to the party to whom directed to the address stated above or to the latest address of such party known to the party sending the same. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice, demand or request sent. This paragraph shall not be deemed to prohibit any other manner of delivering a notice or other document.

17 Greater Estate In the event that Mortgagor is the owner of a leasehold estate with respect to any portion of the Property and, prior to the satisfaction of the indebtedness and the cancellation of this Mortgage of record, Mortgagor obtains a fee estate in such portion of the Property, then, such fee estate shall automatically, and without further action of any kind on the part of Mortgagor, be and become subject to the security lien of this Mortgage.

18 Imposition of Tax In the event of the passage of any state, federal, municipal or other governmental law, order, rule or regulation, in any manner changing or modifying the laws now in force governing the taxation of debts secured by mortgages or the manner of collecting taxes so as to affect adversely the Mortgagee, the Mortgagor will promptly pay any such tax on or before the due date thereof and if the Mortgagor fails to make such prompt payment or if any such state, federal, municipal or other governmental law, order, rule or regulation prohibits Mortgagor from making such payment or would penalize Mortgagee if Mortgagor makes such payment, then the entire balance of the Loan shall become due and payable upon demand at the option of the

Mortgagee, unless Mortgagor agrees in writing to indemnify Mortgagee against any loss or damage associated with such payment or penalty

19 Changes, etc Neither the Mortgage nor any term hereof may be changed, waived discharged or terminated orally, or by any action or inaction, but only by an instrument in writing signed by the party against which enforcement of the change, waiver, discharge or termination is sought Any agreement hereafter made by Mortgagor and Mortgagee relating to the Mortgage shall be superior to the rights of the holder of any intervening lien or encumbrance

20 Partial Foreclosure In the event the Property is comprised of more than one parcel of real property, Mortgagor hereby waives any right to require Mortgagee to foreclose or exercise any of its other remedies against all of the Property as a whole or to require Mortgagee to foreclose or exercise such remedies against one portion of the Property prior to the foreclosure or exercise of said remedies against other portions of the Property

21 Security Agreement, Financing Statement This Mortgage constitutes a security agreement within the meaning of and shall create a security interest under the Uniform Commercial Code as adopted by the State of South Carolina and as amended from time to time The addresses for the Mortgagor as debtor and the Mortgagee as secured party are set forth in the introductory paragraph to this Mortgage Some of the items of property described herein are goods that are or are to become fixtures related to the real estate described herein, and it is intended that, as to those goods this Mortgage and Security Agreement shall be effective as a financing statement filed as a fixture filing from the date of its filing for record in the real estate records of the city in which the Land is located Information concerning the security interest created by this instrument may be obtained from the Mortgagee, as secured party, or the Mortgagor, as debtor at the address first shown above

22 Lot Release Mortgagee shall release each lot upon the receipt of an amount equal to 80% of the gross proceeds received from the sale of each lot, but such release amount shall not be less than \$ 32,000 for each lot As the request of Mortgagor, Mortgagee shall release the portions of the Property intended for the common use and enjoyment of the owners of dwellings to be constructed on the Property from the Mortgage upon the release of the first lot

42000
14000
32000

23 Miscellaneous

(a) It is understood and agreed that all indebtedness of Mortgagor to Mortgagee at any time hereafter existing resulting from advances and readvances heretofore, now or hereafter made by Mortgagee to Mortgagor, regardless of whether such advances and readvances are made at the option of the Mortgagee or otherwise, will be secured by this instrument up to the maximum principal amount hereinabove set forth, plus interest thereon court costs and attorney's fees until all of said indebtedness has been satisfied in full

(b) The agreements herein shall inure to the benefit of Mortgagee, its successors and assigns, and any successor or assign of Mortgagee may make advances hereunder, and all advances and all other indebtedness of Mortgagor to such successor or assign shall be secured hereby

(c) Whenever in this Mortgage one of the parties hereto is named or referred to, the heirs, legal representatives, successors and assigns of such parties shall be included and all covenants and agreements contained in this Mortgage by or on behalf of the Mortgagor or by or on behalf of the Mortgagee shall bind and inure to the benefit of their representatives, heirs, successors and assigns, whether so expressed or not

(d) The headings of the sections, paragraphs and subdivisions of this Mortgage are for the convenience of reference only, are not to be considered a part hereof and shall not limit or otherwise affect any of the terms hereof

(e) If fulfillment of any provision hereof or any transaction related hereto or to the Note at the time performance of such provisions shall be due, shall involve transcending the limit of validity prescribed by law, then ipso facto, the obligation to be fulfilled shall be reduced to the limit of such validity, and if such clause or provision herein contained operates or would prospectively operate to invalidate this Mortgage in whole or in part, then such clause or provision only shall be held for naught, as though not herein contained, and the remainder of this Mortgage shall remain operative and in full force and effect

(f) This Mortgage shall be construed and enforced in accordance with the laws of South Carolina.

(Signatures on the following page)

(g) Waiver by Mortgagor Mortgagor understands that upon default hereunder, among other remedies set out herein and in the Note the Mortgagee may foreclose upon the mortgaged premises and ask for a deficiency judgment pursuant to Section 29-3-660, South Carolina Code of Laws (1976) The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within thirty days after the sale of the mortgaged property apply to the court for an order of appraisal The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction THE MORTGAGOR HEREBY WAIVES AND RELINQUISHES THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE MORTGAGED PROPERTY

IN WITNESS WHEREOF Mortgagor has executed this Mortgage under seal the day and year first above written

Witnesses

MORTGAGOR

SEL PROPERTIES, L L C , a South Carolina
limited liability company

Rose G. Koca

By Stephen E. Lipscomb
Stephen E Lipscomb, Member

STATE OF SOUTH CAROLINA

ACKNOWLEDGEMENT

COUNTY OF RICHLAND

I James E. Lipscomb do hereby certify that SEL Properties L L C by Stephen E Lipscomb its member, personally appeared before me this day and acknowledged the due execution of the foregoing instrument

Witness my hand and seal this the 19th day of November 2001

[Signature]
Notary Public for South Carolina
My Commission expires 2/25/04

LEGAL DESCRIPTION

EXHIBIT "A"

All that certain piece, parcel or tract of land, situate, lying and being on the northern side of US Highway #176 about 16 miles northwest of the City of Columbia, School District #6 of Richland County near the Town of Peak, in the State of South Carolina, being shown and delineated as tract "A" containing 122.28 acres on plat prepared for Michael J Mungo by Belter and Smith, Inc , Engineers and surveyors, dated November 1, 1972, recorded in Office of the Clerk of Court for Richland County in Plat Book X at Page 2151, said plat being expressly incorporated herein by reference.



INSPECTION DIARY

Project Court Yards at Ralley Creek
Project No _____ Engineer _____
Date 12/14/01 Contractor Devaran
Inspector A. Smith

Weather Conditions Cloudy - Cold

Inspector's Observations Contractor rough clearing
utility rights-of-way. Beginning water
or sewer lines.

Communication with Contractor General

Receipt Acknowledged Carroll Neen





RC22

INSPECTION DIARY

Project Countywide at Rally Creek
Project No _____ Engineer _____
Date 1/10/02 Contractor Hummer
Inspector S. Smith

Weather Conditions Fair Cold
Inspector's Observations Contractor grading and
excavating roadway areas.
installing some water & sewer

Communication with Contractor general

Receipt Acknowledged [Signature]

PLAINTIFF'S
EXHIBIT

72



INSPECTION DIARY

Project Countdown at Holly Creek

Project No _____ Engineer _____

Date 1/17/02 Contractor Henson

Inspector S. Smith

Weather Conditions Fair - Cold

Inspector's Observations Contractor excavating
& grading subgrade. Beginning
storm drain work.

Communication with Contractor General *

Receipt Acknowledged Carroll Newson



NEWMAN CONSTRUCTION, INC
500 Myrtle Beach Hwy
Sumter, S C 29153-5014
(803) 775 2385 Fax (803) 775-1040

LETTER OF TRANSMITTAL

To Richland County
400 Powell Road
Columbia S C 29203

Date January 29, 2002
Attn Steve Amick
Re The Courtyards at Rolling Creek
Phase 1

We are sending you the following items

<u>No</u>	<u>Date</u>	<u>Description</u>
<u>1</u>	<u>1/18/02</u>	<u>Compaction test results on sewer road crossings</u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>

These are transmitted as checked below

<u> </u>	For approval	<u> </u>	For bids due <u> </u>
<u> </u>	Approved as noted	<u> </u>	Approved as submitted
<u> </u>	As requested	<u> </u>	Returned for corrections
<u>x</u>	For your use	<u> </u>	For review and comment
<u> </u>	Return <u> </u> corrected copies		

Remarks

Copy To:

Signed Lauren K. Olney



REPORT OF FIELD COMPACTION TESTS

TESTED FOR NEWMAN CONSTRUCTION COMPANY PROJECT ROLLING CREEK
500 MYRTLE BEACH HIGHWAY
SUMTER SC 29150

DATE January 18 2002 OUR REPORT NO 451 20007-2 PAGE 1 OF 3

TEST DATA (1) Red-Brown with Light Brown Sandy CLAY OPT MOIST = 10.5%

TEST NO	TEST DEPTH	ELEVATION	SOIL ID NUMBER	MAXIMUM LAB DRY DENSITY *	WATER CONTENT	WET DENSITY	DENSITY	PERCENT COMPACTION	COMMENTS Spec 98% Min
1	8	-2 FSG	1	120.5	9.4	133.2	121.8	101.1	1 - A
2	8"	-1 FSG	1	120.5	10.2	132.5	120.2	99.8	1 - A
3	8	BFSG	1	120.5	10.2	132.9	120.6	100.1	1 - A
4	8	-3' BFSG	1	120.5	10.0	132.2	120.2	99.8	1 - A
	8"	-1' BFSG	1	120.5	9.4	133.4	121.9	101.2	1 - A
6	8"	BFSG	1	120.5	10.6	133.9	121.1	100.5	1 - A

TEST LOCATION

1	Manhole A11-3 to A11-6
2	Manhole A11-3 to A11 6
3	Manhole A11-3 to A11-6
4	Sewer Service for Lot #26 Road Crossing
5	Sewer Service for Lot #26 Road Crossing
6	Sewer Service for Lot #26 Road Crossing

NOTES TESTS PERFORMED PER ASTM D2922 96 & ASTM D3017 96
DENSITIES SHOWN Lbs per cubic foot
WATER CONTENT Percent of dry weight
PERCENT COMPACTION Based on maximum dry density obtained on sample indicated by soil ID number

COMMENTS 1 FILL MATERIAL
2 BACKFILL
3 BASE COURSE
4 SUBBASE
5 SOIL CEMENT
6 OTHER

A TEST RESULTS COMPLY WITH SPECIFICATIONS
B PERCENT COMPACTION DOES NOT COMPLY WITH SPECIFICATIONS
C RETEST OF PREVIOUS TEST
D MOISTURE IN EXCESS OF SPECIFICATIONS
E MOISTURE BELOW SPECIFICATIONS

* (1) ASTM D-698 Standard Proctor

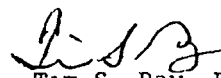
TEST INSTRUMENT Troxler 3430

REMARKS FSG = Finished Subgrade
BFSG = Below Finished Subgrade

STANDARD COUNT M 668 D 2755
ADJUSTMENT DATA M D

TECHNICIAN Bill Davis

Respectfully submitted
Professional Service Industries Inc


Tim S Ray P E
Senior Engineer

THESE TEST RESULTS APPLY ONLY TO THE SPECIFIC LOCATIONS NOTED AND MAY NOT REPRESENT ANY OTHER LOCATIONS OR ELEVATIONS
REPORTS MAY NOT BE REPRODUCED EXCEPT IN FULL WITHOUT WRITTEN PERMISSION BY PROFESSIONAL SERVICE INDUSTRIES INC

REPORT OF FIELD COMPACTION TESTS

TESTED FOR NEWMAN CONSTRUCTION COMPANY PROJECT ROLLING CREEK
500 MYRTLE BEACH HIGHWAY
SUMTER SC 29150

DATE January 18 2002 OUR REPORT NO 451-20007-2 PAGE 2 OF 3

TEST DATA (1) Red-Brown with Light Brown Sandy CLAY OPT MOIST = 10 5%

TEST NO	TEST DEPTH	ELEVATION	SOIL ID NUMBER	MAXIMUM LAB DRY DENSITY *	WATER CONTENT	WET DENSITY	DENSITY	PERCENT COMPACTION	COMMENTS Spec 98% Min
7	8'	-3' BFSG	1	120 5	9 5	130 2	118 9	98 7	1 - A
8	8"	-1 BFSG	1	120 5	10 1	130 8	118 8	98 6	1 - A
9	8'	SG	1	120 5	9 2	130 4	119 4	99 1	1 - A
10	8'	-3 BFSG	1	120 5	8 9	130 1	119 5	99 2	1 - A
	8"	-1 BFSG	1	120 5	10 0	132 3	120 3	99 8	1 - A
12	8	SG	1	120 5	10 1	131 3	119 3	99 0	1 - A

TEST LOCATION

7	Sewer Service for Lot #27
8	Sewer Service for Lot #27
9	Sewer Service for Lot #27
10	sewer service for Lot #28 Road Crossing
11	Sewer Service for Lot #28 Road Crossing
12	Sewer Service for Lot #28 Road Crossing

NOTES TESTS PERFORMED PER ASTM D2922 98 & ASTM D3017 96
DENSITIES SHOWN Lbs per cubic foot
WATER CONTENT Percent of dry weight
PERCENT COMPACTION Based on maximum dry density obtained on sample indicated by soil ID number

COMMENTS 1 FILL MATERIAL
2 BACKFILL
3 BASE COURSE
4 SUBBASE
5 SOIL CEMENT
8 OTHER

A TEST RESULTS COMPLY WITH SPECIFICATIONS
B PERCENT COMPACTION DOES NOT COMPLY WITH SPECIFICATIONS
C RETEST OF PREVIOUS TEST
D MOISTURE IN EXCESS OF SPECIFICATIONS
E MOISTURE BELOW SPECIFICATIONS

* (1) ASTM D-698 Standard Proctor
TEST INSTRUMENT Troxler 3430
REMARKS BFSG = Below Finished Subgrade
SG = Subgrade

STANDARD COUNT M 668 D 2755
ADJUSTMENT DATA M D

TECHNICIAN Bill Davis

Respectfully submitted
Professional Service Industries Inc


Tim S Ray P E
Senior Engineer

THESE TEST RESULTS APPLY ONLY TO THE SPECIFIC LOCATIONS NOTED AND MAY NOT REPRESENT ANY OTHER LOCATIONS OR ELEVATIONS
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REPORT OF FIELD COMPACTION TESTS

TESTED FOR NEWMAN CONSTRUCTION COMPANY PROJECT ROLLING CREEK
500 MYRTLE BEACH HIGHWAY
SUMTER, SC 29150

DATE January 18 2002 OUR REPORT NO 451-20007-2 PAGE 3 OF 3

TEST DATA (1) Red-Brown with Light Brown Sandy CLAY OPT MOIST = 10.5%

TEST NO	TEST DEPTH	ELEVATION	SOIL ID NUMBER	MAXIMUM LAB DRY DENSITY *	WATER CONTENT	WET DENSITY	DENSITY	PERCENT COMPACTION	COMMENTS Spec 98% Min
13	8"	-1 BFSG	1	120.5	9.4	132.3	120.9	100.3	1 - A
14	8	SG	1	120.5	9.9	131.9	120.0	99.6	1 - A

TEST LOCATION

13	Sewer Service for Lot #29
14	Sewer Service for Lot #29

NOTES TESTS PERFORMED PER ASTM D2922 96 & ASTM D3017 96
DENSITIES SHOWN Lbs per cubic foot
WATER CONTENT Percent of dry weight
PERCENT COMPACTION Based on maximum dry density obtained on sample indicated by soil ID number

COMMENTS 1 FILL MATERIAL
2 BACKFILL
3 BASE COURSE
4 SUBBASE
5 SOIL CEMENT
6 OTHER

A TEST RESULTS COMPLY WITH SPECIFICATIONS
B PERCENT COMPACTION DOES NOT COMPLY WITH SPECIFICATIONS
C RETEST OF PREVIOUS TEST
D MOISTURE IN EXCESS OF SPECIFICATIONS
E MOISTURE BELOW SPECIFICATIONS

* (1) ASTM D-698 Standard Proctor

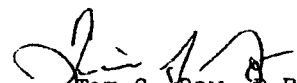
TEST INSTRUMENT Troxler 3430

REMARKS BFSG = Below Finished Subgrade
SG = Subgrade

STANDARD COUNT M 668 D 2755
ADJUSTMENT DATA M D

TECHNICIAN Bill Davis

Respectfully submitted
Professional Service Industries Inc


Tim S. Ray P.E.
Senior Engineer

THESE TEST RESULTS APPLY ONLY TO THE SPECIFIC LOCATIONS NOTED AND MAY NOT REPRESENT ANY OTHER LOCATIONS OR ELEVATIONS.
REPORTS MAY NOT BE REPRODUCED EXCEPT IN FULL WITHOUT WRITTEN PERMISSION BY PROFESSIONAL SERVICE INDUSTRIES INC



RC22

INSPECTION DIARY

Project County Park at Rally Creek

Project No _____ Engineer _____

Date 1/29/02 Contractor Hunter

Inspector S. Smith

Weather Conditions Fair, Cool

Inspector's Observations Contractor working on
storm drain line.
area is wet.

Communication with Contractor general

OK

Receipt Acknowledged Carol Ann





RC22

INSPECTION DIARY

Project Countywide at Ralston Creek
Project No _____ Engineer _____
Date 2/13/02 Contractor Thermon
Inspector S. Smith

Weather Conditions Fair Cool

Inspector's Observations Contractor laying storm
drain line. Some catch basins have
been in place

Communication with Contractor General

RC22
96
OWH

Receipt Acknowledged [Signature]

PLAINTIFF'S
EXHIBIT

76



RC22

INSPECTION DIARY

Project Courtyards at Rally Creek
Project No _____ Engineer _____
Date 2/5/07 Contractor Heiman
Inspector ~~John~~ S. Smith

Weather Conditions Cloudy - Cold

Inspector's Observations Contractor laying
water & sewer crossings Backfilling
with sand-clay material. Let Tech.
on site running compaction test

Communication with Contractor general

RC22
5601
DWL

Receipt Acknowledged [Signature]

PLAINTIFF'S
EXHIBIT
77



RC22

INSPECTION DIARY

Project Courtyard at Rolling Creek
Project No _____ Engineer _____
Date 2/19/02 Contractor Hewman
Inspector A. Smith

Weather Conditions Fair - Cold

Inspector's Observations Contractor laying water
& sewer line, sand-clay on site
to backfill.

[Signature]

Communication with Contractor general

RC 22
4601
DWL

Receipt Acknowledged _____

PLAINTIFF'S
EXHIBIT

78



RC25

INSPECTION DIARY

Project Countywide St. Rethy Creek

Project No _____ Engineer _____

Date 3/6/05 Contractor Thurman

Inspector S. Smith

Weather Conditions Fair - cold

Inspector's Observations Contractor working on
Waters & heavy load & remove bridge

Communication with Contractor general

RC22
5001
12/16

Receipt Acknowledged [Signature]



NEWMAN CONSTRUCTION, INC
500 Myrtle Beach Hwy
Sumter, S C 29153-6014
(803) 775-2385 Fax (803) 775-1040

LETTER OF TRANSMITTAL

To Richland County
400 Powell Road
Columbia S C 29203

Date March 21 2001
Attn Steve Amick
Re The Courtyards at Rolling Creek
Phase 1

We are sending you the following items

<u>No</u> <u>Copies</u>	<u>Date</u>	<u>Description</u>
<u>1</u>	<u>2/19/02</u>	<u>Compaction test results on sewer road crossings</u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>
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<u> </u>	<u> </u>	<u> </u>

These are transmitted as checked below

<u> </u>	For approval	<u> </u>	For bids due <u> </u>
<u> </u>	Approved as noted	<u> </u>	Approved as submitted
<u> </u>	As requested	<u> </u>	Returned for corrections
<u>x</u>	For your use	<u> </u>	For review and comment
<u> </u>	Return <u> </u> corrected copies		

Remarks

Copy To

Signed Darlene V. Arvey



REPORT OF FIELD COMPACTION TESTS

TESTED FOR NEWMAN CONSTRUCTION COMPANY PROJECT ROLLING CREEK
500 MYRTLE BEACH HIGHWAY
SUMTER SC 29150

DATE February 19 2002 OUR REPORT NO 451-20007-3 PAGE 1 OF 2

TEST DATA (1) Red-Brown with Light Brown Sandy CLAY OPT MOIST = 10 5%

TEST NO	TEST DEPTH	ELEVATION	SOIL ID NUMBER	MAXIMUM LAB DRY DENSITY *	WATER CONTENT	WET DENSITY	DENSITY	PERCENT COMPACTION	COMMENTS Spec 98% Min
1	8"	Surface	1	120 5	12 1	131 7	117 5	97 5	2 - A
2	8"	2' BS	1	120 5	10 2	131 4	119 2	98 9	2 - A
3	8	Surface	1	120 5	12 1	132 6	118 3	98 2	2 - A
4	8'	Surface	1	120 5	12 2	131 8	117 5	97 5	2 - A
	8	2' BS	1	120 5	12 1	133 8	119 4	99 1	2 - A
6	8"	Surface	1	120 5	11 5	131 3	117 8	97 8	2 - A

TEST LOCATION Sewer Service Crossing Whetstone Creek Court

1	Sewer Service Lot 25
2	Sewer Service Lot 24
3	Sewer Service Lot 24
4	Sewer Service Lot 23
5	Sewer Service Lot 22
6	Sewer Service Lot 22

NOTES TESTS PERFORMED PER ASTM D2922 98 & ASTM D3017 96
DENSITIES SHOWN Lbs per cubic foot
WATER CONTENT Percent of dry weight
PERCENT COMPACTION Based on maximum dry density obtained on sample indicated by soil ID number

COMMENTS 1 FILL MATERIAL
2 BACKFILL
3 BASE COURSE
4 SUBBASE
5 SOIL CEMENT
6 OTHER

A TEST RESULTS COMPLY WITH SPECIFICATIONS
B PERCENT COMPACTION DOES NOT COMPLY WITH SPECIFICATIONS
C RETEST OF PREVIOUS TEST
D MOISTURE IN EXCESS OF SPECIFICATIONS
E MOISTURE BELOW SPECIFICATIONS

* (1) ASTM D-698 Standard Proctor

TEST INSTRUMENT

STANDARD COUNT M D

REMARKS BS = Below Surface

ADJUSTMENT DATA M D

Respectfully submitted
Professional Service Industries Inc

THESE TEST RESULTS APPLY ONLY TO THE SPECIFIC LOCATIONS NOTED AND MAY NOT REPRESENT ANY OTHER LOCATIONS OR ELEVATIONS
REPORTS MAY NOT BE REPRODUCED EXCEPT IN FULL WITHOUT WRITTEN PERMISSION BY PROFESSIONAL SERVICE INDUSTRIES INC

Tim S Ray P E
Senior Engineer

REPORT OF FIELD COMPACTION TESTS

TESTED FOR NEWMAN CONSTRUCTION COMPANY PROJECT ROLLING CREEK
500 MYRTLE BEACH HIGHWAY
SUMTER SC 29150

DATE February 19 2002 OUR REPORT NO 451-20007-3 PAGE 2 OF 2

TEST DATA (1) Red-Brown with Light Brown Sandy CLAY OPT MOIST = 10 5%

TEST NO	TEST DEPTH	ELEVATION	SOIL ID NUMBER	MAXIMUM LAB DRY DENSITY *	WATER CONTENT	WET DENSITY	DENSITY	PERCENT COMPACTION	COMMENTS Spec 98% Min
7	8	2' BS	1	120 5	12 7	132 8	117 8	97 8	2 - A

TEST LOCATION Sewer Service Crossing Whetstone Creek Court

7	Sewer Service Lot 21

NOTES TESTS PERFORMED PER ASTM D2922 96 & ASTM D3017 96
DENSITIES SHOWN Lbs per cubic foot
WATER CONTENT Percent of dry weight
PERCENT COMPACTION Based on maximum dry density obtained on sample indicated by soil ID number

* (1) ASTM D-698 Standard Proctor

COMMENTS 1 FILL MATERIAL
2 BACKFILL
3 BASE COURSE
4 SUBBASE
5 SOIL CEMENT
6 OTHER

A TEST RESULTS COMPLY WITH SPECIFICATIONS
B PERCENT COMPACTION DOES NOT COMPLY WITH SPECIFICATIONS
C RETEST OF PREVIOUS TEST
D MOISTURE IN EXCESS OF SPECIFICATIONS
E MOISTURE BELOW SPECIFICATIONS

TEST INSTRUMENT

REMARKS BS = Below Surface

STANDARD COUNT M D
ADJUSTMENT DATA M D

Respectfully submitted
Professional Service Industries Inc

THESE TEST RESULTS APPLY ONLY TO THE SPECIFIC LOCATIONS NOTED AND MAY NOT REPRESENT ANY OTHER LOCATIONS OR ELEVATIONS
REPORTS MAY NOT BE REPRODUCED EXCEPT IN FULL WITHOUT WRITTEN PERMISSION BY PROFESSIONAL SERVICE INDUSTRIES INC

Tim S Ray P E
Senior Engineer



INSPECTION DIARY

Project Courtyards at Rolling Creek

Project No _____ Engineer _____

Date 3/20/07 Contractor Therman

Inspector S. Smith

Weather Conditions Cloudy - Cool

Inspector's Observations Contact working on
water & sewer line. Water line have
been Trenched & backfilled with flowable
fill. Sewer line are backfilled with
hard-clay material

Communication with Contractor general

Receipt Acknowledged Therman

PLAINTIFF'S
EXHIBIT

81



RC22

INSPECTION DIARY

Project Camtyards & Rolling Creek

Project No _____ Engineer _____

Date 4/17/02 Contractor Newman

Inspector A. Smith

Weather Conditions Fair, warm

Inspector's Observations contractor setting grade
stakes to fine grade street.
setting stake for curb.

Communication with Contractor general

AS

Receipt Acknowledged _____





RC22

INSPECTION DIARY

Project Courtyard at Rally Creek

Project No _____ Engineer _____

Date 4/23/02 Contractor Heenan

Inspector _____

Weather Conditions Fair - Cool

Inspector's Observations Contractor first grading
subgrade in areas where no sewer
line

Communication with Contractor general

[Signature]

Receipt Acknowledged _____





RC22

INSPECTION DIARY

Project Countywide at Rally Creek

Project No _____ Engineer _____

Date 4/30/02 Contractor Neuman

Inspector S. H. H. H.

Weather Conditions Fair - Warm

Inspector's Observations Contractor fine grading subgrade getting ready for curb.

Communication with Contractor Proof roll set for May 1st 9 AM

Receipt Acknowledged [Signature]



NEWMAN CONSTRUCTION, INC
500 Myrtle Beach Hwy
Sumter, S C 29153-5014
(803) 775-2385 Fax (803) 775-1040

LETTER OF TRANSMITTAL

To Richland County
400 Powell Road
Columbia S C 29203

Date May 10 2002
Attn Steve Amick
Re The Courtyards at Rolling Creek
Phase 1

We are sending you the following items

No Copies	Date	Description
<u>1</u>	<u>5/8/02</u>	<u>Compaction test results on subgrade</u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>
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These are transmitted as checked below

<u> </u>	For approval	<u> </u>	For bids due <u> </u>
<u> </u>	Approved as noted	<u> </u>	Approved as submitted
<u> </u>	As requested	<u> </u>	Returned for corrections
<u>x</u>	For your use	<u> </u>	For review and comment
<u> </u>	Return <u> </u> corrected copies		

Remarks

Copy To

Signed Barbara V. Aug



REPORT OF FIELD COMPACTION TESTS

TESTED FOR NEWMAN CONSTRUCTION COMPANY PROJECT ROLLING CREEK
500 MYRTLE BEACH HIGHWAY
SUMTER, SC 29150

DATE May 08 2002

OUR REPORT NO 451-20007-8

TEST DATA

TEST NO	TEST DEPTH	ELEVATION	SOIL ID NUMBER	MAXIMUM LAB DRY DENSITY	WATER CONTENT	WET DENSITY	DENSITY	PERCENT COMPACTION	COMMENTS Spec 98% Min
1	8	SG	5	121 0	9 6	140 3	128 0	100 0	1 - A
2	8"	SG	6	111 5	9 3	120 2	110 0	98 7	1 - A
3	8	SG	6	111 5	14 7	129 2	112 6	101 0	1 - A
4	8"	SG	6	111 5	15 8	133 4	115 2	100 0	1 - A
	8	SG	6	111 5	17 2	128 9	110 0	98 7	1 - A
6	8'	SG	6	111 5	15 5	133 1	115 2	100 0	1 - A

TEST LOCATION

1	See Attached Drawing
2	See Attached Drawing
3	See Attached Drawing
4	See Attached Drawing
5	See Attached Drawing
6	See Attached Drawing

NOTES TESTS PERFORMED PER ASTM D2922 96 & ASTM D3017 96
DENSITIES SHOWN lbs per cubic foot
WATER CONTENT Percent of dry weight
PERCENT COMPACTION Based on maximum dry density obtained on sample indicated by soil ID number

COMMENTS

1 FILL MATERIAL
2 BACKFILL
3 BASE COURSE
4 SUBBASE
5 SOIL CEMENT
6 OTHER

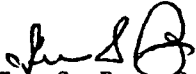
A TEST RESULTS COMPLY WITH SPECIFICATIONS
B PERCENT COMPACTION DOES NOT COMPLY WITH SPECIFICATIONS
C RETEST OF PREVIOUS TEST
D MOISTURE IN EXCESS OF SPECIFICATIONS
E MOISTURE BELOW SPECIFICATIONS

TEST INSTRUMENT Troxler
REMARKS SG = Subgrade

STANDARD COUNT M D
ADJUSTMENT DATA M D

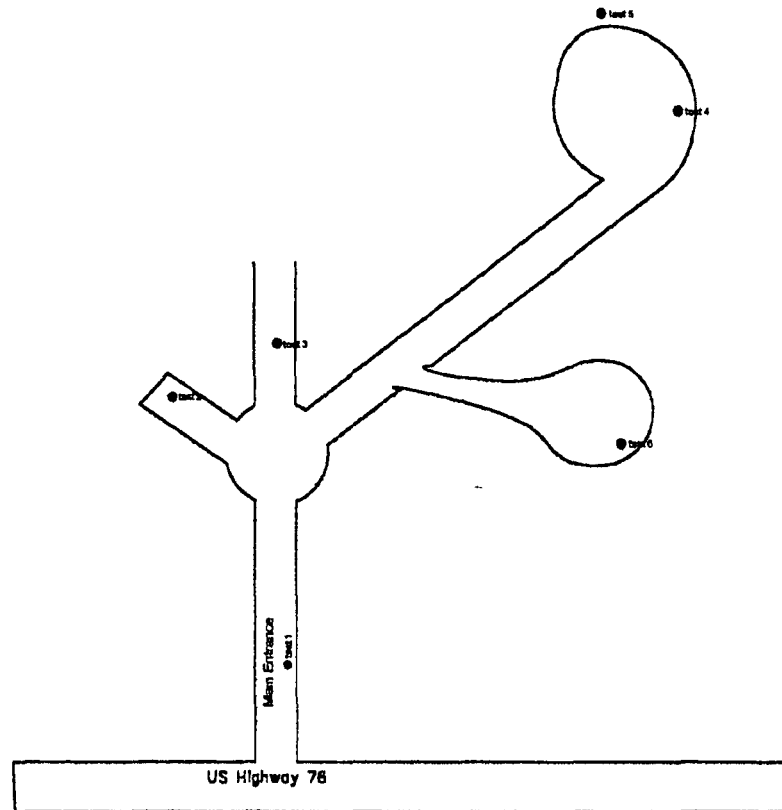
TECHNICIAN D Frick

Respectfully submitted
Professional Service Industries, Inc


Tim S Ray P E
Senior Engineer

THESE TEST RESULTS APPLY ONLY TO THE SPECIFIC LOCATIONS NOTED AND MAY NOT REPRESENT ANY OTHER LOCATIONS OR ELEVATIONS.
REPORTS MAY NOT BE REPRODUCED EXCEPT IN FULL WITHOUT WRITTEN PERMISSION BY PROFESSIONAL SERVICE INDUSTRIES INC.

0001915



SITE LOCATION			DRAWN BY TSR
 Information <i>To Build On</i> Engineering • Consulting • Testing	Rolling Creek	DATE 05/8/02	CHECKED BY JR
	Density Test Locations	PROJ # 451-20007-8	SCALE N T S

NEWMAN CONSTRUCTION, INC
500 Myrtle Beach Hwy
Sumter, S C 29153-5014
(803) 775-2385 Fax (803) 775-1040

LETTER OF TRANSMITTAL

To Richland County
400 Powell Road
Columbia S C 29203

Date May 17 2002
Attn Steve Amick
Re The Courtyards at Rolling Creek
Phase 1

We are sending you the following items

No Copies	Date	Description
1	4/30/02	Compaction test results on water and sewer utility crossings

These are transmitted as checked below

☐	For approval	☐	For bids due _____
☐	Approved as noted	☐	Approved as submitted
☐	As requested	☐	Returned for corrections
☒	For your use	☐	For review and comment
☐	Return ____ corrected copies		

Remarks _____

Copy To _____

Signed Darlene V. Long



REPORT OF FIELD COMPACTION TESTS

TESTED FOR NEWMAN CONSTRUCTION COMPANY PROJECT ROLLING CREEK
500 MYRTLE BEACH HIGHWAY
SUMTER SC 29150

DATE April 30, 2002 OUR REPORT NO 451-20007-4 REVISION #1

TEST DATA (1) Red-Brown with Light Brown Sandy CLAY OPT MOIST = 10 5%

TEST NO	TEST DEPTH	ELEVATION	SOIL ID NUMBER	MAXIMUM LAB DRY DENSITY *	WATER CONTENT	WET DENSITY	DENSITY	PERCENT COMPACTION	COMMENTS
1	8"	SG	1	120 5	9 8	131 9	120 1	99 7	2 - A
2	8	SG	1	120 5	7 6	124 9	116 1	96 3	2 - B
3	8"	SG	1	120 5	9 0	132 5	121 6	100 9	2 - A
4	8'	SG	1	120 5	11 6	134 3	120 3	99 8	2 - A - C

TEST LOCATION

1	Boyde Branch Crossing (Sewer Line Crossing @ Entrance near Shady Grove Rd)
2	Summer Ranch Lane (Sewer Lateral @ Lot #12)
3	Boyd Branch Crossing (Water Line Crossing @ Lot #50)
4	Retest of Test #2

NOTES TESTS PERFORMED PER ASTM D2922 96 & ASTM D3017 96
DENSITIES SHOWN Lbs per cubic foot
WATER CONTENT Percent of dry weight
PERCENT COMPACTION Based on maximum dry density obtained on sample indicated by soil ID number

COMMENTS 1 FILL MATERIAL
2 BACKFILL
3 BASE COURSE
4 SUBBASE
5 SOIL CEMENT
6 OTHER

A TEST RESULTS COMPLY WITH SPECIFICATIONS
B PERCENT COMPACTION DOES NOT COMPLY WITH SPECIFICATIONS
C RETEST OF PREVIOUS TEST
D MOISTURE IN EXCESS OF SPECIFICATIONS
E MOISTURE BELOW SPECIFICATIONS

* (1) ASTM D-698 Standard Proctor

TEST INSTRUMENT Troxler 3430 26618

REMARKS SG = Subgrade

STANDARD COUNT M 664 D 2721

ADJUSTMENT DATA M D

TECHNICIAN Jason Follo

Respectfully submitted
Professional Service Industries Inc


Tim S Ray P.E.
Senior Engineer

THESE TEST RESULTS APPLY ONLY TO THE SPECIFIC LOCATIONS NOTED AND MAY NOT REPRESENT ANY OTHER LOCATIONS OR ELEVATIONS
REPORTS MAY NOT BE REPRODUCED EXCEPT IN FULL, WITHOUT WRITTEN PERMISSION BY PROFESSIONAL SERVICE INDUSTRIES INC



RC22

INSPECTION DIARY

Project Countywide at Rally Creek
Project No _____ Engineer _____
Date 5/8/07 Contractor Newman
Inspector A. Smith

Weather Conditions Fair - hot

Inspector's Observations Contractor getting
ready for curb - Compaction has
been taken,
approved for curb

Communication with Contractor _____

Receipt Acknowledged [Signature]

PLAINTIFF'S
EXHIBIT

87

NEWMAN CONSTRUCTION, INC
500 Myrtle Beach Hwy
Sumter, S C 29153-6014
(803) 775-2385 Fax (803) 775-1040

LETTER OF TRANSMITTAL

To Richland County
400 Powell Road
Columbia S C 29203

Date May 21 2002
Attn Steve Amick
Re The Courtyards at Rolling Creek
Phase 1

We are sending you the following items

<u>No</u> <u>Copies</u>	<u>Date</u>	<u>Description</u>
<u>1</u>	<u>5/10/02</u>	<u>Compaction test results on subgrade</u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>
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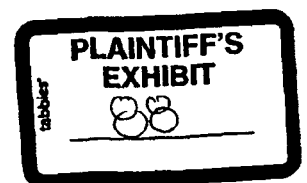
These are transmitted as checked below

<u> </u> For approval	<u> </u> For bids due <u> </u>
<u> </u> Approved as noted	<u> </u> Approved as submitted
<u> </u> As requested	<u> </u> Returned for corrections
<u>x</u> For your use	<u> </u> For review and comment
<u> </u> Return <u> </u> corrected copies	

Remarks

Copy To

Signed Darlene V. Jorg



REPORT OF FIELD COMPACTION TESTS

TESTED FOR **NEWMAN CONSTRUCTION COMPANY** PROJECT **ROLLING CREEK**
500 MYRTLE BEACH HIGHWAY
SUMTER SC 29150

DATE **May 10 2002** OUR REPORT NO **451-20007-9**

TEST DATA (6) Red and White Sandy CLAY OPT MOIST = 18.0%
(5) Tan Lean Clayey Silty SAND OPT MOIST = 14.5%

TEST NO	TEST DEPTH	ELEVATION	SOIL ID NUMBER	MAXIMUM LAB DRY DENSITY *	WATER CONTENT	WET DENSITY	DENSITY	PERCENT COMPACTION	COMMENTS
1	8	SG	6	111.5	15.0	126.2	109.7	98.4	1 - A
2	8"	SG	5	121.0	16.0	152.0	131.0	108.3	1 - A
3	8'	SG	6	111.5	14.8	132.1	115.1	103.2	1 - A
4	8	SG	6	111.5	15.1	126.8	110.2	98.8	1 - A
	8"	SG	5	121.0	15.3	137.7	119.4	98.7	1 - A

TEST LOCATION

1	See Attached Drawing
2	See Attached Drawing
3	See Attached Drawing
4	See Attached Drawing
5	See Attached Drawing

NOTES TESTS PERFORMED PER ASTM D2922 96 & ASTM D3017 96 COMMENTS 1 FILL MATERIAL A TEST RESULTS COMPLY WITH SPECIFICATIONS
DENSITIES SHOWN Lbs per cubic foot 2 BACKFILL B PERCENT COMPACTION DOES NOT COMPLY
WATER CONTENT Percent of dry weight 3 BASE COURSE WITH SPECIFICATIONS
PERCENT COMPACTION Based on maximum dry 4 SUBBASE C RETEST OF PREVIOUS TEST
density obtained on sample indicated by 5 SOIL CEMENT D MOISTURE IN EXCESS OF SPECIFICATIONS
soil ID number 6 OTHER E MOISTURE BELOW SPECIFICATIONS

* (6) ASTM D-698 Standard Proctor (5) ASTM D-698 Standard Proctor

TEST INSTRUMENT Troxler
REMARKS SG = Subgrade

STANDARD COUNT M D
ADJUSTMENT DATA M D

TECHNICIAN D Frick

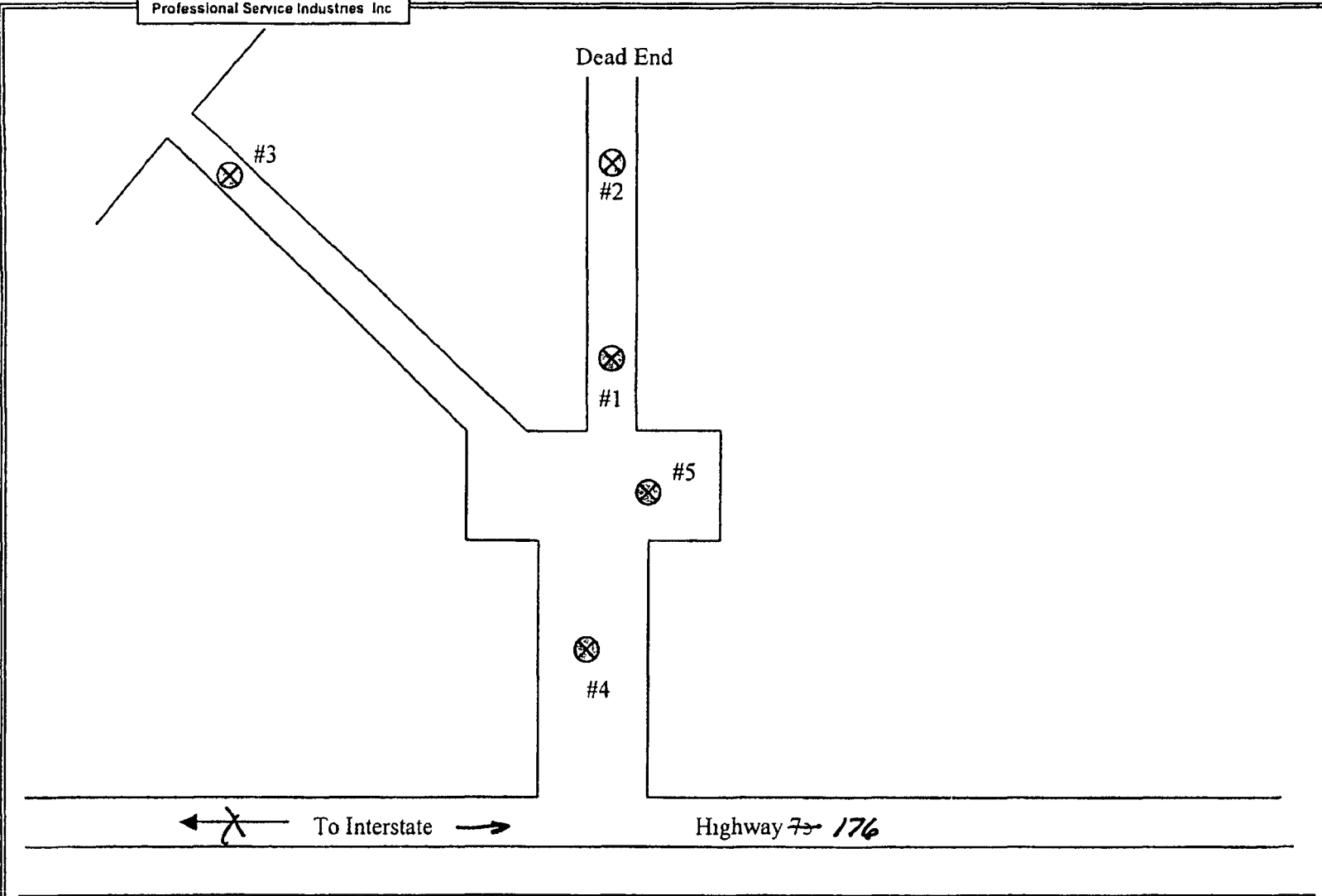
Respectfully submitted
Professional Service Industries, Inc



Tim S Ray P E
Senior Engineer

THESE TEST RESULTS APPLY ONLY TO THE SPECIFIC LOCATIONS NOTED AND MAY NOT REPRESENT ANY OTHER LOCATION OR ELEVATIONS
REPORTS MAY NOT BE REPRODUCED EXCEPT IN FULL, WITHOUT WRITTEN PERMISSION BY PROFESSIONAL SERVICE INDUSTRIES INC

0001921

	
PROJECT NAME	
COUNTY ROAD AT Rolling Creek	
Field Density Test Locations	
PROJECT NO	DATE
451-20007-9	May 10, 2002

Professional Service Industries, Inc
1191-A Atlas Road
Columbia, South Carolina 29209
Telephone (803) 776-6050
Fax (803) 776-4682



FAX TRANSMITTAL SHEET

To: Darlene	From: Jennifer
Fax: 803-775-1040	Date: 5/24/02
Phone:	Pages: 4 (Including Cover Sheet)
Re:	CC:

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply

Comments

I am faxing this report to the Engineer with Letts Assoc. and Billy Milton



REPORT OF FIELD COMPACTION TESTS

TESTED FOR NEWMAN CONSTRUCTION COMPANY PROJECT ROLLING CREEK
500 MYRTLE BEACH HIGHWAY
SUMMER SC 29150

DATE May 2, 2002 OUR REPORT NO 451 20007-11 PAGE 2 OF 2

TEST DATA (10) Brown Clayey SAND Berm Wall OPT MOIST = 20.5%

TEST NO	TEST DEPTH	ELEVATION	SOIL ID NUMBER	MAXIMUM LAB DRY DENSITY *	WATER CONTENT	W. DENSITY	DENSITY	PERCENT COMPACTION	Spec	COMMENTS
0	8	FSC	10	103.0	21.0	120.4	95.5	96.5	1	95% M1r

TEST LOCATION Berm Wall

6	See Attached Drawing									

NOTES: *TESTS PERFORMED PER ASTM D2922 06 & ASTM D301 98
DENSITY'S SHOWN lbs per cubic foot
WATER CONTENT - Percent of dry weight
PERCENT COMPACTION Based on maximum dry density obtained on sample indicated by soil ID number
* (10) ASTM D-698 Standard Proctor
TEST INSTRUMENT Troxler 3430
REMARKS FSC - Finished Subgrade

COMMENTS: 1. FILL MATERIAL
2. BACKFILL
3. BASE COURSE
4. SUBBASE
5. SOIL CEMENT
6. OTHER

A. TEST RESULTS COMPLY WITH SPECIFICATIONS
B. PERCENT COMPACTION DOES NOT COMPLY WITH SPECIFICATIONS
C. RETEST OF PREVIOUS TEST
D. MOISTURE IN EXCESS OF SPECIFICATIONS
E. MOISTURE IN LOW SPECIFICATIONS

STANDARD COUNT M 664 D 2721
ADJUSTMENT DATA M D

TECHNICIAN Russell Hawkins

Respectfully submitted
Professional Service Industries Inc

[Signature]
Tim S. Ray P.E.
Senior Engineer

THESE TESTS APPLY ONLY TO THE SPECIFIC LOCATION SHOWN AND MAY NOT BE REPRODUCED AT ANY OTHER LOCATION OR FOR OTHER PURPOSES.
REPORTS MAY NOT BE REPRODUCED EXCEPT IN FULL WITHOUT WRITTEN PERMISSION BY PROFESSIONAL SERVICE INDUSTRIES INC

REPORT OF FIELD COMPACTION TESTS

TESTED FOR NEWMAN CONSTRUCTION COMPANY PROJECT ROLLING CREEK
500 MYRTLE BEACH HIGHWAY
SUMTER, SC 29150

DATE May 23, 2002 OUR REPORT NO 451-20007-11 PAGE 1 OF 2

TEST DATA (6) Red and White Sandy CLAY OPT MOIST = 18.0%
(7) Red Clayey SAND OPT MOIST = 13.0%

TEST NO	TEST DEPTH	ELEVATION	SOIL ID NUMBER	MAXIMUM LAB DRY DENSITY *	WATER CONTENT	WET DENSITY	DENSITY	PERCENT COMPACTION	COMMENTS SPEC 95% MIN
1	2'	PSC	6	111.5	12.8	123.2	110.2	98.8	1 - A
2	3'	PSC	7	112.0	15.4	133.7	115.9	98.2	1 - A
3	4'	PSC	6	112.5	17.0	126.9	109.5	97.3	1 - A
4	5'	PSC	6	111.5	17.0	125.9	107.6	96.5	1 - A
5	6'	PSC	6	111.5	18.8	127.5	107.3	96.2	1 - A

TEST LOCATION Berm Wall

1	See Attached Drawing
2	See Attached Drawing
3	See Attached Drawing
4	See Attached Drawing
5	See Attached Drawing

NOTES: TESTS PERFORMED PER ASTM D2922-98 & ASTM D3017-98
DENSITIES SHOWN LBS. per cubic foot
WATER CONTENT - Percent dry weight
PERCENT COMPACTION Based on maximum dry density obtained on sample indicated by soil ID number
* (6) ASTM D-698 Standard Proctor (7) ASTM D-698 Standard Proctor
TEST INSTRUMENT Troyle 3430
REMARKS FSG = Finished Subgrade
STANDARD COM M 664 D 2721
ADJUSTMENT DATA M D

TECHNICIAN Russell Hawkins

Respectfully submitted
Professional Service Industries, Inc

THESE TEST RESULTS APPLY ONLY TO THE SPECIFIC LOCATION NOTED AND MAY NOT REPRESENT ANY OTHER LOCATION OR ELEVATION
REPORTS MAY NOT BE REPRODUCED EXCEPT IN FULL WITHOUT THE PERMISSION OF PROFESSIONAL SERVICE INDUSTRIES, INC.

0001925

P 24

0001925 TO 180,751040

0001925 TO 180,751040

PSI		
Proposed Berm Wall		
#6 #5 #4 #3 #2 #1		
Rolling Creek		
Field Density Test Locations Berm Wall		PROJECT NO 451-20007-11
		DATE May 21, 2002

** TOTAL PAGE 04 **



RC22

INSPECTION DIARY

Project Rolling Creek Countywide

Project No _____ Engineer _____

Date 5/28/07 Contractor Hurnan

Inspector S. Smith

Weather Conditions Fair - hot

Inspector's Observations Contractor fine grading
subgrade. Grading should be to obtain
proper slope & elevation

Communication with Contractor general

Receipt Acknowledged [Signature]

PLAINTIFF'S
EXHIBIT

tabbies

90



ENGINEER'S INSPECTION

SUBGRADE



On Boyd Branch Crossing In Countywide at Rally Creek Rd
From Hwy 176 To end of Road
Engineer _____ Contractor Thurman

Inspection

Re-inspection

Re-inspection

Date 5/3/02Date / / Date / /

THE SUBGRADE FOR THE ABOVE REFERENCED STREET WAS INSPECTED AND THE
FOLLOWING REQUIREMENTS ARE NOTED

Item	Location	Completed (Initial)
Proofroll finished grade	throughout	<u>SH</u>
Confirm compaction <u>by lab</u>	throughout	<u>SH</u>
<u>full depth asphalt</u>		

Correct other deficiencies as discovered

THE ABOVE REQUIREMENTS MUST BE COMPLETED PRIOR TO PLACEMENT OF
BASE MATERIAL

County Engineer _____ Date / /

Project Engineer _____ Date / /

THIS SUBGRADE IS APPROVED FOR PLACEMENT OF asphalt ~~BASE~~ MATERIAL

Steven L. Smith 5/3/02
County Engineer Date

Thurman 5/3/02
Project Engineer Date
Contractor



ENGINEER'S INSPECTION

SUBGRADE



On Boxed Branch Crossing In County road at Rally Creek SID
From Hwy 176 To End of Phase
Engineer _____ Contractor Neuman

Inspection _____ Re-inspection _____ Re-inspection _____
Date 6/4/02 Date 1/1 Date 1/1

THE SUBGRADE FOR THE ABOVE REFERENCED STREET WAS INSPECTED AND THE FOLLOWING REQUIREMENTS ARE NOTED

Item	Location	Completed (Initial)
Proofroll finished grade	throughout	<u>SH</u>
Confirm compaction <u>dry ball</u>	throughout -	<u>SH</u>
<u>full depth asphalt</u>		

Correct other deficiencies as discovered

THE ABOVE REQUIREMENTS MUST BE COMPLETED PRIOR TO PLACEMENT OF BASE MATERIAL

County Engineer _____ Date 1/1 Project Engineer _____ Date 1/1

THIS SUBGRADE IS APPROVED FOR PLACEMENT OF asphalt BASE MATERIAL

Steven B. Smith 6/4/02 [Signature] 6/4/02
County Engineer Date Project Engineer Date

6-06-02

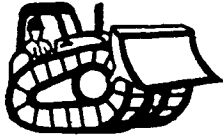
On site in spectation of Court yards
of Rolling creek Verifying shoulders
in acceptable & finished condition.

Newman Const



Bank of Shoulders approved
except 3 areas in Cul-de-Sac
where shoulders are at
12:1 for ONLY 3 feet.





NEWMAN CONSTRUCTION, INC.

500 MYRTLE BEACH HWY • SUMTER SC 29153 5014

August 19 2002

W P Melton
S E L Properties LLC
P O Box 510
Winnsboro S C 29180

Re The Courtyards at Rolling Creek – Phase 1

Dear Mr Melton

We have enclosed is a copy of the letter we received from Richland County regarding their inspection of the roads and storm drainage system for your records

We are still waiting on the information we requested in order to pour the sidewalks Before we can proceed we need to know the distance from the curb height above the curb, slope from side to side, etc

We would appreciate any help you can provide in getting us this information

Sincerely,

NEWMAN CONSTRUCTION, INC

Darlene V Ivey
Comptroller

cc Rick Maxheimer
Steve Lipscomb

PHONE (803) 775-2385 • FAX (803) 775-1040
GRADING • PAVING • UTILITIES



0001930



RICHLAND COUNTY
Department of Public Works
Ballentine Office
1009 Bickley Road
Irmo, South Carolina 29063
Voice (803) 749-9346 Facsimile (803) 749-1620

June 18, 2002

Re Courtyards at Rollingcreek

Dear Mr Newman

On June 11, 2002, I made an inspection at the Courtyards at Rollingcreek. I found the pavement and curb to be in good condition, the catch basins were clean and in good condition, and the shoulders had been scraped and sloped

Today, I made another inspection and found some utility contractors were on the site burying cable and some type of pipe. The shoulders were plowed up, dirt was in some of the catch basin throats and dirt and debris were on the pavement in some areas.

If you have any questions, please contact me at 749-9346

Sincerely,

Stevan L. Amick
Associate Engineer

January 24 2002

Ms Margie Simkins

-- Commercial Real Estate Administrative Officer --
NBSC
Post Office Box 1457
Columbia South Carolina 29202 1457

RE The Courtyards at Rolling Creek Phase I
Request for Payment of Pay Application # 1

Dear Ms Simkins

A site visit and a review of Pay Application # 1 was conducted on January 7 2002 for the above referenced project. All pay items appeared to be inline with the percent of work completed at the time of the site visit. However there is one pay item Blasted Rock that exceeds the original contract amount of \$50 00. It is my understanding that there is contingency money in the contract for such items. During the review of the site it was apparent that there will be a considerable amount of funds needed for rock removal due to the excavation needed for the installation of underground waterlines sewer lines and storm drainage system proposed for the project. At this time it is unclear what percentage of dollars would be involved for Blasted Rock or Ripped Rock but a more accurate estimate of the percent complete of the project can be determined as the project progresses.

As you are aware Pay Application #1 was resubmitted several times due to numerous corrections needed in order to process. The Engineer of Record Letts Associates Inc is responsible for accurately verifying all quantities for the contract and after speaking with Mr Rick Maxheimer with Letts Associates Inc he informed me that a change in the Blasted Rock quantity was needed after his personnel had verified these quantities for Pay Application #1. The contractor Newman Construction Inc submitted their quantity of Blasted Rock at 662 77 C Y but the actual quantity should have been 574 67 C Y according to Letts Associates Inc. Pay Application #1 was resubmitted with all the corrections prior to this verification when Letts Associates asked the contractor to correct this item the contractor explained to Letts Associates that they could not revise Pay Application #1 again for an accounting reason. It was determined after speaking to you that this pay application could be processed as long as the difference (88 10 C Y) would be deducted from the Blasted Rock quantity in Pay Application #2.

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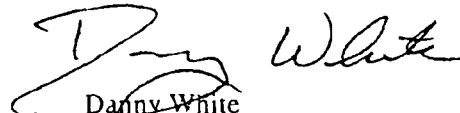
Ms Margie Simkins
NBSC
January 24 2002
Page 2

After speaking with Mr Maxheimer regarding the format of future pay applications for processing by NBSC I do not anticipate a lengthy review process Enclosed you will find a couple of pictures of the project site and a copy of Pay Application # 1 that was reviewed

If you should have any questions or comments please do not hesitate to contact me

Sincerely

THE LPA GROUP INCORPORATED



Danny White
Project Representative

Enclosures

cc Fred Kichlighter - LPA/Cola
CR075003 1d

R \Administration\private\NBSC\The Courtvards\Letters\Simkins1 24 02 doc

0001933



THE LPA GROUP INCORPORATED
Transportation Consultants

SEL

700 HUGER STREET ■ PO BOX 5805 ■ COLUMBIA SC 29250 ■ 803 254 2211 ■ FAX 803 779 8749

March 18 2002

Ms Margie Simkins
Commercial Real Estate Administrative Officer
NBSC
Post Office Box 1457
Columbia South Carolina 29202-1457

RE The Courtyards at Rolling Creek Phase I
Request for Payment of Pay Application # 3

Dear Ms Simkins

A site visit and a review of Pay Application # 3 was conducted on March 4 2002 with Mr Chad Baltzinger of Letts Associates Inc for the above referenced project After corrections to Pay Application # 3 were made and resubmitted all items appeared to be inline with the percent of work completed at the time of payment request The issue of Blasted Rock / Ripped Rock is still unclear at this time Although most of the excavation work has been completed there are still some water and sewer facilities to be constructed that will necessitate the additional removal of rock After speaking to Mr David Lovelady with Newman Construction Inc on site he anticipated the construction was on schedule at this time

Please note that Change Orders # 4-8 include additions as well as some reductions to the contract for this pay application To date the contract amount has increased from \$799 011 10 to the current amount of \$896,902 80 This is an overall increase to the original contract amount of \$ 97 891 70

Based on the site visit and Letts Associates Inc accurately verifying the contract quantities THE LPA GROUP INCORPORATED recommends payment of \$171,696 25 to the Contractor Please find enclosed copies of reviewed Pay Application # 3 and project photographs taken during our site visit



R:\Administration\private\NBSC\The Courtyards\Letters\Simkins3 18 02 doc

ATLANTA ■ BATON ROUGE ■ CHARLESTON ■ CHARLOTTE ■ CHICAGO ■ COLUMBIA ■ GREENSBORO ■ GULFPORT ■ INNOVILE
MOBILE ■ ORLANDO ■ RALEIGH ■ RICHMOND ■ SARASOTA ■ TALLAHASSEE ■ TAMPA ■ VERTAL E-C-

0001934

Ms Margie Simkins
NBSC
March 18 2002
Page 2 of 2

If you should have any questions or comments please do not hesitate to contact me

Sincerely

THE LPA GROUP INCORPORATED



Danny White
Project Representative

Enclosures

cc Fred Kucklighter – LPA/Cola
CR075003 1d

R:\Administration\private\NBSC\The Courtyards\Letters\Simkins3 18 02.doc

0001935

March 27 2002

Ms Margie Simkins
Commercial Real Estate Administrative Officer
NBSC
Post Office Box 1457
Columbia South Carolina 29202-1457

RE The Courtyards at Rolling Creek Phase I
Request for Payment of Pay Application # 4

Dear Ms Simkins



A review of Pay Application # 4 was completed on March 22 2002 for the above referenced project. As you are aware a site visit was conducted on March 4 2002 as mentioned in my letter to you dated March 18 2002. Since this current request for payment of Pay Application # 4 is through the end of the month of February a site visit was not necessary for this request. After reviewing Pay Application # 4 and speaking by telephone to Mr. Rick Maxheimer of Letts Associates Inc. all items appear to be in line with the percent of work completed at the time of payment request. This makes the project approximately 60 percent complete to date. This request for payment includes Change Orders # 9-12 that are all additions to the original contract amount. Please note that Mr. Maxheimer informed me that some of the changes to the contract specifically Change Order # 11 were at the request of the Owner (SFI Properties LLC). Also some changes were necessary due to a change in County requirements for construction procedures for installation of utility lines under roadways specifically Change Order # 10. Blasted Rock / Ripped Rock removal necessary for excavation is still not entirely complete but should begin to reduce in severity at this time.

Please note that Change Orders # 11 12 include requests for an additional 20 days (combined) be added to the contract time. With this current request for payment the contract amount has increased by \$157 774.35 to bring the current contract amount to \$956 785.15.

Based on the site visit and Letts Associates Inc. accurately verifying the contract quantities THE LPA GROUP INCORPORATED recommends payment of \$162,853.56 to the Contractor. Please find enclosed copies of reviewed Pay Application # 4 and project photographs also included with my letter to you on March 18 taken during our site visit.

R:\Administration\private\NBSC\The Courtyards\Letters\Simkins> 2 / 02 doc

Ms Margie Simkins
NBSC
March 27 2002
Page 2 of 2

If you should have any questions or comments please do not hesitate to contact me

Sincerely

THE LPA GROUP INCORPORATED



Daphny White
Project Representative

Enclosures

cc Fred Kicklighter - LPA/Col
CR075003 Id

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0001937

June 21 2002

Ms Margie Simkins
Commercial Real Estate Administrative Officer
NBSC
Post Office Box 1457
Columbia South Carolina 29202-1457

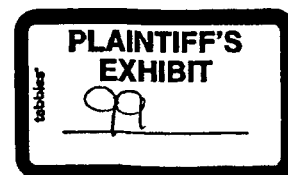
RE The Courtvards at Rolling Creek Phase I
Request for Payment of Pay Application # 6

Dear Ms Simkins

A site visit and a review of Pay Application # 6 was conducted on June 11 2002 for the above referenced project All items appeared to be inline with the percent of work completed approximately 76% at time of payment request The majority of the excavation work appears to be complete All drainage systems appear to be in place and the sub layer asphalt course has been placed with only the Surface Course of asphalt still remaining to be done

Please note that Change Orders #14 and #15 include additions to the contract for this pay application To date the contract amount has increased from \$799 011 10 to the current amount of \$982 266 75 This is an overall increase to the original contract amount of \$183 255 65

Based on the site visit and Letts Associates Inc accurately verifying the contract quantities THE LPA GROUP INCORPORATED recommends payment of \$27,966 29 to the Contractor Please find enclosed copies of reviewed Pay Application #6 and project photographs taken during my site visit



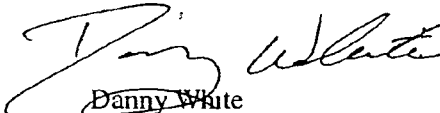
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Ms Margie Simkins
NBSC
June 21 2002
Page 2 of 2

If you should have any questions or comments please do not hesitate to contact me

Sincerely

THE LPA GROUP INCORPORATED



Danny White
Project Representative

Enclosures

cc CR075003 1d

R:\Administration\private\NBSC\The Courtvards\Letters\Simkins6 21 02.doc

0001939

From Margie Simkins
To Ronnie Colson
Date 3/11/02 2 19PM
Subject SEL Properties

Hi Ronnie

This is your monthly update on SEL. We funded the 3rd draw request today in the amount of \$171 696 25. I have the 4th draw from the contractor but it has not gone through proper channels yet. However, I wanted to bring to your attention that the 4th draw shows \$59 882 in NEW change orders bringing the total change order amount to \$157 775. The contract sum is now \$956 785.

\$117 000 in change orders is for blasted/ripped rock. The other change orders are for various items. The change orders extend the project completion time by 38 days as of this draw.

Also, this is the last month that the borrower pays interest. We will begin using the interest reserve category to pay the April 1, 2002 invoice.

Finally, if we pay draw #4 as requested, the balance to finish in the budget will be \$140 651 (less whatever the project inspectors bill is for March). At this pace, after the 5th draw, Mr. Lipscomb will need begin paying the remaining draw requests.

Let me know if you have any questions. Thanks, Margie

Wade, do I need to hold funds to pay the project inspector?

CC Wade King



CONSTRUCTION DRAW CHECKLIST

LOAN NAME <u>SEL</u>		FUNDED TO CUSTOMER <u>\$24,000</u>	
DRAW REQUEST # <u>7</u>		FUNDED TO PAY INTEREST <u>8175</u> from <u>h.m.</u>	
DATE RECEIVED <u>7/10/02</u>		TOTAL FUNDED <u>\$24,000</u> <u>act</u>	
L N AMOUNT <u>\$2,001,375</u>		DATE FUNDED <u>7/25/02</u>	
DATE	DRAW ITEMS	DATE	POST CLOSING ITEMS
<u>7/10</u>	Fax AIA to Project inspector with last month's spread		Foundation Survey
☒	Title endorsement received from last month?		
<u>7/24</u>	Order Title Update		
☐	Any exceptions needed before funding?		
☐	AIA **Are the remaining funds in NBSC's construction/site work budgets sufficient to pay the AIA balances?		
☒	**Signature of General Contractor		
☒	**Signature of Architect		
	**Lien Waivers?		
<u>590</u>	**Retainage %		
☒	**Change Orders <u>#16</u> <u>\$750⁰⁰</u>		
	**Copy of Change Order(s)		
	**Payment & Performance Bond(s)		
	(Get it change accordingly)		
☒	Is insurance in place?		
	General Liability <u>10-1-02</u>		
	Builder's Risk		
	Property		
	Flood		
<u>8/15</u>	Interest paid current or being advanced?		
<u>7/22</u>	Received project inspection approval?		
<u>7/25</u>	Title Update received?		
☒	Check 226 screen for sufficient funds and expiration		
	of commitment		
☒	Proper Loan Officer approval (signed ticket)		
☒	Upload advance		
☒	Inform Customer of loan being funded		
☒	Update draw spread		

Sent
to m. m.
7/10/02

No more
funding - or
more - 10/1/02

1-1-02
2-1-02
3-1-02
4-1-02
5-1-02
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8-1-02
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12-1-02

As

Pen

Final

Certificat

Final Title

Post Const

PLAINTIFF'S EXHIBIT

ADDITIONAL COMMENTS

* Total draw request on AIA #8021658
advanced from loan 24,000
taken from money... IT 30,650
NO more advances from loan for AIA pmts.
- contact Ronnie / customer
1) Ronnie stated that NBSG lot releases will be 80% of
gross proceeds but never less than \$31,600

PLAINTIFF'S
EXHIBIT
102

Memo

NBSC

Date 1/29/02
To File
From Margie Simkins *ms*
Subject SEL Properties
te # 004

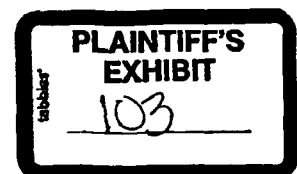
I am in receipt of the first project inspection report from Danny White of the LPA Group dated January 24 2002 Danny reports the following

- 1 All pay items appear to be in line with the percentage of work completed at the time of his site visit however the pay item for blasted rock exceeds the contract amount and Danny reports that it was apparent that there will be considerable amount of funds needed for rock removal due to the excavation needed for the installation of the underground water sewer and storm drainage systems Danny reports that a more accurate estimate for the percentage of dollars needed to complete the ripped rock could be determined as the project progresses
- 2 Danny reports that the blasted rock change order was changed by Rex Maxheimer with Letts Associates Inc and reduced from the original amount of 662 77 cubic yards to 574 64 cubic yards For accounting reasons, this revision cannot be shown until AIA #2 Therefore Danny approves payment of the current AIA in the amount of \$68,657 97 providing the 88 01 cubic yards is deducted from the blasted rock quantity on pay application #2

To Document the File

MJS/mm

cc Wade King



Memo

NBSC

Date 3/26/02
To File
From Margie Simkins *mjs*
Subject SEL Properties
Note # 004

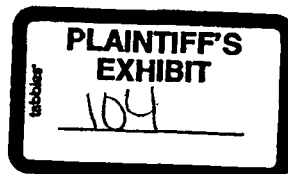
I am in receipt of the 3rd site visit report from our project inspector Danny White of The LPA Group. Danny reports the following:

- 1 Danny visited the site on March 4, 2002 and after making corrections to pay application #3 he reports that all items appear to be in line with the percentage of work completed at the time of the payment request.
- 2 Danny notes that the blasted rock / ripped rock is still unclear at this time. He states that although most of the excavation work has been completed, there are still some water and sewer facilities to be constructed that may necessitate additional removal.
- 3 Danny states that Mr. David Lovelady with Newman Construction, Inc. stated that the construction was on schedule at this time.
- 4 Relative to change orders #4-8, Danny reports that these change orders increase the contract to \$896,902.80 an overall increase to the original contract of \$97,891.70.
- 5 Danny approves payment to the contractor in the amount of \$171,696.25.

To Document the File

MJS/mmm

cc Wade King



0001943

Margie Simkins - SEL

Page 1

From Margie Simkins
To Ronnie Colson
Date 6/6/02 4 02PM
Subject SEL

I have the current draw and am working on getting it funded. The amount requested is \$27,966.29. We have used all the funds budgeted for construction and have begun using rock contingency.

In order to fund this draw from the loan funds, I need to use the rest of the rock contingency and begin using landscaping.

This will leave a loan balance of \$27,740.24 (before we pay the project inspection bill associated with this draw request). The balance to fund on the AIA after funding this draw is \$271,826.69.

So, there is a good possibility that beginning next month, we will need to determine and clarify another source of funds to cover the remaining AIA balance of \$244,086. Please think about this and let me know where you want to get the funds from.

Also, our title policy is for \$2,001,375. The loan has been increased so far by \$183,255 in change orders. I'll check with Wade to see if we need to get the title policy increased.

CC Wade King



0001944

From Ronnie Colson
To Margie Simkins
Date 7/18/02 5 22PM
Subject Re SEL

We just keep missing each other. Let's get together Monday because I will be out tomorrow. Thanks

>>> Margie Simkins 07/18/02 09:00AM >>>

I have received approval from the project inspector so now I just need to talk to you about the budget and where to get funds to finish the AIA. I'm also waiting on a signed change order to be returned to me before funding this draw.

Will you please call me or stop by so we can talk about this loan? Thanks. We also need to discuss lot release prices while we're at it.

AND CONGRATULATIONS on winning the trip! Bet you'll have a great time!!

Margie



Memo

NBSC

Date 8/16/02
To File
From Margie Simkins
Subject SEL Properties
Loan # 04553982750 Note # 004

I am in receipt of the latest project inspection report from Danny White dated August 14, 2002. This report is based on Pay Application #8 and his review was conducted August 9, 2002. Danny reports the following:

- 1 All items appear to be in line with the percentage of work completed at approximately 93% at the time of the payment request.
- 2 Danny reports the surface course of asphalt still has not been completed.
- 3 Danny further reports that some of the pay items requested for payment on this application are for 100% billing of partial payment items from previous pay applications.
- 4 Danny states that change order #17 is an increase to the original contract, which changes the type of base material used for the roadway portion of the project. He has sent a letter from Letts Associates describing this work. The current pay application is requesting 24.22% payment of this change order.
- 5 Danny reports that the contract amount has increased from \$799,011.10 to the current amount of \$1,025,924.15. This is an overall increase to the original contract amount of \$226,913.05.
- 6 Danny approves payment of the current AIA in the amount of \$124,176.78.
- 7 It needs to be determined whether this should be the last project inspection that Danny makes to this site or whether one more inspection will be needed.

To Document the File

MJS/mm

cc Wade King



From Margie Simkins
To Ronnie Colson
Subject SEL

I just received the latest project inspection report from LPA and the project is moving along nicely. Looks like they will be ready to start selling lots soon! I've been thinking about lot releases on this loan and want to get prepared for when they call and want to begin selling lots. In this regard, I looked at the loan docs to see what procedure we have set up for the releases.

The mortgage states: Mortgage shall release each lot upon the receipt of an amount equal to 80% of the gross proceeds from each lot sale but such release amount shall not be less than \$ _____ for each lot.

The amount is BLANK. Your write up uses 57 lots at \$39,900 less the 80% release percentage which would make the amount \$31,200 if my calculations are correct. Do you want to use that amount (\$31,200) to fill in the blank on the mortgage?

According to your write up: "at this projection it would take 29 months to pay off the development loan of \$2,100M less the \$200M CD"

If this is too confusing, please call me so we can determine the lot release price.

7/23/82

31,600

per
Ronnie
Colson
31,600

appraisal states
\$40,000/l





November 12 2004

Mr Stephen E Lipscomb
SEL Properties, L L C
1105 Pulaski Street
Columbia, SC 29201

Dear Mr Lipscomb

The National Bank of South Carolina (Lender) is pleased to commit and extend to SEL Properties L L C (Borrower) the following credit facility (the Loan)

- 1 Borrower SEL Properties L L C
1,816,852 *222* *[Signature]*
- 2 Amount Up to ~~\$1,695,555.00~~ (but no greater than 80% of the appraised value of the property and residual property) for a Real Estate Development Line of Credit
- 3 Purpose To provide funds for the development of lots for The Courtvaras at Rolling Creek, Phase II
- 4 Pricing NBSC Prime floating plus 1% *[Signature]*
- 5 Terms Interest monthly only for ~~one~~ ^{1.25} year with a final payment of all sums due on the first anniversary of the note date The loan amount includes an interest reserve of \$50 000 00 however
- 6 Release Payments The Borrower shall pay to Lender a release payment to be applied to the outstanding principal balance of the Loan in an amount equal to the 80% of the gross proceeds of the lot sale
- 7 Collateral (i) Title insured first real estate mortgage on the remaining undeveloped 52 acres located on the Northeast side of U S Highway 176 near Irmo South Carolina and approximately 35 acres (and all improvements thereto) of Phase II of the Courtyards at Rolling Creek (estimated to be 71 lots) and (ii) and the cross collateralization of NBSC Certificate of Deposit Number 4553982733 in the amount of \$232 000 00
- 8 Guaranties Unconditional joint and several guaranty of Stephen E Lipscomb
- 9 Pre Payment Penalty None

Post Office Box 1457 / Columbia South Carolina 29202 1457 / (803) 929 2145

www.NationalBankSC.com

A PROVIDER OF SYNOVUS FINANCIAL SERVICES



0001948

Mr Stephen E Lipscomb
November 12 2004
Page 2

10 Commitment Fee 1% of new funds advanced and shall be fully earned and due and payable to NBSC upon closing of this Loan

11 Approval of Loan Documents All the loan documents and other requirements for the consummation of the Loan must be acceptable to NBSC in form and substance The loan documents will be NBSC's standard documents and will include material obligations and requirements of the Borrowers in addition to, but not inconsistent with, the terms of this commitment

12 Appraisal The Commitment is subject to receipt and approval of an acceptable appraisal, which appraisal shall be conducted by an appraiser satisfactory to Lender

13 Costs and Expenses All costs incurred by Lender in making the Loan available to the Borrower shall be paid by Borrower regardless of whether the Loan closes unless failure to close is the fault of Lender The law firm of Ellis, Lawhorne & Sims, P A, Columbia, South Carolina, will represent Lender in this transaction and reasonable fees will be determined on the basis of time and efforts expended in connection with the Loan Ellis, Lawhorne & Sims P A will not represent the Borrower in any capacity in connection with the Loan except as specifically set forth in writing and as approved by Lender

14 Conditions This Commitment shall be contingent upon review by Lender and Lender's counsel of all contracts between Borrower and developers for the development of The Courtyards at Rolling Creek

15 Authority Borrower shall provide Lender with corporate and company documents resolutions and such other information, certificates and affidavits as Lender may require evidencing the parties' authority and capacity to consummate the transactions contemplated herein Borrower shall also provide Lender an opinion letter prepared by Borrower's counsel in a form acceptable to Lender and Lender's counsel

16 Administration The loan will be administered by the NBSC Real Estate Department The development will be monitored by periodic inspections by an engineer chosen by NBSC Any costs and expenses associated with the inspections shall be the responsibility of the Borrower

17 Survival To the extent not otherwise provided by the loan documents the terms and conditions of this commitment letter shall survive the closing of the Loan

18 Time Limitations The Loan shall be closed as soon as all the requirements and conditions of the commitment have been met provided however this commitment will expire unless accepted by November 19 2004 and closed by December 31 2004

19 South Carolina Law This Commitment and the rights and obligations of the

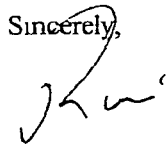
Mr Stephen E Lipscomb
November 12 2004
Page 3

parties hereunder and any other instruments or documents issued hereunder shall be construed and interpreted in accordance with the laws of the State of South Carolina and shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto

The undersigned acknowledge that Borrower, Guarantors and any other party liable for the Loan will be required to execute a waiver of appraisal rights at closing, containing the following or similar language. The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within thirty (30) days after the sale of the mortgage property apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction. THE UNDERSIGNED HEREBY WAIVES AND RELINQUISHES THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE MORTGAGED PROPERTY.

I hope you find this commitment on this financing package acceptable and of benefit to your Company. We are excited about the opportunity to provide this credit facility. To accept our commitment, please signify by signing below.

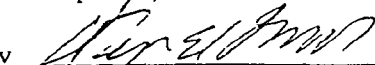
Sincerely,



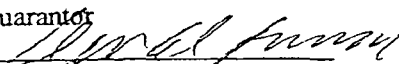
Ronnie Colson
Senior Vice President

WE HEREBY ACCEPT THIS COMMITMENT THIS 15 DAY OF NOVEMBER 2004 AND AGREE TO CLOSE THE LOAN IN ACCORDANCE WITH THE ABOVE TERMS

SEL Properties, L L C

Bv 
Its roye

Guarantor


Stephen E Lipscomb

AIA[®] Document A101[™] – 1997

Standard Form of Agreement Between Owner and Contractor where the basis of payment is a STIPULATED SUM

AGREEMENT made as of the
in the year of 2005
(In words indicate day month and year)

day of Feb 4

BETWEEN the Owner:

(Name address and other information)

Steve L. PSCOMB
Rolling Creek Subdivision

and the Contractor

(Name address and other information)

CGD Developer's Inc
P O Box 343
GAFFNEY SC 29342

This document has important
legal consequences

Consultation with an attorney
is encouraged with respect to
its completion or modification

AIA Document A201 1997
General Conditions of the
Contract for Construction is
adopted in this document by
reference. Do not use with other
general conditions unless this
document is modified.

This document has been
approved and endorsed by The
Associated General Contractors
of America.

The Project is Courtyards @ Rolling Creek
(Name and location)

The Architect is

(Name address and other information)

The Owner and Contractor agree as follows



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ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General Supplementary and other Conditions) Drawings Specifications Addenda issued prior to execution of this Agreement other documents listed in this Agreement and Modifications issued after execution of this Agreement these form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations representations or agreements either written or oral An enumeration of the Contract Documents other than Modifications appears in Article 8

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents except to the extent specifically indicated in the Contract Documents to be the responsibility of others

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner

(Insert the date of commencement if it differs from the date of this Agreement or if applicable state that the date will be fixed in a notice to proceed)

If prior to the commencement of the Work the Owner requires time to file mortgages mechanic's liens and other security interests the Owner's time requirement shall be as follows

§ 3.2 The Contract Time shall be measured from the date of commencement

§ 3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than *june 30th* days *2006* from the date of commencement, or as follows

(Insert number of calendar days Alternatively a calendar date may be used when coordinated with the date of commencement Unless stated elsewhere in the Contract Documents insert any requirements for earlier Substantial Completion of certain portions of the Work.)

subject to adjustments of this Contract Time as provided in the Contract Documents

(Insert provisions if any for liquidated damages relating to failure to complete on time or for bonus payments for early completion of the Work.)

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract The Contract Sum shall be _____ Dollars

(\$ *1,323,845.56*) subject to additions and deductions as provided in the Contract Documents

§ 4.2 The Contract Sum is based upon the following alternates, if any which are described in the Contract Documents and are hereby accepted by the Owner

(State the numbers or other identification of accepted alternates. If decisions on other alternates are to be made by the Owner subsequent to the execution of this Agreement attach a schedule of such other alternates showing the amount for each and the date when that amount expires)

§ 4.3 Unit prices if any are as follows *See Attached Sheets*

ARTICLE 5 PAYMENTS

§ 5.1 PROGRESS PAYMENTS

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month or as follows

10% shall be withheld at each down payment until last complete

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the *25th* day of a month the Owner shall make payment to the Contractor not later than the *10th* day of the *Following* month. If an Application for Payment is received by the Architect after the application date fixed above payment shall be made by the Owner not later than () days after the Architect receives the Application for Payment

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment

§ 5.1.5 Applications for Payment shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment

§ 5 1 6 Subject to other provisions of the Contract Documents the amount of each progress payment shall be computed as follows

- 1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values less retainage of percent (10 %) Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7 3 8 of AIA Document A201 1997 *see 5 / 2*
- 2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or if approved in advance by the Owner suitably stored off the site at a location agreed upon in writing) less retainage of percent (50 %)
- 3 Subtract the aggregate of previous payments made by the Owner and
- 4 Subtract amounts if any for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9 5 of AIA Document A201 1997

§ 5 1 7 The progress payment amount determined in accordance with Section 5 1 6 shall be further modified under the following circumstances

- 1 Add upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Architect shall determine for incomplete Work retainage applicable to such work and unsettled claims and *(Section 9 8 5 of AIA Document A201 1997 requires release of applicable retainage upon Substantial Completion of Work with consent of surety if any)*
- 2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor any additional amounts payable in accordance with Section 9 10 3 of AIA Document A201 1997

§ 5 1 8 Reduction or limitation of retainage if any shall be as follows

(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections 5 1 6 1 and 5 1 6 2 above and this is not explained elsewhere in the Contract Documents insert here provisions for such reduction or limitation)

§ 5 1 9 Except with the Owner's prior approval the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site

§ 5 2 FINAL PAYMENT

§ 5 2 1 Final payment constituting the entire unpaid balance of the Contract Sum shall be made by the Owner to the Contractor when

- 1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Section 12 2 2 of AIA Document A201 1997 and to satisfy other requirements if any which extend beyond final payment and
- 2 a final Certificate for Payment has been issued by the Architect

§ 5 2 2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment or as follows

ARTICLE 6 TERMINATION OR SUSPENSION

§ 6.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201 1997

§ 6.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201 1997

ARTICLE 7 MISCELLANEOUS PROVISIONS

§ 7.1 Where reference is made in this Agreement to a provision of AIA Document A201 1997 or another Contract Document the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents

§ 7.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below or in the absence thereof at the legal rate prevailing from time to time at the place where the Project is located
(Insert rate of interest agreed upon if any)

(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Contractor's principal places of business the location of the Project and elsewhere may affect the validity of this provision. Legal advice should be obtained with respect to deletions or modifications and also regarding requirements such as written disclosures or waivers)

§ 7.3 The Owner's representative is
(Name address and other information)

Steve Lipscomb

§ 7.4 The Contractor's representative is
(Name address and other information)

Greg Patterson

§ 7.5 Neither the Owner's nor the Contractor's representative shall be changed without ten days written notice to the other party

§ 7.6 Other provisions

ARTICLE 8 ENUMERATION OF CONTRACT DOCUMENTS

§ 8.1 The Contract Documents except for Modifications issued after execution of this Agreement, are enumerated as follows

§ 8.1.1 The Agreement is this executed 1997 edition of the Standard Form of Agreement Between Owner and Contractor AIA Document A101-1997

§ 8.1.2 The General Conditions are the 1997 edition of the General Conditions of the Contract for Construction AIA Document A201-1997

§ 8.1.3 The Supplementary and other Conditions of the Contract are those contained in the Project Manual dated and are as follows

Document	Title	Pages

§ 8.1.4 The Specifications are those contained in the Project Manual dated as in Section 8.1.3 and are as follows
(Either list the Specifications here or refer to an exhibit attached to this Agreement)

Section	Title	Pages

§ 8.1.5 The Drawings are as follows and are dated unless a different date is shown below
(Either list the Drawings here or refer to an exhibit attached to this Agreement)

Number	Title	Date
L-1021	PH II CYRIL	2-12-2003

§ 8.1.6 The Addenda, if any are as follows

Number	Date	Pages

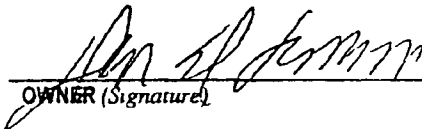
Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 8

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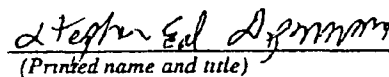
§ 8.1.7 Other documents, if any, forming part of the Contract Documents are as follows:

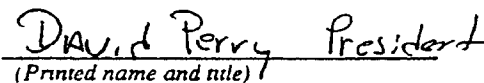
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201-1997 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

This Agreement is entered into as of the day and year first written above and is executed in at least three original copies, of which one is to be delivered to the Contractor, one to the Architect for use in the administration of the Contract, and the remainder to the Owner.


OWNER (Signature)


CONTRACTOR (Signature)


(Printed name and title)


(Printed name and title)

CAUTION: You should sign an original AIA Contract Document, on which this text appears in RED. An original assures that changes will not be obscured.

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DEPARTMENT OF PLANNING & DEVELOPMENT SERVICES

Post Office Box 192 • 2020 Hampton Street • Columbia S C 29202
Zoning & Land Development (803) 576-2180 • Zoning Fax (803) 576 2182

March 1 2007

Palmetto Consulting Engineering Group Inc
P O Box 212327
1343 Garner Lane, Suite 200
Columbia, South Carolina 29221-2327

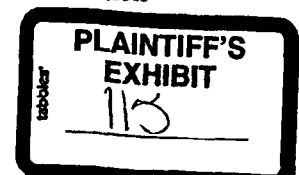
RE – Preliminary Plan for Courtyards at Rolling Creek Subdivision (Phase II/III)
RCF # SD-04-258 / 194 single-family residential lots
TMS # R02600-04-02

Dear Mr Justin Bouknight

In accordance with Section 26-54 of the Land Development Code the above referenced preliminary plat entitled **"The Courtyards at Rolling Creek Phase II/III," located on Broad River Road in Richland County, South Carolina and dated 02/12/03 and revised thru 10/21/04** for the subject project has been **approved**

The following is noted for informational purposes

- (1) All construction documents for proposed fire apparatus access, construction documents and hydraulic calculations for fire hydrant and other water systems shall be submitted to the fire marshal s office for review and approval prior to construction
- (2) No site clearing activity may occur until the Department approves the preliminary plats and issues a Controlled Clearing letter The Department may issue a Controlled Clearing letter for clearing activity within specified road right-of-ways only, **provided** the clearing activity is totally confined to the right-of-way clearly delineated on a survey certified by a licensed Surveyor Contact Sean Busbee at 576-2171 for further information
- (3) The preliminary plans, preliminary plat and bonded/final plat must conform to the County's digital submission requirements Inaccurate digital submissions will delay the review process Contact Brenda Carter at 576-2170 for more information
- (4) All conditions of preliminary plan approval as identified above by the Department must be reviewed and approved prior to submission of bonded/final plats
- (5) Department of Public Works must approve all bond documents for streets /drainage system prior to the department approving for recording any plats
- (6) City of Columbia must approval all waterline easements on the plats prior to recording
- (7) All preliminary, bonded and/or final plats must include the signed tree certification statements Contact Sean Busbee at 576-2171

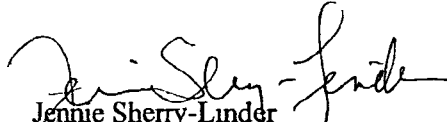


(8) All lots must be numbered consecutively rather than by phase

No building permits or manufactured home setup permits shall be issued until the department receives a copy of the recorded plat

It has been my pleasure to assist you, if you have any further questions or concerns, please call me or Deborah Moore at 576-2178 or deborahmoore@richlandonline.com

Sincerely,


Jennie Sherry-Linder
Land Development Administrator

Ws/jsl

Cc Larry Cooke, Developer
Larry Umberger, Engineer P E
Steve Lipscomb Owner
City of Columbia Engineering, Water Operator
Charles Beam, P E , P H , C F M , County Hydrologist Public Works
Harry Reed, Flood Plain Coordinator
Angela Kennedy, SCDHEC
Sandra Riley, SCDOT





NEWMAN CONSTRUCTION, INC

500 MYRTLE BEACH HWY • SUMTER SOUTH CAROLINA 29153 • (803) 775 2385

CHANGE ORDER REQUEST

*Copy
Phone Pick 11/13/01
He is to make an
inspection on site
PM 11-13-01*

To S E L Properties, LLC
c/o Realty Associates
P O Box 510
Winnsboro, S C 29180

Fax (803) 635-5515

Attn W P Melton

Date November 12, 2001

Change Order Request # 1

Contract Date October 26, 2001

Contract For The Courtyards at Rolling
Creek - Phase 1

FOR Blasting rock for off site sanitary sewer line at \$50.00 per CY According to plan
sheet 11 of 15 picked up from the engineer's office quantity of rock was estimated by others to
be approximately 539 CY

This work will require an additional 5 calendar days to achieve substantial completion

Owner
S E L Properties LLC
P O Box 510
Winnsboro S C 29180

Signature

Print Name and Title

Date

Contractor
Newman Construction, Inc
500 Myrtle Beach Hwy
Sumter S C 29153-5014

Signature

DARLENE V IVEY Controller

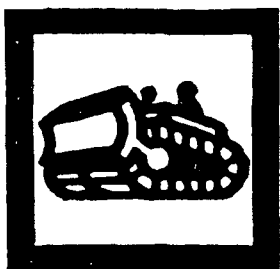
11/12/01
Date

Engineer
Letts Associates Inc
P O Box 212327
Columbia S C 29221-2327

Signature

Print Name and Title

Date



NEWMAN CONSTRUCTION, INC

500 MYRTLE BEACH HWY • SUMTER SOUTH CAROLINA 29153 • (803) 775 2385

CHANGE ORDER REQUEST

To S E L Properties, LLC
c/o Realty Associates
P O Box 510
Winnsboro S C 29180

Fax (803) 635-5515

Attn W P Melton

Date November 12 2001

Change Order Request # 1

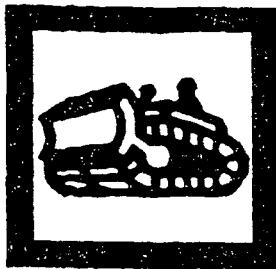
Contract Date October 26 2001

Contract For The Courtyards at Rolling
Creek - Phase 1

FOR Blasting rock for off site sanitary sewer line at \$50 00 per CY According to plan sheet 11 of 15 picked up from the engineer's office quantity of rock was estimated by others to be approximately 539 CY

This work will require an additional 5 calendar days to achieve substantial completion

Owner	Contractor	Engineer
S E L Properties LLC	Newman Construction Inc	Letts Associates, Inc
P O Box 510	500 Myrtle Beach Hwy	P O Box 212327
Winnsboro S C 29180	Sumter S C 29153-5014	Columbia S C 29221-2327
<u>W P Melton</u>	<u>Darlene V Ivey</u>	_____ Signature
Signature	Signature	_____ Print Name and Title
<u>W P Melton, Developer</u>	<u>DARLENE V IVEY, Controller</u>	_____ Date
Print Name and Title	Print Name and Title	
<u>11-14-01</u>	<u>11/12/01</u>	
Date	Date	



NEWMAN CONSTRUCTION INC

500 MYRTLE BEACH HWY SUMTER SOUTH CAROLINA 29153 • (803) 775 2385

CHANGE ORDER

To S E L Properties LLC
P O Box 510
Winnsboro S C 29180

Attn W P Melton

Change Order No 1
Date November 30 2001

Contract Date October 26 2001
Contract For The Courtyards at
Rolling Creek - Phase 1

We request a change order for blasting rock for the off site sewer line as shown on the attached rock excavation sheet

1	Blasted rock	662 77 CY @	50 00 =	<u>33 138 50</u>
Total Change Order				<u><u>\$33 138 50</u></u>

This work will require an additional 5 calendar days to achieve substantial completion

The original contract sum was	799011 10
Net change by previous change orders	0 00
The contract sum prior to this change order	799011 10
The contract sum will be (increased)(decreased)(unchanged) by this change order in the amount of	33138 50
The new contract sum including this change order	832149 60

Owner
S E L Properties LLC
P O Box 510
Winnsboro S C 29180

Signature

Print Name and Title

Date

Contractor
Newman Construction Inc
500 Myrtle Beach Hwy
Sumter S C 29153-5014

Signature

Print Name and Title

Date

Engineer
Letts Associates Inc
P O Box 212327
Columbia S C 29221-2327

Signature

Print Name and Title

Date

Pinnacle Drilling & Blasting, Inc.



512 Hood Road
Greenville SC 29611
Phone (864) 220-9040
Fax (864) 220-3312

Newman

ROCK EXCAVATION SHEET

PROJECT Rolling Creek

DATE OR BLAST #	STATION	LENGTH	WIDTH	DEPTH	TOTAL
11/16/01	1+75 TO 2+00	25 0	3 0	3 5'	262 50
	2+00 TO 2+50	50 0'	3 0	4 0'	600 00
	2+50 TO 3+00	50 0	3 0	4 0'	600 00
	3+00 TO 3+50	50 0	3 0	4 0'	600 00
	3+50 TO 4+00	50 0'	3 0'	4 0'	600 00
	4+00 TO 4+50	50 0	3 0	4 5'	675 00
	4+50 TO 4+89.5	39 5'	3 0	4 5'	533 25
	M - A-3 4-93	7 5'	—	5 5'	211 55
	4+96.5 TO 5+40	43 5'	3 0	2.5'	326 25
	6+00 TO 6+50	50 0'	3 0'	2 5'	375 00
	6+50 TO 7+00	50 0	3 0	4 0'	600 00
	7+00 TO 7+50	50 0'	3 0	5 0'	750 00
1	7+50 TO 7+89	39 0'	3 0'	6 0'	702 00
	M - A-4 7+92.99	7 5'	—	6 0'	230 75
	7+96 TO 8+50	54 0'	3 0'	5 25'	850 50
	8+50 TO 9+00	50 0'	3 0'	3 5'	525 00
	9+00 TO 9+50	50 0	3 0'	4 0'	600 00
	9+50 TO 10+00	50 0'	3 0'	4.5'	675 00
	10+00 TO 10+50	50 0'	3 0'	5 0'	750 00
	10+50 TO 11+00	50 0	3 0'	5 5'	825 00
	11+00 TO 11-16	16 0	3 0	5 5'	264 00
	M - A-5 11-19.6	7 5'	—	6 5'	250 02
	11+23 TO 11-50	27 0	3 0'	5 0	405 00
	11+50 TO 12+00	50 0	3 0'	4.5'	675 00
	12+00 TO 12+50	50 0	3 0'	5 0'	750 00
	12+50 TO 13-00	50 0'	3 0'	5 5'	825 00
	13-00 TO 13-50	50 0	3 0'	4 5'	675 00
					15,135 86

[Signature]

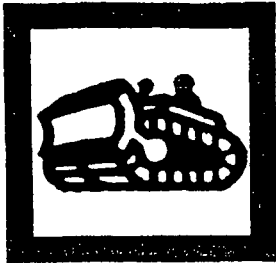
TOTAL CUBIC YARDS THIS SHEET 560 58 00

Newman

PROJECT Rolling Creek

[illegible]

0001965



NEWMAN CONSTRUCTION, INC

500 MYRTLE BEACH HWY • SUMTER SOUTH CAROLINA 29153 • (803) 775 2385

CHANGE ORDER

To S E L Properties, LLC
P O Box 510
Winnsboro S C 29180

Attn W P Melton

Change Order No 2
Date December 31 2001

Contract Date October 26 2001
Contract For The Courtyards at
Rolling Creek - Phase 1

We request a change order for blasting rock for the off site sewer line as shown on the attached rock excavation sheets

1	Blasted rock	336 59 CY @	50 00 =	16 829 50
2	Correction of prior month's blasted rock	(88 10) CY @	50 00 =	-4 405 00
Total Change Order				<u>\$12 424 50</u>

This work will require an additional 5 calendar days to achieve substantial completion

The original contract sum was	799011 10
Net change by previous change orders	33138 50
The contract sum prior to this change order	832149 60
The contract sum will be (increased)(decreased)(unchanged) by this change order in the amount of	12424 50
The new contract sum including this change order	844574 10

Owner
S E L Properties LLC
P O Box 510
Winnsboro S C 29180

Signature

Print Name and Title

Date

Contractor
Newman Construction, Inc
500 Myrtle Beach Hwy
Sumter S C 29153-5014

Signature

Print Name and Title

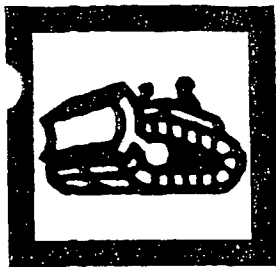
Date

Engineer
Letts Associates Inc
P O Box 212327
Columbia S C 29221-2327

Signature

Print Name and Title

Date



NEWMAN CONSTRUCTION, INC

500 MYRTLE BEACH HWY • SUMTER SOUTH CAROLINA 29153 • (803) 775 2385

CHANGE ORDER

To S E L Properties LLC
P O Box 510
Winnsboro S C 29180

Change Order No 2
Date December 31 2001

Attn W P Melton

Contract Date October 26 2001
Contract For The Courtyards at
Rolling Creek - Phase 1

We request a change order for blasting rock for the off site sewer line as shown on the attached rock excavation sheets

1	Blasted rock	336 59 CY @	50 00 =	16 829 50
2	Correction of prior month s blasted rock	(88 10) CY @	50 00 =	-4 405 00
Total Change Order				<u>\$12 424 50</u>

This work will require an additional 5 calendar days to achieve substantial completion

The original contract sum was	799011 10
Net change by previous change orders	- 33138 50
The contract sum prior to this change order	832149 60
The contract sum will be (increased)(decreased)(unchanged) by this change order in the amount of	12424 50
The new contract sum including this change order	844574 10

Owner
S E L Properties LLC
P O Box 510
Winnsboro S C 29180

John E. Brown
Signature
Stephen L. Brown
Print Name and Title
1-31-2002
Date

Contractor
Newman Construction Inc
500 Myrtle Beach Hwy
Sumter S C 29153-5014

Darlene V. E. Comptroller
Signature
DARLENE V. E. Comptroller
Print Name and Title
12/31/01
Date

Engineer
Letts Associates Inc
P O Box 212327
Columbia S C 29221-2327

Johnny T. Johnson
Signature
Johnny T. Johnson, Pres
Print Name and Title
1-29-02
Date



NEWMAN CONSTRUCTION, INC

500 MYRTLE BEACH HWY • SUMTER SOUTH CAROLINA 29153 • (803) 775 2385

CHANGE ORDER

To S E L Properties LLC
P O Box 510
Winnsboro S C 29180

Change Order No 3
Date December 31 2001
Contract Date October 26 2001
Contract For The Courtyards at
Rolling Creek - Phase 1

Attn W P Melton

We request a change order for changes to the on site sanitary sewer lines A11 A11-2 and A11-7 embedding 18 DIP off site sanitary sewer in concrete and installing additional water line bends at the creek crossing according to the revised plans Also, the manhole drop for MH #A11-2-1 was not shown on the project bid sheet

On-Site Sewer

1	8 PVC 0-6	-60 LF @	12 00 =	-720 00
2	8 PVC 6-8	70 LF @	13 00 =	910 00
3	8' PVC 8-10	-65 LF @	15 00 =	-975 00
4	8" PVC 10-12	72 LF @	17 00 =	1 224 00
5	Manhole 0-6	-1 EA @	1000 00 =	-1 000 00
6	Manhole 6-8	-1 EA @	1100 00 =	-1 100 00
7	Manhole 8-10	-2 EA @	1300 00 =	-2 600 00
8	Manhole 10-12	2 EA @	1600 00 =	3,200 00
9	8 Manhole drop	7 VF @	150 00 =	1,050 00

Off-Site Sewer

10	Embed 18 DIP off site sewer in concrete	5 CY @	85 00 =	425 00

Water

11	12' 45 Degree MJ water line bend	2 EA @	340 00 =	680 00

Total Change Order \$1 094 00

This work will require an additional 0 calendar days to achieve substantial completion

The original contract sum was 799011 10

Net change by previous change orders 45563 00

The contract sum prior to this change order 844574 10

The contract sum will be (increased)(decreased)(unchanged) by this change order in the amount of 1094 00

The new contract sum including this change order 845668 10

Owner
S E L Properties LLC
P O Box 510
Winnsboro S C 29180

[Signature]
Signature
John E. Lipscomb
Print Name and Title

1-21-2007
Date

Contractor
Newman Construction Inc
500 Myrtle Beach Hwy
Sumter S C 29153-5014

[Signature]
Signature
DARLENE V IVEY, Comptroller
Print Name and Title

12/31/01
Date

Engineer
Letts Associates Inc
P O Box 212327
Columbia S C 29221-2327

[Signature]
Signature
Johnny T Johnson, Pres
Print Name and Title

1-29-02
Date