

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM PICKENS COUNTY
Court of Common Pleas

The Honorable Perry H. Gravely, Circuit Judge

Appellant Case No. 2019-000235

Scott Arbet,.....Respondent,

v.

Riverstone Development Group, Inc.,.....Appellant,

RECORD ON APPEAL

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SC Court of Appeals

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STATE OF SOUTH CAROLINA

COUNTY OF PICKENS

Scott E. Arbet,

Plaintiff,

v.

Riverstone Development Group, Inc.,

Defendant.

) IN THE COURT OF COMMON PLEAS

) THIRTEENTH JUDICIAL CIRCUIT

) C. A. No. 2016-CP-39-00103

) **ORDER GRANTING PLAINTIFF'S**
) **AMENDED MOTION FOR PARTIAL**
) **SUMMARY JUDGMENT**

THIS MATTER came before the Court on December 6, 2018 on the Plaintiff Scott E.

Arbet ("Plaintiff")'s Amended Motion for Partial Summary Judgment, pursuant to *South Carolina Rules of Civil Procedure* Rule 56(c). Present at the hearing was Townes B. Johnson III on behalf of the Plaintiff and R. Mills Ariail, Jr. on behalf of Defendant Riverstone Development Group, Inc. ("Defendant"). Based on the pleadings, memorandums and affidavits of record, *South Carolina Code Ann.* § 40-11-5, et seq. and its related authority, I make the final findings of fact and conclusion of law:

UNDISPUTED FACTS

In February 2015, Defendant was a licensed general contractor with the South Carolina Contractor's Licensing Board holding a "BD4" license classification under License No.: 114265. See *Plaintiff's Memorandum in Opposition to Defendant's Motion to Dismiss and in Support of Plaintiff's Motion to Amend* (hereinafter "*Plaintiff's Memorandum*"), Ex. 1 and See e.g. *November 27, 2018 Affidavit of Courtney Macke* (hereinafter "*Macke Affidavit*"), ¶ 8. Pursuant to *South Carolina Code Ann.* § 40-11-260(A)(4) (2015), a BD4 license classification limited Defendant from bidding on or performing jobs which exceed Seven Hundred Fifty Thousand

Dollars (\$750,000.00). *See South Carolina Code Ann. § 40-11-260(A)(4) (2015) and See Defendant Riverstone Developments Group, Inc.'s Opposition to Plaintiff's Motion for Partial Summary Judgment (hereinafter "Defendant's Memorandum"), Pg. 3.*

Plaintiff and Defendant entered into a written contract ("Contract") on or about February 13, 2015, wherein Defendant agreed to be the general contractor for the construction of a residence for Plaintiff, located in Pickens County, South Carolina ("Arbet Project"). *See Macke Affidavit, Ex. A.* The "Contract Sum" under the Contract was "Seven Hundred Fifty Thousand Dollars and Zero Cents (\$750,000.00) with final contract amount to be adjusted plus or minus 5% based upon client's final selections and design changes to the Arbet Residence home plan to achieve this budget". *Id.*

On April 9, 2015, Plaintiff and Defendant entered into "Change Order Number: 001" wherein the additional cost of \$125,337.00 was added to the Contract Sum for the "final design changes as per Exhibit B dated 4-9-15" and builders risk insurance. *Id.*, ¶ 16 and *Ex. C.* Change Order Number: 001 increased the Contract Sum to \$875,337.00. *Id.* Plaintiff and Defendant subsequently entered into numerous other change orders such that Defendant alleged that the final Contract Sum was \$1,004,197.00. *See Plaintiff's Memorandum, Ex. 5.*

STANDARD

Summary judgment should be granted if "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Rule 56(c), SCRCF; *see also Legette v. Piggly Wiggly, Inc.*, 368 S.C. 576, 579, 629 S.E.2d 375, 376 (Ct. App. 2006). When examining a motion for summary judgment, the "evidence and all inferences reasonably drawn therefrom must be viewed in the light most favorable to the non-

moving party.” *Strother v. Lexington Cnty Recreation Comm’n*, 332 S.C. 54, 61, 504 S.E.2d 117, 121 (1998) (citing *Hamiter v. Retirement Div. of SC*, 326 S.C. 93, 484 S.E.2d 586 (1997)). “However, when plain, palpable, and indisputable facts exist on which reasonable minds cannot differ, summary judgment should be granted.” *Moore v. Barony House Rest., LLC*, 382 S.C. 35, 40, 674 S.E.2d 500, 503 (Ct. App. 2009) (citing *Rife v. Hitachi Constr. Mach. Ltd.*, 363 S.C. 209, 214, 609 S.E.2d 565, 568 (Ct. App. 2005)).

LAW AND ANALYSIS

South Carolina Code Ann. § 40-11-370(C) provides that “[a]n entity which does not have a valid license as required by this chapter may not bring an action either at law or in equity to enforce the provisions of a contract.” See *South Carolina Code Ann.* § 40-11-370(C). Furthermore, in *C-Sculptures, LLC v. Brown*, The South Carolina Supreme Court clarified that an “under-licensed” general contractor did not have a “valid license” as required by *South Carolina Code Ann.* § 40-11-370(C) as to avoid the door-closing effect and to enable the contractor to be able to enforce the terms of a contract. See e.g. *C-Sculptures, LLC v. Brown*, 403 S.C. 53, 742 S.E.2d 359 (2013) (wherein an under-licensed general contractor was deemed not to have a valid license to perform work on the project and, consequently, was precluded from enforcing the provisions of the related construction contract). Consistently, *South Carolina Code Ann.* § 40-11-300, requires that a contractor immediately withdraw from a project if the total cost of construction - the actual cost incurred by the owner, all contractors, subcontractors, and other parties for labor, material, equipment, profit, and incidental expenses for the entire project – exceeds the contractor’s license limitation. See *South Carolina Code Ann.* § 40-11-300(A) and (B) and See *South Carolina Code Ann.* § 40-11-20(23).

In the matter at hand, Defendant was limited to bidding on and performing jobs which did not exceed \$750,000.00. *South Carolina Code Ann.* § 40-11-260(A)(4) (2015). Defendant, however, bid on the Arbet Project which, on its face, could have exceed Defendant's license limitation in violation of *South Carolina Code Ann.* § 40-11-260(A)(4) (2015) since the contract sum was \$750,000.00 "plus or minus 5% based upon client's final selections and design changes". Furthermore, it cannot be disputed that: 1) the Arbet Project exceeded \$750,000.00; 2) Defendant did not withdraw from the Arbet Project once the total cost of construction exceeded the Defendant's \$750,000.00 license limitation as required by *South Carolina Code Ann.* § 40-11-300(B); and 3) Defendant continued to perform work on the Arbet Project after the contract sum exceeded Defendant's \$750,000.00 license limitation in violation of *South Carolina Code Ann.* § 40-11-260(A)(4) (2015).

The Court, accordingly, finds that Defendant was under-licensed to perform work on the Arbet Project and did not have a valid license as required by *South Carolina Code Ann.* § 40-11-370(C) to bid or perform work on the project.

CONCLUSION

Based on the foregoing and pursuant to *South Carolina Code Ann.* § 40-11-370(C), Defendant is barred in law or in equity from enforcing the provisions of the contract Plaintiff. Plaintiff's Amended Motion for Partial Summary Judgment is, accordingly, **GRANTED**.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that:

- A. Riverstone Development Group, Inc. is barred in law and equity by *South Carolina Code Ann.* § 40-11-370(C) from enforcing the provisions of its contract with Scott E. Arbet;
- B. Riverstone Development Group, Inc.'s counterclaims for Quantum Meruit and Breach of Contract are dismissed with prejudice; and
- C. That certain mechanics' lien filed by Riverstone Development Group, Inc. in the Office of the Register of Deeds for Pickens County in Mechanics Lien Book 2016 at Page 520. Against that certain real property owned by Scott E. Arbet located at 1074 Cliffs Vista Parkway, Six Mile, SC 29682 is hereby dissolved and cancelled.

IT IS SO ORDERED.

JUDGE'S SIGNATURE PAGE TO FOLLOW



Pickens Common Pleas

Case Caption: Scott E Arbet VS Riverstone Development Group Inc

Case Number: 2016CP3900103

Type: Order/Summary Judgment

So Ordered

s/ Honorable Perry H. Gravely, #2755

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STATE OF SOUTH CAROLINA

COUNTY OF PICKENS

Scott E. Arbet,

Plaintiff,

vs.

Riverstone Development Group, Inc.,

Defendant.

IN THE COURT OF COMMON PLEAS
FOR THE THIRTEENTH JUDICIAL
CIRCUIT

CASE NO.: 2016-CP-39-00103

**ORDER DENYING MOTION TO
RECONSIDER**

Defendant Riverstone Development Group, Inc. (Riverstone) filed a Motion to Alter or Amend Judgment regarding the Court's Order of January 7, 2019 granting Plaintiff's Partial Summary Judgment. The Defendant asserts two grounds for its Motion: (1) the contract is ambiguous and the intent of the parties cannot be determined from the four corners of the contract; and (2) the Court improperly applied *C-Sculptures, LLC v. Brown*, 403 S.C. 53, 742 S.E.2d 359 (2013). After reviewing both the Defendant's Motion, Plaintiff's Response, and all matters presented in this case, the Court determined that an additional hearing would not be necessary to issue an opinion on this Motion. Therefore, the Court respectfully denies the Defendant's Motion for the reasons set forth below.

(1) The Defendant asserted that the terms of the contract in question were ambiguous and summary judgment was not appropriate. In finding that a contract is unambiguous as a matter of law, the Court must consider the contract as a whole, rather than deciding whether phrases in isolation could be interpreted in various ways. *Yarborough v. Phoenix Mut. Life Ins. Co.*, 266 S.C. 584, 592, 225 S.E.2d 344, 348 (1976). Also,

In construing and determining the effect of a written contract, the intention of the parties and the meaning are gathered primarily from the contents of the writing itself, or, as otherwise stated, from the four corners of the instrument, and when such contract is clear and unequivocal, its meaning must be determined by its contents alone; and a meaning

cannot be given it other than that expressed. Hence words cannot be read into a contract which import an intent wholly unexpressed when the contract was executed. *McPherson v. J.E. Sirrine & Co.*, 206 S.C. 183, 204, 33 S.E.2d 501, 209 (1945).

Defendant here attempts to argue the existence of an ambiguity because the contract states "to be adjusted plus or minus 5%" yet, states its intent was that the Contract was solely for \$750,000. While the contract does allow for a variation in price to be paid, the Court finds that the terms are unambiguous and clearly calls for a potential contract price in excess of \$750,000 without even addressing the change orders that increases the contract price in excess of \$1,004,197. This contract price exceeds its license cap under *S.C. Code* 40-11-260(A)(4). Even though the contract potentially could have remained under \$750,000 the subsequent change orders increased the price well beyond \$750,000 to which the Defendant agreed. Therefore, the contract is unambiguous as to the price of the job and exceeds the amount allowed by the Defendant's license.

(2) The Court rejects the Defendant's second argument that the Supreme Court case of *C-Sculptures, LLC v. Brown* should not be applied to this case. In *C-Sculpture*, the Supreme Court stated that "[u]nder the plain meaning rule, it is not the court's place to change the meaning of a clear and unambiguous statute." *C-Sculptures, LLC v. Brown*, 403 S.C. 53, 56, 742 S.E.2d 359, 362 (2013) (citing *Hodge v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000)). Based on this holding in *C-Sculpture*, it is clear that an "under-licensed" general contractor does not have a "valid license" as required by *South Carolina Code Ann.* § 40-11-370 (c). See e.g. *id.*, at 53, 742 S.E.2d 359.

Even though the contractor in *C-Sculptures* was "grossly under-licensed" (a general contractor agreeing to build a home for \$800,000 with a limitation of \$100,000 on its license), the Supreme Court did not make a distinction as to the gap between one's license and the contract

price. *See id.* at 57, 742 S.E.2d 361. *C-Sculptures* stands for the proposition that if a contractor's license limitations are less than the contract price, then the provisions of S.C. Code Ann. § 40-11-370 apply and the contract is unenforceable. Since the Defendant here was under-licensed, the provisions of S.C. Code Ann. § 40-11-370 apply and the contract is unenforceable.

Based on the foregoing analysis, the Court denies Defendant's Motion to Alter or Amend the Order of January 7, 2019 granting Partial Summary Judgment.

Signature of Judge Gravely on following page



Pickens Common Pleas

Case Caption: Scott E Arbet VS Riverstone Development Group Inc

Case Number: 2016CP3900103

Type: Order/Other

So Ordered

s/ Honorable Perry H. Gravely, #2755

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The South Carolina Court of Appeals

Scott Arbet, Respondent,

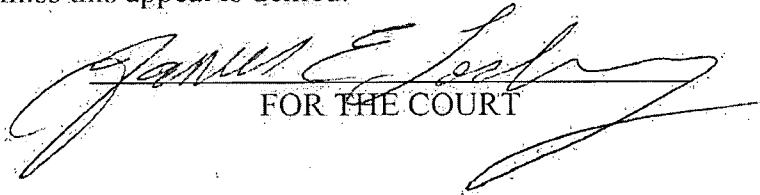
v.

Riverstone Development Group, Inc., Appellant.

Appellate Case No. 2019-000235

ORDER

Respondent's motion to dismiss this appeal is denied.


FOR THE COURT

Columbia, South Carolina

cc:

Robert Mills Ariail, Jr., Esquire

Townes Boyd Johnson, III, Esquire

FILED

May 2, 2019

STATE OF SOUTH CAROLINA

COUNTY OF PICKENS

Scott E. Arbet,

CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA
Plaintiff(s)

vs.

Riverstone Development Group, Inc.,

Defendant(s)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2016-CP-39-103

Submitted By: Townes B. Johnson III

Address: PO Box 10529

Greenville, SC 29603

SC Bar #: 75412

Telephone #: 864-349-2605

Fax #: 864-349-0303

Other:

E-mail: tjohnson@roecassidy.com

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- ☐ JURY TRIAL demanded in complaint. ☒ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☒ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|--|---|---|--|
| Contracts
☐ Constructions (100)
☐ Debt Collection (110)
☐ General (130)
☒ Breach of Contract (140)
☐ Fraud/Bad Faith (150)
☐ Failure to Deliver/
Warranty (160)
☐ Employment Discrim (170)
☐ Employment (180)
☐ Other (199) _____ | Torts - Professional Malpractice
☐ Dental Malpractice (200)
☐ Legal Malpractice (210)
☐ Medical Malpractice (220)
Previous Notice of Intent Case #
20 ____ -NI- ____
☐ Notice/ File Med Mal (230)
☐ Other (299) _____ | Torts - Personal Injury
☐ Conversion (310)
☐ Motor Vehicle Accident (320)
☐ Premises Liability (330)
☐ Products Liability (340)
☐ Personal Injury (350)
☐ Wrongful Death (360)
☐ Assault/Battery (370)
☐ Slander/Libel (380)
☐ Other (399) _____ | Real Property
☐ Claim & Delivery (400)
☐ Condemnation (410)
☐ Foreclosure (420)
☐ Mechanic's Lien (430)
☐ Partition (440)
☐ Possession (450)
☐ Building Code Violation (460)
☐ Other (499) _____ |
| Inmate Petitions
☐ PCR (500)
☐ Mandamus (520)
☐ Habeas Corpus (530)
☐ Other (599) _____ | Administrative Law/Relief
☐ Reinstatement License (800)
☐ Judicial Review (810)
☐ Relief (820)
☐ Permanent Injunction (830)
☐ Forfeiture-Petition (840)
☐ Forfeiture-Consent Order (850)
☐ Other (899) _____ | Judgments/Settlements
☐ Death Settlement (700)
☐ Foreign Judgment (710)
☐ Magistrate's Judgment (720)
☐ Minor Settlement (730)
☐ Transcript Judgment (740)
☐ Lis Pendens (750)
☐ Transfer of Structured
Settlement Payment Rights
Application (760)
☐ Confession of Judgment (770)
☐ Petition for Workers
Compensation Settlement
Approval (780)
☐ Other (799) _____ | Appeals
☐ Arbitration (900)
☐ Magistrate-Civil (910)
☐ Magistrate-Criminal (920)
☐ Municipal (930)
☐ Probate Court (940)
☐ SCDOT (950)
☐ Worker's Comp (960)
☐ Zoning Board (970)
☐ Public Service Comm. (990)
☐ Employment Security Comm (991)
☐ Other (999) _____ |
| Special/Complex /Other
☐ Environmental (600)
☐ Automobile Arb. (610)
☐ Medical (620)
☐ Other (699) _____
☐ Sexual Predator (510) | ☐ Pharmaceuticals (630)
☐ Unfair Trade Practices (640)
☐ Out-of State Depositions (650)
☐ Motion to Quash Subpoena in
an Out-of-County Action (660)
☐ Pre-Suit Discovery (670) | | |

Submitting Party Signature: _____

Date: 2/1/16

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCF, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

Effective January 1, 2016, Alternative Dispute Resolution (ADR) is mandatory in all counties, pursuant to Supreme Court Order dated November 12, 2015.

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

Pursuant to the ADR Rules, you are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs.
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

**Please Note: You must comply with the Supreme Court Rules regarding ADR.
Failure to do so may affect your case or may result in sanctions.**

2016 FEB 1 PM 3 31

STATE OF SOUTH CAROLINA
CLERK OF COURT IN THE COURT OF COMMON PLEAS
COUNTY OF PICKENS. PICKENS COUNTY
SOUTH CAROLINA THIRTEENTH JUDICIAL CIRCUIT

Scott E. Arbet,

Plaintiff,

v.

Riverstone Development Group, Inc.,

Defendant.

C. A. No. 2016-CP-

39 103

SUMMONS

TO THE ABOVE NAMED DEFENDANT(S):

YOU ARE HEREBY summoned and required to answer the Complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your answer to the said Complaint on the subscribers at their offices, P.O. Box 10529, Greenville, South Carolina, 29603, within thirty (30) days after the service hereof, exclusive of the day of such service; and if you fail to answer the Complaint within the time aforesaid, the Plaintiff in this action will apply to the Court and judgment by default will be rendered against you for the relief demanded in the Complaint.

Respectfully submitted this 2nd day of Feb, 2016,


Townes B. Johnson, III (SC Bar# 75412)
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P.O. Box 10529
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Attorneys for Plaintiff

Greenville, South Carolina

2016 FEB 1 PM 3 31

CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA
STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF PICKENS)
) THIRTEENTH JUDICIAL CIRCUIT
)
Scott E. Arbet,) C. A. No. 2016-CP-39-103
)
)
Plaintiff,)
)
v.)
)
Riverstone Development Group, Inc.,)
)
Defendant.)

COMPLAINT

COMES NOW, the plaintiff, Scott Arbet (hereinafter "Plaintiff" or "Arbet"),
complaining of the defendant, Riverstone Development Group, Inc. ("Defendant"), and
would show the following:

1. The Plaintiff is a citizen and resident of Pickens County, South Carolina and
the owner of real property located at 1074 Cliffs Vista Parkway, Six Mile, SC 29682
("Subject Property").
2. Upon information and belief, Defendant is a North Carolina corporation,
organized and existing under the laws of the State of North Carolina with its principal place
of business in Jackson County, North Carolina. During all times mentioned herein,
Defendants was transacting business in Pickens County, South Carolina.
3. Defendant holds a commercial general contractors license with the South
Carolina Department of Labor, Licensing and Regulation.
4. The Subject Property which is at the center of this dispute is located in
Pickens County, South Carolina.

5. On or about February 13, 2015, Plaintiff and Defendant entered into a contract wherein Defendant would be the general contractor for the construction of a home for Plaintiff on the Subject Property ("Project").

6. Towards the end of 2015, Plaintiff started experiencing an inordinate amount of issues associated with the Project; including, but not limited to, construction defects, incomplete work, and fraudulent billing.

7. By contracting with Plaintiff, Defendant owed Plaintiff a duty to truthfully and accurately communicate with Plaintiff regarding the Project.

8. Defendant owed Plaintiff a further duty to construct the residence in a good and workmanlike manner, to use due care to supervise construction of the residence, to ensure that all aspects of work performed on the project were acceptable and in accordance with any manufacturers specifications, and to accomplish the work undertaken in a manner appropriate to the residential construction industry.

9. Defendant additionally owed Plaintiff a duty to comply with all laws, statutes, and ordinances regarding the performance of work on a residential construction project; including, but not limited to, complying with all permitting and licensing laws and complying with all building codes.

10. On or about February 1, 2016, Plaintiff mailed a Notice and Opportunity to Cure Construction Dwelling Defects Act letter to Defendants, pursuant to *South Carolina Code Ann. §40-59-800 et seq.*

11. Despite notifying Defendant of the construction defects, Defendant has failed and refused to remediate those defects.

12. Jurisdiction and venue are proper in this court.

**FOR A FIRST CAUSE OF ACTION
(Declaratory Judgment)**

13. Plaintiff brings this action for declaratory judgment pursuant to the "Uniform Declaratory Judgments Act", South Carolina Code Ann. § 15-53-10, *et seq.* and Rule 57 of the South Carolina Rules of Civil Procedure.

14. Plaintiff asks this Court to declare that the written construction contract for the Project is void, *ab initio*, for violation of South Carolina Code Ann. § 40-11-5, *et seq.*

15. Plaintiff further ask that this Court order a speedy hearing, pursuant to Rule 57 of the South Carolina Rules of Civil Procedure.

**FOR A SECOND CAUSE OF ACTION
(Breach of Contract)**

16. Plaintiff realleges the foregoing paragraphs consistent with this cause of action as if fully restated verbatim herein.

17. Plaintiff contracted with Defendant for Defendant to be the general contractor for and to construct the Project.

18. An implied provision of that contract was that Defendant would construct the Project in a workmanlike manner and the Project would be suitable for its intended use.

19. By failing to construct the Project in a workmanlike manner and the Project not being suitable for its intended use, Defendant has breached the agreement with Plaintiff.

20. As a direct and proximate result of Defendant's breach, Plaintiff has suffered actual and consequential damages in an amount to be proven at trial, for which they hereby sue, together with attorneys' fees, interest and costs as allowed by law.

**FOR A THIRD CAUSE OF ACTION
(Breach of Express/Implied Warranties)**

21. Plaintiff realleges the foregoing paragraphs consistent with this cause of action as if fully restated verbatim herein.

22. Defendant had a duty to construct the Subject Property in a workmanlike manner so that the residence would be habitable and suitable for its intended use.

23. Defendant expressly and impliedly warranted to the Plaintiff that the Subject Property was constructed in a good and workmanlike manner, free of defects and in accordance with the applicable building code and industry standards.

24. Plaintiff is informed and believes that Defendant breached its express and/or implied warranties to Plaintiff by constructing Project in a manner that was not free of construction defects; in failing to perform its work in a good and workmanlike condition and in accordance with industry standards; in failing to comply with all applicable building codes; and in such other manners as may be discovered prior to trial.

25. By failing to construct the Project in a habitable, workmanlike manner and the residence not being suitable for its intended use or up to code, Defendant has breached its express and implied warranties with Plaintiff.

26. As a direct and proximate result of Defendant's breach of express and implied warranties, Plaintiff has suffered actual and consequential damages for which Plaintiff hereby sue, together with attorneys' fees, interest and costs as allowed by law.

**FOR A FOURTH CAUSE OF ACTION
(Negligence)**

27. Plaintiff realleges the foregoing paragraphs consistent with this cause of action as if fully restated verbatim herein.

28. Defendant had a duty to construct the residence in a good and workmanlike manner, to use due care to supervise construction of the residence, and to accomplish the work undertaken in a manner appropriate to the residential construction industry.

29. Defendant breached this duty by failing to construct the work performed in a good workmanlike manner, free of construction defects and in accordance with industry standards.

30. Defendant had a duty to communicate truthfully and accurately with Plaintiff regarding the Project.

31. Defendant breached this duties by failing to communicate truthfully and accurately with Plaintiff regarding the Project.

32. As a direct and proximate result of Defendant's breaches, Plaintiff has suffered actual and consequential damages for which Plaintiff hereby sues, together with attorneys' fees, interest and costs as allowed by law.

**FOR A FIFTH CAUSE OF ACTION
(Negligent Misrepresentation)**

33. Plaintiff reallege the foregoing paragraphs consistent with this cause of action as if fully restated verbatim herein.

34. In negotiating the contract with Plaintiff, Defendant represented that the contract sum was based on the estimated cost of the work plus a 12% fee and that the work would be performed by licensed contractors.

35. Defendant knew the representations made were false.

36. Defendant had a pecuniary interest in making these representations.

37. Defendant owed Plaintiff a duty to see that truthful and accurate information was communicated to Plaintiff.

38. Defendant breached its duty by failing to exercise due care.

39. Plaintiff justifiably relied upon Defendant to communicate truthful information and justifiably relied upon Defendant's representations.

40. As a direct and proximate result of the Plaintiff's reliance upon Defendant's misrepresentations, Plaintiff has suffered a pecuniary loss in the form of actual, consequential and special injuries, including, but not limited to the costs associated with bringing this action and attorney's fees, for which Plaintiff hereby sues.

41. Upon information and belief, Defendant's conduct was willful and intentional and, accordingly, warrants an award of punitive damages.

**FOR A SIXTH CAUSE OF ACTION
(Fraud)**

42. Plaintiff realleges the foregoing paragraphs consistent with this cause of action as if fully restated verbatim herein.

43. In negotiating the contract with Plaintiff, Defendant represented that contract sum was based on the estimated cost of the work plus a 12% fee and that the work would be performed by licensed contractors.

44. The representations Defendant made regarding the Project were material.

45. Defendant knew the representations were false.

46. Defendant made the representations with knowledge of their falsity and with a reckless disregard for their falsity.

47. Defendant intended that the representations be acted upon.

48. Plaintiff was ignorant of the falsity of Defendant's representations and relied on the representations' truth.

49. Plaintiff was right to rely on the representations' truth.

50. As a consequent and proximate result of Defendant's fraud, Plaintiff has suffered a pecuniary loss in the form of actual, consequential and special injuries, including, but not limited to the costs associated with bringing this action and attorney's fees, for which Plaintiff hereby sue.

**FOR A SEVENTH CAUSE OF ACTION
(Constructive Fraud)**

51. Plaintiff realleges the foregoing paragraphs consistent with this cause of action as if fully restated verbatim herein.

52. In negotiating the contract with Plaintiff, Defendant represented that contract sum was based on the estimated cost of the work plus a 12% fee and that the work would be performed by licensed contractors.

53. The representations Defendant made regarding the Project were false.

54. Defendant knew the representations were false.

55. The representations Defendant made regarding the Project were material.

56. Defendant intended that the disclosures be acted upon.

57. Plaintiff was ignorant of the falsity of Defendant's representations and relied on their truth.

58. Plaintiff was right to rely on the representations' truth.

59. As a consequent and proximate result of Defendant's constructive fraud, Plaintiff has suffered a pecuniary loss in the form of actual, consequential and special injuries, including, but not limited to the costs associated with bringing this action and attorney's fees, for which Plaintiff hereby sue.

**FOR AN EIGHTH CAUSE OF ACTION
(Breach of Fiduciary Duty)**

60. Plaintiff realleges the foregoing paragraphs consistent with this cause of action as if fully restated verbatim herein.

61. By contracting with Defendant for the construction of the Project, Plaintiff reposed a special confidence in Defendant to act in good faith and due regard to the interests of Plaintiff with respect to the construction of the Project.

62. Defendant failed to act in equity and good conscience in intentionally misrepresenting that contract sum was based on the estimated cost of the work plus a 12% fee and that the work would be performed by licensed contractors.

63. As a direct and proximate result of the Defendant's failure to act in good faith and intentional disregard for the interests of Plaintiff, Plaintiff has suffered a pecuniary loss in the form of actual, consequential and special injuries, including, but not limited to the costs associated with bringing this action and attorney's fees, for which Plaintiff hereby sues.

**FOR A NINTH CAUSE OF ACTION
(Violation of the South Carolina Unfair Trade Practices Act)**

64. Plaintiff realleges the foregoing paragraphs consistent with this cause of action as if fully restated verbatim herein.

65. Upon information and belief, part of Defendant's business was constructing residential construction projects, such as the Project.

66. Upon information and belief, Defendant fraudulently and deceptively constructed the Project with the use of unlicensed contractors.

67. As a result of Defendant's fraudulent and deceptive acts, the work on the Project was not performed by a licensed contractor and not performed in a good and workmanlike manner.

68. These fraudulent and deceptive acts have led to great expense for Plaintiff in repairing construction defects and completing incomplete work.

69. Defendant's business of residential construction creates the potential for repetition of these fraudulent, unfair and deceptive acts.

70. Since these fraudulent and deceptive acts can easily be repeated on other projects, it is offensive to public policy.

71. As a proximate cause of Defendant's fraudulent and deceptive acts, Plaintiff has been damaged and is entitled to a judgment against Defendants in an amount to be determined at trial, including treble damages, for which Plaintiff hereby sues.

WHEREFORE, the plaintiff, Scott E. Arbet, prays for the following relief:

- a) For a judgment against Riverstone Development Group, Inc. in an amount to be determined at trial, plus attorneys' fees, interest and costs;
- b) For damages to be determined at trial;
- c) For attorneys' fees and costs;
- d) Treble damages;
- e) Punitive damages;
- f) For such other and further relief that this Court deems just and proper.

Respectfully submitted this 2nd day of February, 2016,



Townes B. Johnson III (SC Bar# 75412)

ROE CASSIDY COATES & PRICE, PA

PO BOX 10529

GREENVILLE, SC 29603

PH: (864) 349-2600

FAX: (864) 349-0303

Attorneys for Plaintiff

Greenville, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF PICKENS	)	THIRTEENTH JUDICIAL CIRCUIT
	)	
Scott.E. Arbet,	)	C. A. No. 2016-CP-39-00103
	)	
Plaintiff,	)	
	)	
v.	)	AMENDED SUMMONS
	)	
Riverstone Development Group, Inc. and	)	
Yoder's Building Supply, Inc.,	)	
	)	
Defendants.	)	
	)	

TO THE ABOVE NAMED DEFENDANT(S):

YOU ARE HEREBY summoned and required to answer the Amended Complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your answer to the said Amended Complaint on the subscribers at their offices, P.O. Box 10529, Greenville, South Carolina, 29603, within thirty (30) days after the service hereof, exclusive of the day of such service; and if you fail to answer the Amended Complaint within the time aforesaid, the Plaintiff in this action will apply to the Court and judgment by default will be rendered against you for the relief demanded in the Amended Complaint.

Respectfully submitted this 16th day of July, 2016,

/s/ Townes B. Johnson III
Townes B. Johnson III (SC Bar# 75412)
ROE CASSIDY COATES & PRICE P.A.
P.O. Box 10529
Greenville, SC 29603
PH: (864) 349-2600
FAX: (864) 349-0303

Attorneys for Plaintiff

Greenville, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF PICKENS	)	THIRTEENTH JUDICIAL CIRCUIT
	)	
Scott E. Arbet,	)	C. A. No. 2016-CP-39-00103
	)	
Plaintiff,	)	
	)	
v.	)	AMENDED COMPLAINT
	)	
Riverstone Development Group, Inc. and	)	
Yoder's Building Supply, Inc.,	)	
	)	
Defendants.	)	
	)	

COMES NOW, the plaintiff, Scott Arbet (hereinafter "Plaintiff" or "Arbet"),
complaining of the defendants, Riverstone Development Group, Inc. ("Defendant") and
Yoder's Building Supply, Inc. ("Yoders"), and would show the following:

1. The Plaintiff is a citizen and resident of Pickens County, South Carolina and
the owner of real property located at 1074 Cliffs Vista Parkway, Six Mile, SC 29682
("Subject Property").

2. Upon information and belief, Defendant is a North Carolina corporation,
organized and existing under the laws of the State of North Carolina with its principal place
of business in Jackson County, North Carolina. During all times mentioned herein,
Defendant was transacting business in Pickens County, South Carolina.

3. Upon information and belief, Yoders is a South Carolina corporation,
organized and existing under the laws of the State of South Carolina with its principal place
of business in Oconee County, South Carolina. During all times mentioned herein, Yoders
was transacting business in Pickens County, South Carolina.

4. Defendant holds a commercial general contractors license with the South Carolina Department of Labor, Licensing and Regulation.

5. The Subject Property which is at the center of this dispute is located in Pickens County, South Carolina.

6. On or about February 13, 2015, Plaintiff and Defendant entered into a contract wherein Defendant would be the general contractor for the construction of a home for Plaintiff on the Subject Property ("Project").

7. Towards the end of 2015, Plaintiff started experiencing an inordinate amount of issues associated with the Project; including, but not limited to, construction defects, incomplete work, and fraudulent billing.

8. By contracting with Plaintiff, Defendant owed Plaintiff a duty to truthfully and accurately communicate with Plaintiff regarding the Project.

9. Defendant owed Plaintiff a further duty to construct the residence in a good and workmanlike manner, to use due care to supervise construction of the residence, to ensure that all aspects of work performed on the project were acceptable and in accordance with any manufacturers specifications, and to accomplish the work undertaken in a manner appropriate to the residential construction industry.

10. Defendant additionally owed Plaintiff a duty to comply with all laws, statutes, and ordinances regarding the performance of work on a residential construction project; including, but not limited to, complying with all permitting and licensing laws and complying with all building codes.

11. On or about February 1, 2016, Plaintiff mailed a Notice and Opportunity to Cure Construction Dwelling Defects Act letter to Defendants, pursuant to *South Carolina Code Ann. §40-59-800 et seq.*

12. Despite notifying Defendant of the construction defects, Defendant has failed and refused to remediate those defects.

13. On or about February 24, 2016, Defendant filed a mechanics' lien with the Office of the Register of Deeds for Pickens County against the Project in Mechanics Lien Book 2016 at Page 520. A true and correct copy of Defendant's mechanics' lien is attached hereto as "**Exhibit A**".

14. Defendant's lien is frivolous and is in violation of South Carolina Code Ann. § 29-5-10 et seq.

15. Moreover, the filing of Defendant's frivolous lien is the malicious publication of a false statement that is derogatory to Plaintiff's title in the subject real property.

16. The filing of Defendant's frivolous lien has resulted in special damages and in the diminished value of Plaintiff's real property.

17. Additionally, as the direct and proximate result of Defendant failing to pay Yoders, on or about February 24, 2016, Yoders filed a mechanics' lien with the Office of the Register of Deeds for Pickens County against the Project in Mechanics Lien Book 2016 at Page 697. A true and correct copy of Yoders' mechanics' lien is attached hereto as "**Exhibit B**".

18. Jurisdiction and venue are proper in this court.

**FOR A FIRST CAUSE OF ACTION
(Declaratory Judgment)**

19. Plaintiff brings this action for declaratory judgment pursuant to the “Uniform Declaratory Judgments Act”, South Carolina Code Ann. § 15-53-10, *et seq.* and Rule 57 of the South Carolina Rules of Civil Procedure.

20. Plaintiff asks this Court to declare that:

- a. the written construction contract for the Project is void, *ab initio*, for violation of South Carolina Code Ann. § 40-11-5, *et seq.*;
- b. Defendant’s mechanics’ lien should be dissolved; and
- c. Yoders’ mechanics’ lien should be dissolved.

21. Plaintiff further ask that this Court order a speedy hearing, pursuant to Rule 57 of the South Carolina Rules of Civil Procedure.

**FOR A SECOND CAUSE OF ACTION
(Breach of Contract)**

22. Plaintiff realleges the foregoing paragraphs consistent with this cause of action as if fully restated verbatim herein.

23. Plaintiff contracted with Defendant for Defendant to be the general contractor for and to construct the Project.

24. An implied provision of that contract was that Defendant would construct the Project in a workmanlike manner and the Project would be suitable for its intended use.

25. By failing to construct the Project in a workmanlike manner and the Project not being suitable for its intended use, Defendant has breached the agreement with Plaintiff.

26. As a direct and proximate result of Defendant's breach, Plaintiff has suffered actual and consequential damages in an amount to be proven at trial, for which they hereby sue, together with attorneys' fees, interest and costs as allowed by law.

**FOR A THIRD CAUSE OF ACTION
(Breach of Express/Implied Warranties)**

27. Plaintiff realleges the foregoing paragraphs consistent with this cause of action as if fully restated verbatim herein.

28. Defendant had a duty to construct the Subject Property in a workmanlike manner so that the residence would be habitable and suitable for its intended use.

29. Defendant expressly and impliedly warranted to the Plaintiff that the Subject Property was constructed in a good and workmanlike manner, free of defects and in accordance with the applicable building code and industry standards.

30. Plaintiff is informed and believes that Defendant breached its express and/or implied warranties to Plaintiff by constructing Project in a manner that was not free of construction defects; in failing to perform its work in a good and workmanlike condition and in accordance with industry standards; in failing to comply with all applicable building codes; and in such other manners as may be discovered prior to trial.

31. By failing to construct the Project in a habitable, workmanlike manner and the residence not being suitable for its intended use or up to code, Defendant has breached its express and implied warranties with Plaintiff.

32. As a direct and proximate result of Defendant's breach of express and implied warranties, Plaintiff has suffered actual and consequential damages for which Plaintiff hereby sue, together with attorneys' fees, interest and costs as allowed by law.

**FOR A FOURTH CAUSE OF ACTION
(Negligence)**

33. Plaintiff realleges the foregoing paragraphs consistent with this cause of action as if fully restated verbatim herein.

34. Defendant had a duty to construct the residence in a good and workmanlike manner, to use due care to supervise construction of the residence, and to accomplish the work undertaken in a manner appropriate to the residential construction industry.

35. Defendant breached this duty by failing to construct the work performed in a good workmanlike manner, free of construction defects and in accordance with industry standards.

36. Defendant had a duty to communicate truthfully and accurately with Plaintiff regarding the Project.

37. Defendant breached this duties by failing to communicate truthfully and accurately with Plaintiff regarding the Project.

38. As a direct and proximate result of Defendant's breaches, Plaintiff has suffered actual and consequential damages for which Plaintiff hereby sues, together with attorneys' fees, interest and costs as allowed by law.

**FOR A FIFTH CAUSE OF ACTION
(Negligent Misrepresentation)**

39. Plaintiff reallege the foregoing paragraphs consistent with this cause of action as if fully restated verbatim herein.

40. In negotiating the contract with Plaintiff, Defendant represented that the contract sum was based on the estimated cost of the work plus a 12% fee and that the work would be performed by licensed contractors.

41. Defendant knew the representations made were false.

42. Defendant had a pecuniary interest in making these representations.

43. Defendant owed Plaintiff a duty to see that truthful and accurate information was communicated to Plaintiff.

44. Defendant breached its duty by failing to exercise due care.

45. Plaintiff justifiably relied upon Defendant to communicate truthful information and justifiably relied upon Defendant's representations.

46. As a direct and proximate result of the Plaintiff's reliance upon Defendant's misrepresentations, Plaintiff has suffered a pecuniary loss in the form of actual, consequential and special injuries, including, but not limited to the costs associated with bringing this action and attorney's fees, for which Plaintiff hereby sues.

47. Upon information and belief, Defendant's conduct was willful and intentional and, accordingly, warrants an award of punitive damages.

**FOR A SIXTH CAUSE OF ACTION
(Fraud)**

48. Plaintiff realleges the foregoing paragraphs consistent with this cause of action as if fully restated verbatim herein.

49. In negotiating the contract with Plaintiff, Defendant represented that contract sum was based on the estimated cost of the work plus a 12% fee and that the work would be performed by licensed contractors.

50. The representations Defendant made regarding the Project were material.

51. Defendant knew the representations were false.

52. Defendant made the representations with knowledge of their falsity and with a reckless disregard for their falsity.

53. Defendant intended that the representations be acted upon.

54. Plaintiff was ignorant of the falsity of Defendant's representations and relied on the representations' truth.

55. Plaintiff was right to rely on the representations' truth.

56. As a consequent and proximate result of Defendant's fraud, Plaintiff has suffered a pecuniary loss in the form of actual, consequential and special injuries, including, but not limited to the costs associated with bringing this action and attorney's fees, for which Plaintiff hereby sue.

**FOR A SEVENTH CAUSE OF ACTION
(Constructive Fraud)**

57. Plaintiff realleges the foregoing paragraphs consistent with this cause of action as if fully restated verbatim herein.

58. In negotiating the contract with Plaintiff, Defendant represented that contract sum was based on the estimated cost of the work plus a 12% fee and that the work would be performed by licensed contractors.

59. The representations Defendant made regarding the Project were false.

60. Defendant knew the representations were false.

61. The representations Defendant made regarding the Project were material.

62. Defendant intended that the disclosures be acted upon.

63. Plaintiff was ignorant of the falsity of Defendant's representations and relied on their truth.

64. Plaintiff was right to rely on the representations' truth.

65. As a consequent and proximate result of Defendant's constructive fraud, Plaintiff has suffered a pecuniary loss in the form of actual, consequential and special

injuries, including, but not limited to the costs associated with bringing this action and attorney's fees, for which Plaintiff hereby sue.

**FOR AN EIGHTH CAUSE OF ACTION
(Breach of Fiduciary Duty)**

66. Plaintiff realleges the foregoing paragraphs consistent with this cause of action as if fully restated verbatim herein.

67. By contracting with Defendant for the construction of the Project, Plaintiff reposed a special confidence in Defendant to act in good faith and due regard to the interests of Plaintiff with respect to the construction of the Project.

68. Defendant failed to act in equity and good conscience in intentionally misrepresenting that contract sum was based on the estimated cost of the work plus a 12% fee and that the work would be performed by licensed contractors.

69. As a direct and proximate result of the Defendant's failure to act in good faith and intentional disregard for the interests of Plaintiff, Plaintiff has suffered a pecuniary loss in the form of actual, consequential and special injuries, including, but not limited to the costs associated with bringing this action and attorney's fees, for which Plaintiff hereby sues.

**FOR A NINTH CAUSE OF ACTION
(Violation of the South Carolina Unfair Trade Practices Act)**

70. Plaintiff realleges the foregoing paragraphs consistent with this cause of action as if fully restated verbatim herein.

71. Upon information and belief, part of Defendant's business was constructing residential construction projects, such as the Project.

72. Upon information and belief, Defendant fraudulently and deceptively constructed the Project with the use of unlicensed contractors.

73. As a result of Defendant's fraudulent and deceptive acts, the work on the Project was not performed by a licensed contractor and not performed in a good and workmanlike manner.

74. These fraudulent and deceptive acts have led to great expense for Plaintiff in repairing construction defects and completing incomplete work.

75. Defendant's business of residential construction creates the potential for repetition of these fraudulent, unfair and deceptive acts.

76. Since these fraudulent and deceptive acts can easily be repeated on other projects, it is offensive to public policy.

77. As a proximate cause of Defendant's fraudulent and deceptive acts, Plaintiff has been damaged and is entitled to a judgment against Defendants in an amount to be determined at trial, including treble damages, for which Plaintiff hereby sues.

FOR A TENTH CAUSE OF ACTION
(Violation of South Carolina Code Ann. § 29-5-10 et seq.)

78. Plaintiff realleges the foregoing paragraphs consistent with this cause of action as if fully restated verbatim herein.

79. Defendant's lien is frivolous and is in violation of South Carolina Code Ann. § 29-5-10 et seq.

80. Accordingly, Plaintiff hereby sues for the lien's dissolution and statutory damages; including attorneys' fees.

**FOR AN ELEVENTH CAUSE OF ACTION
(Slander of Title)**

81. Plaintiff realleges the foregoing paragraphs consistent with this cause of action as if fully restated verbatim herein.

82. The lien Defendant filed with the Office of the Register of Deeds for Pickens County against the Project is frivolous and in violation of South Carolina Code Ann. § 29-5-10 et seq.

83. By filing its purported Mechanics' Lien, Defendant has published a statement affecting the Plaintiff's title to the Project.

84. Said statements published by the Defendant within its purported Mechanics' Lien and its foreclosure lawsuit are false, derogatory to Plaintiff's title to the Project and were made with malice.

85. As a direct and proximate result of the false representations published by Defendant in the public records of Pickens County, Plaintiff has suffered a pecuniary loss in the form of actual, consequential and special injuries, including, but not limited to the costs associated with bringing this action and attorney's fees, for which the Plaintiff hereby sues.

**FOR A TWELFTH ELEVENTH CAUSE OF ACTION
(Equitable Indemnification)**

86. Plaintiff realleges the foregoing paragraphs consistent with this cause of action as if fully restated verbatim herein.

87. As set forth above, Defendant's failure to pay Yoders has exposed Plaintiff to potential damages, along with associated costs and expenses, including

attorneys' fees. Through no fault of his own, Plaintiff has been forced to defend Yoders' mechanics' lien and incur attorneys' fees and costs in so doing.

88. Plaintiff and Defendant have a special relationship as a result of their agreement, as well as the facts and circumstances hereto appertaining.

89. As the direct result and proximate result of the acts and/or omissions of Defendant, Plaintiff is entitled to recover from Defendant all loss and damage which it has incurred or which it may incur in connection with Yoders' mechanics' lien against Plaintiff, including, but not limited to the legal expenses incurred by Plaintiff in defending Yoders' mechanics' lien.

WHEREFORE, the plaintiff, Scott E. Arbet, prays for the following relief:

- a) For a judgment against Riverstone Development Group, Inc. in an amount to be determined at trial, plus attorneys' fees, interest and costs;
- b) For damages to be determined at trial;
- c) For attorneys' fees and costs;
- d) Treble damages;
- e) Punitive damages;
- f) The dissolution of Riverstone Development Group, Inc.'s mechanics' lien;
- g) The dissolution of Yoder's Building Supply, Inc.'s mechanics' lien; and
- h) For such other and further relief that this Court deems just and proper.

Respectfully submitted this 27th day of May, 2016,

/s/ Townes B. Johnson III

Townes B. Johnson III (SC Bar# 75412)

ROE CASSIDY COATES & PRICE, PA

PO BOX 10529

GREENVILLE, SC 29603

PH: (864) 349-2600

FAX: (864) 349-0303

Attorneys for Plaintiff

Greenville, South Carolina

TELETRONICALLY FILED - 2016 Aug 16 3:35 PM - PICKENS - COMMON PLEAS - CASE#2016CP3900103

STATE OF SOUTH CAROLINA

COUNTY OF PICKENS

NOTICE AND CERTIFICATE
OF MECHANIC'S LIEN

TO:

Scott Emil Arbet
2083 Welsh Valley Road
Phoenixville, PA 19460

Scott Emil Arbet
1074 Cliffs Vista Parkway
Six Mile, SC 29682

NOTICE IS HEREBY GIVEN that Riverstone Development Group, Inc. (SC license # G114265) is due the sum of Thirty One Thousand Two Hundred Seventy Eight and 00/100 Dollars (\$31,278) together with interest, attorney fees and costs allowed by law, pursuant to a signed agreement between Scott Arbet and Riverstone Development Group, Inc. A statement of a just and true account of said indebtedness with all just credit given is attached hereto as **Exhibit A** and made part hereof. This amount is due and owing with interest, fees and costs allowable by law.

That said debt is due for labor performed or furnished, and/or for materials furnished and actually used in the erection, alteration, or repair of buildings or structures situated on, or otherwise improving, the real estate hereinafter described, by virtue of agreement with, or by consent of the owner thereof, or a person or persons authorized by, or rightfully acting for, said owner; or that said debt is due because such improvements have been authorized by said owner. That the work performed by Riverstone Development Group, Inc. is valued at One Million Four Thousand One Hundred and Ninety Seven and 00/100 Dollars (\$1,004,197.00). That Riverstone Development Group, Inc. first labored on, or furnished labor and/or materials for such buildings, structures, or improvements on or about February 13, 2015. That Riverstone Development Group, Inc. last labored on, or furnished labor and/or materials for such buildings, structures, or



improvements on January 28, 2016, which is within ninety (90) days of the date of service and filing of this notice.

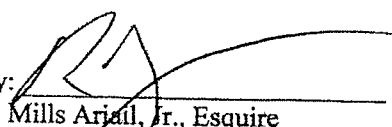
That by service thereof and filing of Notice and Certificate, and pursuant to the provisions of the Statutes in such cases made and provided Riverstone Development Group, Inc. has claims to a lien to secure the payment of the debt so due and the costs of enforcing said lien upon the buildings or structures herein above mentioned and upon the following described real estate:

All that certain piece, parcel or lot of land situate, lying and being in the State of South Carolina, County of Pickens, being known and designated as Lot 57, Phase 4, as shown on a survey of "The Cliffs at Keowee at Keowee Springs, Phase 4, Lots 53 thru 68", prepared by Lindsey & Associates, Inc., dated 2/29/2008 and recorded in the ROD for Pickens County, SC in Plat Book 591 at Page 273. Reference to said plat is hereby made for a more complete and accurate metes and bounds description thereof.

TMS#4140-00-19-0987

This being a portion of the same property conveyed to Thoroughbred Properties of Keowee, LLC by deed of Harold P. Welborn, Jr., as Clerk of Court for Pickens County, SC, CASE# 2011-CP-39-1021, recorded 12/05/2011 in the ROD for Pickens County, SC in Deed Book 1422 at Page 295.

This the 19 day of February, 2016.

By: 
R. Mills Ariail, Jr., Esquire
LAW OFFICE OF R. MILLS ARIAIL, JR.
11 North Irvine Street, Suite 11
Greenville, SC 29601

SWORN to before me this 19th day of February, 2016.

Danise Tanner LaBeck
Notary Public for South Carolina
My Commission Expires: 7/20/2019

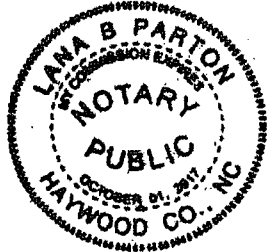
Exhibit A

STATE OF SOUTH CAROLINA)
COUNTY OF PICKENS) VERIFIED STATEMENT OF ACCOUNT

PERSONALLY APPEARED before me Courtney Macke, Owner of Riverstone Development Group, Inc. who first being duly sworn, deposes and says that the following is a true and accurate statement of the amounts owed to Riverstone Development Group, Inc. for services and materials between Riverstone Development Group, Inc. and Scott Emil Arbet for Scott Arbet's house located at 1074 Cliffs Vista Parkway, Six Mile, SC 29682:

TOTAL AMOUNT PAID BY ARBET:	\$960,422.00
AMOUNT OWED FOR EXTENDED GENERAL CONDITIONS:	\$18,994
AMOUNT OWED FOR UNPAID WORK PERFORMED:	\$6182
AMOUNT OWED FOR ARBET'S ADDED CHANGES AND EXTRAS:	\$1,018
AMOUNT OWED FOR ALLOWANCE OVERAGES:	<u>\$5,084</u>
TOTAL AMOUNT OWED BY ARBET:	\$31,278

I hereby certify that the foregoing is a true and accurate Statement of Account due in connection with this Mechanic's Lien.



Courtney Macke
Courtney Macke

SWORN to before me this 19 of February, 2016

Lana B. Parton
Notary Public for North Carolina
My Commission Expires: 10-1-2017

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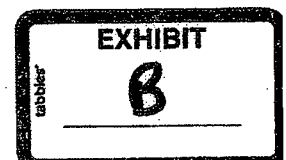
STATE OF SOUTH CAROLINA	)	
	)	REGISTER OF DEEDS OFFICE
COUNTY OF PICKENS	)	
	)	
Yoder's Building Supply, Inc.,	)	
(SC License # 15175)	)	
	)	NOTICE AND CERTIFICATE OF
Petitioner,	)	MECHANIC'S LIEN
v.	)	
	)	
Riverstone Development Group, Inc. and	)	
Scott Arbet,	)	
	)	
Respondents.	)	

TO: THE RESPONDENTS ABOVE-NAMED AND ALL OTHERS CONCERNED:

NOTICE IS HEREBY GIVEN that Yoder's Building Supply, Inc. ("Claimant"), is due the sum of Four Thousand One Hundred Twenty and 18/100 (\$4,120.18) Dollars from Riverstone Development Group, Inc., a statement of just and true account of said indebtedness, with all just credits given, being attached hereto and made a part hereof.

That said debt is due Claimant for labor and materials, specifically to include the furnishing and installation of shower enclosures, shower hardware and mirrors, by virtue of an agreement with, and at the direction of the request of Riverstone Development Group, Inc., the general contractor for improvements to the real property, who was in direct contract with and operating at all times with the knowledge and authorization of Scott Arbet, the Owner of the property described on Exhibit A, attached hereto and incorporated herein by reference. Claimant labored on or furnished labor and materials for such buildings, structures or improvements within ninety (90) days of the date hereof, the last date of such furnishing was January 27, 2016.

No part of the debt has been paid by cash, credit, or otherwise and that by virtue thereof, by the service and filing of this Notice and Certificate, and pursuant to the provisions of



the statutes in such cases made and provided, Claimant has and claims a lien to secure the payment of the debt so due and all the costs and reasonable attorney's fees of enforcing said lien upon the interest in the real estate described above.


Ronald G. Tate, Jr., (S.C. Bar 5475)
Gallivan, White & Boyd, P.A.
P.O. Box 10589
Greenville, SC 29603-9850
Phone: 864-271-5361
Email: RTate@GWBlawfirm.com
Attorney for Yoder's Building Supply, Inc.

March 17, 2016
Greenville, South Carolina

SWORN TO AND SUBSCRIBED before
me this 17th day of March, 2016

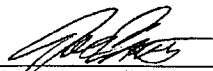

Notary Public, State of South Carolina
My commission expires: 2/25/25



STATE OF SOUTH CAROLINA	)	REGISTER OF DEEDS OFFICE
COUNTY OF PICKENS	)	
Yoder's Building Supply, Inc.,	)	
Petitioner,	)	VERIFICATION
v.	)	
Riverstone Development Group, Inc. and	)	
Scott Arbet,	)	
Respondents.	)	

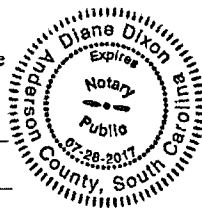
PERSONALLY APPEARED before me, Joe Eaves, who being first duly sworn affirms that he is the Credit Manager of Yoder's Building Supply, Inc., that he has read the foregoing Notice and Certificate of Mechanic's Lien; and that the matters set forth therein are true and accurate and that the amounts alleged therein to be past due and owed to Yoder's Building Supply, Inc., are true and accurate.

Yoder's Building Supply, Inc.


 Joe Eaves, Credit Manager

SWORN TO AND SUBSCRIBED before
 me this 15 day of March, 2016.


 Notary Public, State of South Carolina
 My commission expires: 7-26-2017



STATEMENT OF ACCOUNT - YODER'S BUILDING SUPPLY, INC.

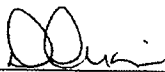
Contract price: \$4,120.18
Less payments and credits: (\$0.00)
Net amount due: \$4,120.18

The undersigned, Joe Eaves, Credit Manager for Yoder's Building Supply, Inc., declares under penalty of law that the above statement is a just and true account of the indebtedness of Yoder's Building Supply, Inc. with all just credits given and that no part of the aforementioned debt has been paid.

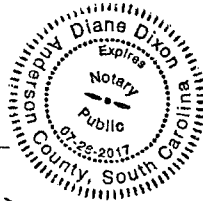


Joe Eaves, Credit Manager
Yoder's Building Supply, Inc.

Sworn to before me this 15
day of March, 2016.



Notary Public for South Carolina



My Commission Expires: 7-26-2017

EXHIBIT A

All that certain piece, parcel or lot of land situate, lying and being in the State of South Carolina, County of Pickens, being known and designated as Lot 57, Phase 4, as shown on a survey of "The Cliffs at Keowee at Keowee Springs, Phase 4, Lots 53 thru 68", prepared by Lindsey & Associates, Inc., dated 2/29/2008 and recorded in the ROD for Pickens County, SC in Plat Book 591 at Page 273. Reference to said plat is hereby made for a more complete and accurate metes and bounds description thereof.

TMS #4140-00-19-0987

This being a portion of the same property conveyed to Thoroughbred Properties of Keowee, LLC by deed of Harold P. Welborn, Jr., as Clerk of Court for Pickens County, SC, CASE #2011-CP-39-1021, recorded 12/05/2011 in the ROD for Pickens County, SC in Deed Book 1422 at Page 295.

8. Complaint Paragraph 8 calls for a conclusion of law, and thus, no response is required. To the extent that a response is required, Riverstone denies the allegations in Complaint Paragraph 8.

9. Complaint Paragraph 9 calls for a conclusion of law, and thus, no response is required. To the extent that a response is required, Riverstone denies the allegations in Complaint Paragraph 9.

10. Complaint Paragraph 10 calls for a conclusion of law, and thus, no response is required. To the extent that a response is required, Riverstone denies the allegations in Complaint Paragraph 10.

11. In response to Complaint Paragraph 11, Riverstone admits that on or about February 1, 2016, Plaintiff mailed a letter to Riverstone. Riverstone denies the remainder of Paragraph 11.

12. Riverstone denies the allegations in Complaint Paragraph 12.

13. Riverstone admits the first sentence of Complaint Paragraph 13. In response to Complaint Paragraph 13, second sentence, Riverstone craves reference to a true and correct copy of Riverstone's lien.

14. Riverstone denies the allegations in Complaint Paragraph 14.

15. Riverstone denies the allegations in Complaint Paragraph 15.

16. Riverstone denies the allegations in Complaint Paragraph 16.

17. The second dependent clause of Complaint Paragraph 17 calls for a conclusion of law, and thus, no response is required. To the extent that a response is required, Riverstone denies the allegations in the first second clause of Complaint Paragraph 17. The remainder of

Complaint Paragraph 17 does not relate to Riverstone, and, thus, no response is required. To the extent that a response is required, Riverstone denies the remainder of Complaint Paragraph 17.

18. Riverstone admits the allegations in Complaint Paragraph 18.

FOR A SECOND DEFENSE
(Declaratory Judgment)

19. Complaint Paragraph 19 calls for a conclusion of law, and thus, no response is required. To the extent that a response is required, Riverstone denies the allegations in Complaint Paragraph 19.

20. Riverstone denies that Plaintiff is entitled to the relief set forth in Complaint Paragraph 20.

21. Riverstone denies that Plaintiff is entitled to the relief set forth in Complaint Paragraph 21.

FOR A THIRD DEFENSE
(Breach of Contract)

22. No response is required to Complaint Paragraph 22. To the extent that a response is required, Riverstone denies the allegations in Complaint Paragraph 22.

23. Riverstone admits the allegations in Complaint Paragraph 23.

24. Complaint Paragraph 24 calls for a conclusion of law, and, thus, Riverstone need not respond. To the extent a response is necessary, Riverstone denies the allegations in Complaint Paragraph 24.

25. Riverstone denies the allegations in Complaint Paragraph 25.

26. Riverstone denies the allegations in Complaint Paragraph 26.

FOR A FOURTH DEFENSE
(Breach of Express/Implied Warranties)

27. No response is required to Complaint Paragraph 27. To the extent that a response is required, Riverstone denies the allegations in Complaint Paragraph 27.

28. Complaint Paragraph 28 calls for a conclusion of law, and, thus, Riverstone need not respond. To the extent a response is necessary, Riverstone denies the allegations in Complaint Paragraph 28.

29. Complaint Paragraph 29 calls for a conclusion of law, and, thus, Riverstone need not respond. To the extent a response is necessary, Riverstone denies the allegations in Complaint Paragraph 29.

30. Complaint Paragraph 30 calls for a conclusion of law, and, thus, Riverstone need not respond. To the extent a response is necessary, Riverstone denies the allegations in Complaint Paragraph 30.

31. Riverstone denies the allegations in Complaint Paragraph 31.

32. Riverstone denies the allegations in Complaint Paragraph 32.

FOR A FIFTH DEFENSE
(Negligence)

33. No response is required to Complaint Paragraph 33. To the extent that a response is required, Riverstone denies the allegations in Complaint Paragraph 33.

34. Complaint Paragraph 34 calls for a conclusion of law, and, thus, Riverstone need not respond. To the extent a response is necessary, Riverstone denies the allegations in Complaint Paragraph 34.

35. Riverstone denies the allegations in Complaint Paragraph 35.

36. Complaint Paragraph 36 calls for a conclusion of law, and, thus, Riverstone need not respond. To the extent a response is necessary, Riverstone denies the allegations in Complaint Paragraph 36.

37. Riverstone denies the allegations in Complaint Paragraph 37.

38. Riverstone denies the allegations in Complaint Paragraph 38.

FOR A SIXTH DEFENSE
(Negligent Misrepresentation)

39. No response is required to Complaint Paragraph 39. To the extent that a response is required, Riverstone denies the allegations in Complaint Paragraph 39.

40. Riverstone admits the allegations in Complaint Paragraph 40.

41. Complaint Paragraph 41 calls for a conclusion of law, and, thus, Riverstone need not respond. To the extent a response is necessary, Riverstone denies the allegations in Complaint Paragraph 41.

42. Complaint Paragraph 42 calls for a conclusion of law, and, thus, Riverstone need not respond. To the extent a response is necessary, Riverstone denies the allegations in Complaint Paragraph 42.

43. Complaint Paragraph 43 calls for a conclusion of law, and, thus, Riverstone need not respond. To the extent a response is necessary, Riverstone denies the allegations in Complaint Paragraph 43.

44. Complaint Paragraph 44 calls for a conclusion of law, and, thus, Riverstone need not respond. To the extent a response is necessary, Riverstone denies the allegations in Complaint Paragraph 44.

45. Complaint Paragraph 45 calls for a conclusion of law, and, thus, Riverstone need not respond. To the extent a response is necessary, Riverstone denies the allegations in Complaint Paragraph 45.

46. Complaint Paragraph 46 calls for a conclusion of law, and, thus, Riverstone need not respond. To the extent a response is necessary, Riverstone denies the allegations in Complaint Paragraph 46.

47. Complaint Paragraph 47 calls for a conclusion of law, and, thus, Riverstone need not respond. To the extent a response is necessary, Riverstone denies the allegations in Complaint Paragraph 47.

FOR A SEVENTH DEFENSE
(Fraud)

48. No response is required to Complaint Paragraph 48. To the extent that a response is required, Riverstone denies the allegations in Complaint Paragraph 48.

49. Riverstone admits the allegations in Complaint Paragraph 49.

50. Complaint Paragraph 50 calls for a conclusion of law, and, thus, Riverstone need not respond. To the extent a response is necessary, Riverstone denies the allegations in Complaint Paragraph 50.

51. Complaint Paragraph 51 calls for a conclusion of law, and, thus, Riverstone need not respond. To the extent a response is necessary, Riverstone denies the allegations in Complaint Paragraph 51.

52. Complaint Paragraph 52 calls for a conclusion of law, and, thus, Riverstone need not respond. To the extent a response is necessary, Riverstone denies the allegations in Complaint Paragraph 52.

53. Complaint Paragraph 53 calls for a conclusion of law, and, thus, Riverstone need not respond. To the extent a response is necessary, Riverstone denies the allegations in Complaint Paragraph 53.

54. Complaint Paragraph 54 calls for a conclusion of law, and, thus, Riverstone need not respond. To the extent a response is necessary, Riverstone denies the allegations in Complaint Paragraph 54.

55. Complaint Paragraph 55 calls for a conclusion of law, and, thus, Riverstone need not respond. To the extent a response is necessary, Riverstone denies the allegations in Complaint Paragraph 55.

56. Complaint Paragraph 56 calls for a conclusion of law, and, thus, Riverstone need not respond. To the extent a response is necessary, Riverstone denies the allegations in Complaint Paragraph 56.

FOR AN EIGHTH DEFENSE
(Constructive Fraud)

57. No response is required to Complaint Paragraph 57. To the extent that a response is required, Riverstone denies the allegations in Complaint Paragraph 57.

58. Riverstone admits the allegations in Complaint Paragraph 58.

59. Complaint Paragraph 59 calls for a conclusion of law, and, thus, Riverstone need not respond. To the extent a response is necessary, Riverstone denies the allegations in Complaint Paragraph 59.

60. Complaint Paragraph 60 calls for a conclusion of law, and, thus, Riverstone need not respond. To the extent a response is necessary, Riverstone denies the allegations in Complaint Paragraph 60.

61. Complaint Paragraph 61 calls for a conclusion of law, and, thus, Riverstone need not respond. To the extent a response is necessary, Riverstone denies the allegations in Complaint Paragraph 61.

62. Complaint Paragraph 62 calls for a conclusion of law, and, thus, Riverstone need not respond. To the extent a response is necessary, Riverstone denies the allegations in Complaint Paragraph 62.

63. Complaint Paragraph 63 calls for a conclusion of law, and, thus, Riverstone need not respond. To the extent a response is necessary, Riverstone denies the allegations in Complaint Paragraph 63.

64. Complaint Paragraph 64 calls for a conclusion of law, and, thus, Riverstone need not respond. To the extent a response is necessary, Riverstone denies the allegations in Complaint Paragraph 64.

65. Complaint Paragraph 65 calls for a conclusion of law, and, thus, Riverstone need not respond. To the extent a response is necessary, Riverstone denies the allegations in Complaint Paragraph 65.

FOR A NINTH CAUSE OF ACTION
(Breach of Fiduciary Duty)

66. No response is required to Complaint Paragraph 66. To the extent that a response is required, Riverstone denies the allegations in Complaint Paragraph 66.

67. Complaint Paragraph 67 calls for a conclusion of law, and, thus, Riverstone need not respond. To the extent a response is necessary, Riverstone denies the allegations in Complaint Paragraph 67.

68. Complaint Paragraph 68 calls for a conclusion of law, and, thus, Riverstone need not respond. To the extent a response is necessary, Riverstone denies the allegations in Complaint Paragraph 68.

69. Complaint Paragraph 69 calls for a conclusion of law, and, thus, Riverstone need not respond. To the extent a response is necessary, Riverstone denies the allegations in Complaint Paragraph 69.

FOR A TENTH DEFENSE
(Violation of the South Carolina Unfair Trade Practices Act)

70. No response is required to Complaint Paragraph 70. To the extent that a response is required, Riverstone denies the allegations in Complaint Paragraph 70.

71. Riverstone admits the allegations in Complaint Paragraph 71.

72. Riverstone denies the allegations in Complaint Paragraph 72.

73. Riverstone denies the allegations in Complaint Paragraph 72.

74. Riverstone denies the allegations in Complaint Paragraph 72.

75. Complaint Paragraph 75 calls for a conclusion of law, and, thus, Riverstone need not respond. To the extent a response is necessary, Riverstone denies the allegations in Complaint Paragraph 75.

76. Complaint Paragraph 76 calls for a conclusion of law, and, thus, Riverstone need not respond. To the extent a response is necessary, Riverstone denies the allegations in Complaint Paragraph 76.

77. Complaint Paragraph 77 calls for a conclusion of law, and, thus, Riverstone need not respond. To the extent a response is necessary, Riverstone denies the allegations in Complaint Paragraph 77.

FOR AN ELEVENTH DEFENSE
(Violation of South Carolina Code Ann. § 29-5-10 et seq.)

78. No response is required to Complaint Paragraph 78. To the extent that a response is required, Riverstone denies the allegations in Complaint Paragraph 78.

79. Complaint Paragraph 79 calls for a conclusion of law, and, thus, Riverstone need not respond. To the extent a response is necessary, Riverstone denies the allegations in Complaint Paragraph 79.

80. No response is required to Complaint Paragraph 80. To the extent that a response is required, Riverstone denies that Plaintiff is entitled to any relief requested in Complaint Paragraph 80.

FOR A TWELFTH DEFENSE
(Slander of Title)

81. No response is required to Complaint Paragraph 81. To the extent that a response is required, Riverstone denies the allegations in Complaint Paragraph 81.

82. Complaint Paragraph 82 calls for a conclusion of law, and, thus, Riverstone need not respond. To the extent a response is necessary, Riverstone denies the allegations in Complaint Paragraph 82.

83. Complaint Paragraph 83 calls for a conclusion of law, and, thus, Riverstone need not respond. To the extent a response is necessary, Riverstone denies the allegations in Complaint Paragraph 83.

84. Complaint Paragraph 84 calls for a conclusion of law, and, thus, Riverstone need not respond. To the extent a response is necessary, Riverstone denies the allegations in Complaint Paragraph 84.

85. Complaint Paragraph 85 calls for a conclusion of law, and, thus, Riverstone need not respond. To the extent a response is necessary, Riverstone denies the allegations in Complaint Paragraph 85.

FOR A THIRTEENTH DEFENSE
(Equitable Indemnification)

86. No response is required to Complaint Paragraph 86. To the extent that a response is required, Riverstone denies the allegations in Complaint Paragraph 86.

87. Riverstone denies the allegations in Complaint Paragraph 87.

88. Complaint Paragraph 88 calls for a conclusion of law, and, thus, Riverstone need not respond. To the extent a response is necessary, Riverstone denies the allegations in Complaint Paragraph 88.

89. Complaint Paragraph 89 calls for a conclusion of law, and, thus, Riverstone need not respond. To the extent a response is necessary, Riverstone denies that Plaintiff is entitled to recover any relief requested in Complaint Paragraph 89, and denies the remainder of Complaint Paragraph 89.

90. In responding to the portion of Plaintiff's Complaint purporting to be a prayer for relief, including all subparts, Riverstone denies that Plaintiff is entitled to any relief, requested or otherwise.

FOR A FIRST AFFIRMATIVE DEFENSE
(Failure to state a claim or cause of action)

91. Riverstone alleges that the Complaint fails to sufficiently constitute a cause of action against it or fails to state facts upon which a claim can be based.

FOR A SECOND AFFIRMATIVE DEFENSE
(Recovery reduced by setoff)

92. Riverstone alleges that any recovery by Plaintiff must be set off or reduced, abated, or apportioned to the extent that any of other party's actions caused or contributed to damages, if any, and must be set off or reduced, abated, or apportioned to the extent that the amount of any judgment against it is paid to Riverstone for the alleged defects of others.

FOR A THIRD AFFIRMATIVE DEFENSE
(Riverstone's obligations void or excused)

93. Riverstone alleges that, to the extent Plaintiff alleges that Riverstone had any obligation to which full performance has not been rendered or excused, that obligation did not exist or was based upon acts or omissions that were void or otherwise extinguished.

FOR A FOURTH AFFIRMATIVE DEFENSE
(Plaintiff's breach of contract)

94. Riverstone alleges that to the extent Plaintiff seeks recovery in contract, Plaintiff materially breached the terms and conditions of the contract and is entitled to no relief thereon.

FOR A FIFTH AFFIRMATIVE DEFENSE
(Claims barred by unclean hands)

95. Riverstone alleges that Plaintiff's causes of action are barred under the equitable doctrine of unclean hands.

FOR A SIXTH AFFIRMATIVE DEFENSE
(Plaintiff's bad faith)

96. Riverstone alleges that Plaintiff's bad faith bars its claims or that any damages must be reduced as a result of Plaintiff's comparative bad faith.

FOR A SEVENTH AFFIRMATIVE DEFENSE
(Estoppel)

97. Riverstone alleges that Plaintiff's conduct operated as estoppel or waiver of any rights to file this action.

FOR AN EIGHTH AFFIRMATIVE DEFENSE
(Failure to comply with conditions precedent)

98. Riverstone alleges that Plaintiff failed and refused to comply with the contractual conditions precedent to this action, and thereby extinguished his rights to bring or maintain this action.

FOR A NINTH AFFIRMATIVE DEFENSE
(Full performance by Riverstone)

99. Riverstone alleges that it performed all of the actions required of it under the subject agreement, and that the only additional action required carrying out the agreement was performance by others.

FOR A TENTH AFFIRMATIVE DEFENSE
(Failure to Mitigate)

100. Riverstone alleges that Plaintiff's failure to mitigate damages is a bar to recovery and the Complaint should be dismissed.

FOR A ELEVENTH AFFIRMATIVE DEFENSE
(Right to add additional affirmative defenses)

101. Riverstone reserves the right to assert additional affirmative defenses.

FOR A TWELFTH AFFIRMATIVE DEFENSE BY WAY OF COUNTERCLAIM
(Quantum Meruit)

102. Defendant realleges and incorporates herein the preceding allegations of his Answer as if fully stated verbatim herein.

103. Defendant furnished labor and materials for the benefit of the Plaintiff, which labor and materials were accepted and used by Plaintiff.

104. It was understood when the labor and materials were furnished that Defendant would be paid for them. The acceptance of the work by Plaintiff created an implied agreement between Plaintiff and Defendant.

105. Plaintiff would be unjustly enriched if Defendant is not paid for the value of the labor and materials supplied.

106. It would be inequitable to allow Plaintiff to retain the materials, labor and benefits without paying the value of the labor and materials to Defendant. Defendant has no adequate remedy at law to protect it and equitable relief is necessary and appropriate.

107. Defendant has retained the services of the undersigned attorneys to represent it in this matter and the fees and costs of same should be equitably borne by Plaintiff.

108. Defendant requests that the reasonable value of the labor and materials provided be paid by Plaintiff to Defendant.

FOR A THIRTEENTH AFFIRMATIVE DEFENSE BY WAY OF COUNTERCLAIM
(Breach of Contract)

109. Defendant realleges and incorporates herein the preceding allegations of this Answer as if fully stated verbatim herein.

110. Defendant performed all of its work, including the additional work requested on the project by Plaintiff in a timely, good and workmanlike manner.

111. Despite Defendant's full performance of its duties and obligations under the contract, Plaintiff failed and refused to pay Defendant the sums due.

112. As a direct and proximate result of Plaintiff's breach, Defendant has suffered actual and consequential damages in an amount to be proven at trial, for which they hereby sue, together with attorneys' fees, interest and costs as allowed by law.

WHEREFORE, the Defendant prays for the following relief:

1. Dismissal of Plaintiff's Amended Complaint;
2. For judgment against Plaintiff for all actual and consequential damages, attorney fees, costs and interests and for such other and further relief as the Court deems just and proper.

Respectfully Submitted,

/s/ R. Mills Ariail, Jr.
R. Mills Ariail, Jr. (SC Bar # 15584)
11 North Irvine Street, Suite 11
Greenville, SC 29601
P: 864-232-9390
F: 864-232-9392
mills@rmalawoffice.com
Attorney for Riverstone Development Group, Inc.

September 15, 2016
Greenville, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF PICKENS	)	THIRTEENTH JUDICIAL CIRCUIT
	)	
Scott E. Arbet,	)	C. A. No. 2016-CP-39-00103
	)	
Plaintiff,	)	
	)	
v.	)	PLAINTIFF'S MEMORANDUM IN
	)	OPPOSITION TO DEFENDANT'S
	)	MOTION TO DISMISS AND IN
Riverstone Development Group, Inc.,	)	SUPPORT OF PLAINTIFF'S MOTION
	)	TO AMEND
Defendant.	)	
	)	

TO: R. MILLS ARIAIL, JR., ESQ., COUNSEL FOR DEFENDANT RIVERSTONE DEVELOPMENT GROUP, INC.

COMES NOW, the plaintiff, Scott E. Arbet ("Plaintiff" or "Arbet"), and hereby submits his Memorandum in Opposition to Defendant Riverstone Development Group, Inc. ("Riverstone")'s Motion to Dismiss and in Support of his Motion to Amend his Complaint.

INTRODUCTION

This Court should deny Riverstone's Motion to Dismiss because: 1) Riverstone is precluded by *South Carolina Code Ann.* § 40-11-370(C) from enforcing the provisions of the residential construction contract at issue; including its forum selection clause; 2) Pickens County is the **only** venue in which causes of action regarding the mechanics' lien Riverstone filed against Plaintiff's real property located in Pickens County can be litigated since those claims are *in rem*; 3) the forum selection clause does not relate to all Plaintiff's causes of action; and 4) Riverstone's illegal activity prevents the forum selection clause from applying.

RELEVANT FACTS

Riverstone is a licensed general contractor with the South Carolina Contractor's Licensing Board and holds a "BD4" (also known as a "Group Four") license classification under License

No.: 114265. *See Exhibit 1: Riverstone's License.* Pursuant to *South Carolina Code Ann. § 40-11-260(A)(4)*, a BD4 license classification limits a contractor from bidding on or performing jobs which exceed Seven Hundred Fifty Thousand Dollars (\$750,000.00). *See South Carolina Code Ann. § 40-11-260(A)(4) and See Exhibit 2: The South Carolina Contractor's Licensing Board's "Current Classification Abbreviations and Project/Dollar Limitations".*

Riverstone and Plaintiff entered into a written contract ("Contract") on or about February 13, 2015, wherein Riverstone agreed to be the general contractor for the construction of a residence for Plaintiff, located in Pickens County, South Carolina ("Project"). The "Contract Sum" under the Contract was "Seven Hundred Fifty Thousand Dollars and Zero Cents (\$750,000.00) with final contract amount to be adjusted plus or minus 5% based upon client's final selections and design changes to the Arbet Residence home plan to achieve this budget". *See Exhibit 3: The Residential Construction Contract between Riverstone and Plaintiff with Exhibits A through H¹; Section 2.* Pursuant to the Contract as entered into on February 13, 2015, Exhibits A (the "House Plans Identified As Modified Arbet Residence Contract Set, Dated TBD"), B (the "Finish Specifications TBD"), C (the "Schedule of Values TBD"), and D (the "Allowance Log TBD") were incomplete and needed to be determined. *Id.*; Section 13. Pursuant to Section 12(g) of the Contract, the Contract could "not be modified except in writing, signed by all parties hereto". *Id.*; Section 12(g). Accordingly, on or about April 9, 2015, prior to construction commencing, the parties formalized and executed the "Schedule of Values" and "Finish Specifications" the for the Project and those became "Exhibit B" and "Exhibit C", respectively, to the Contract. *Id.*; *Exhibits B and C.* Pursuant to "Exhibit C" to the Contract, the "[c]urrent price as of 4/9/15 [for the Home, Attached Garage, Sitework, and Allowances] without client's final finishes decisions and pricing \$ 873,399.00

¹ Defendant Riverstone attached an incomplete copy of the Contract to its Memorandum In Support of its Motion to Dismiss which omitted all Exhibits to the Contract.

including client's VE list selections of items 7, 8, 9, 10, 11, 18 and removal of bar serving window". *Id.*; *Exhibit C*. The "Schedule of Values" of Exhibit B to the Contract also states that the total cost of construction would be Eight Hundred Seventy-Three Thousand, Three Hundred Ninety-Nine and 0/100ths Dollars (\$873,399.00). *Id.*; *Exhibit B*, pg. 2. As of January 5, 2016, the date of Riverstone's Draw Requests No. 11, there had been no change orders on the Project and the 'Contract Sum' was the same Eight Hundred Seventy-Three Thousand, Three Hundred Ninety-Nine and 0/100ths Dollars (\$873,399.00) figure. *See Exhibit 4: Riverstone's Draw Request No. 11 dated January 5, 2016.*

After a dispute arose between the parties regarding the work Riverstone performed and the amounts due under the Contract, if any, Riverstone filed a mechanics' lien against the Project which was recorded in the Office of the Register of Deeds for Pickens County in Mechanics Lien Book 2016 at Page 520. *See Exhibit 5: Riverstone's Mechanics' Lien*. Pursuant to Riverstone's mechanics' lien, "the work performed by [Riverstone] is value at One Million Four Thousand One Hundred and Ninety Seven and 00/100 Dollars (\$1,004,197.00)" and, of that alleged amount, Plaintiff has paid Nine Hundred Sixty Thousand, Four Hundred Twenty-Two and 0/100ths Dollars (\$960,422.00). *Id.*

ARGUMENT

I. RIVERSTONE IS PRECLUDED BY SOUTH CAROLINA CODE ANN. § 40-11-370(C) FROM ENFORCING THE PROVISIONS OF THE CONSTRUCTION CONTRACT AT ISSUE

In its Motion to Dismiss, Riverstone is trying to enforce Section 12(g) of the Contract which, in pertinent part, states: "Venue shall be in JACKSON COUNTY, NORTH CAROLINA." *South Carolina Code Ann.* § 40-11-370(C) proscribes that an entity which does not have a valid license cannot enforce the provisions of a contract. *See South Carolina Code Ann.* § 40-11-370(C).

With regard to its work on the Project, Riverstone is deemed to not have a valid license and, accordingly, cannot enforce the forum selection clause of Section 12(g) of the Contract.

Riverstone holds a “BD4” general contractor’s license with the South Carolina Department of Labor, Licensing and Regulation which enables Riverstone to only bid on and perform jobs which do not exceed Seven Hundred Fifty Thousand Dollars (\$750,000.00). *See Exhibits 1 and 2 and South Carolina Code Ann. § 40-11-260(A)(4).* Pursuant to *South Carolina Code Ann. § 40-11-300(A)*, the “total cost of construction must be used to determine the appropriate license group for a project” and the ‘total cost of construction’ is defined in the Code as meaning “the actual cost incurred by the owner, all contractors, subcontractors, and other parties for labor, material, equipment, profit, and incidental expenses for the entire project”. *See South Carolina Code Ann. §§ 40-11-300(A) and 40-11-20(23).* Furthermore, and an entity “engaging in general or mechanical construction on a project without the required license or certificate **must immediately withdraw** from the construction project”. *See South Carolina Code Ann. § 40-11-300(B) (emphasis added).*

The South Carolina Supreme Court, in C-Sculptures, LLC v. Brown, was very clear in finding that an “under-licensed” general contractor does not have a “valid license” as required by *South Carolina Code Ann. § 40-11-370(C)* as to avoid the door-closing effect and to enable the contractor to be able to enforce the terms of a contract. *See e.g. C-Sculptures, LLC v. Brown*, 403 S.C. 53, 742 S.E.2d 359 (2013) (*wherein an under-licensed general contractor was deemed not to have a valid license to perform work on the project and, consequently, was precluded from enforcing the provisions of the related construction contract*). In the matter at hand, it cannot be disputed that Riverstone was “under-licensed” to bid on and perform the Project.

As an initial matter, it was unlawful for Riverstone enter into the Contract on February 13, 2015 where, on the face of the Contract itself, Riverstone offered to perform work which exceeded its license limitation of Seven Hundred Fifty Thousand Dollars (\$750,000.00) as the Contract states that the "Contract Sum" was "Seven Hundred Fifty Thousand Dollars and Zero Cents (\$750,000.00) with final contract amount to be adjusted *plus or minus 5%*". *See Exhibit 3; Section 2 and See South Carolina Code Ann. § 40-11-200(A) (A person who "offers to practice in this State in violation of this Chapter" "is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than one year or fined not more than five thousand dollars")*. Then, on or about April 9, 2015, once the Project's plans and specifications were finished and the parties came to the real 'Contract Sum', the "Total Price" was Eight Hundred Seventy-Three Thousand, Three Hundred Ninety-Nine and 0/100ths Dollars (\$873,399.00). *See Exhibit 3; Exhibits C and B, pg. 2*. The "Total Price" of Eight Hundred Seventy-Three Thousand, Three Hundred Ninety-Nine and 0/100ths Dollars (\$873,399.00) clearly exceeded Riverstone's BD4 license capacity and Riverstone, accordingly, did not have a "valid license" to perform the work. *See e.g. C-Sculptures, LLC, 403 S.C. 53, 742 S.E.2d 359*.

Although Riverstone's draw requests clearly show that there were no "change orders" which increased the 'Contract Sum' to the Eight Hundred Seventy-Three Thousand, Three Hundred Ninety-Nine and 0/100ths Dollars (\$873,399.00) figure as Riverstone has claimed, assuming, *arguendo*, that there were "change orders" during the Project which increased the 'Contract Sum' over the Seven Hundred Fifty Thousand Dollars (\$750,000.00) threshold, Riverstone was still 'under-licensed' to perform the work and, accordingly, did not have a valid license. *See Exhibit 5 and See e.g. C-Sculptures, LLC, 403 S.C. 53, 742 S.E.2d 359. South Carolina Code Ann. § 40-11-300(A) requires that "the actual cost incurred by the owner, all*

contractors, subcontractors, and other parties for labor, material, equipment, profit, and incidental expenses for the entire project” – the “total cost of construction” – be used “to determine the appropriate license group for a project” and *South Carolina Code Ann.* § 40-11-270(A) further mandates that a licensee is confined to the limitations on its license group. *See South Carolina Code Ann.* §§ 40-11-20(23), 40-11-300(A), and 40-11-270(A). Accordingly, the “appropriate license group” for the Project from at least April 9, 2015, when the “Total Price” was Eight Hundred Seventy-Three Thousand, Three Hundred Ninety-Nine and 0/100ths Dollars (\$873,399.00), until the Riverstone left the Project, when the actual cost according to Riverstone’s own lien was One Million Four Thousand One Hundred and Ninety Seven and 00/100 Dollars (\$1,004,197.00), exceeded Riverstone’s BD4 license. *See Exhibit 3; Exhibits C and B, pg. 2; and See Exhibit 5.* Accordingly, as of April 9, 2015, even if Riverstone was already “engaging in general...construction” on the Project, Riverstone was required to “immediately withdraw” from the Project. *See South Carolina Code Ann.* § 40-11-300(B). Riverstone failed to do so and continued to work outside of their license capacity in violation of Title 40, Chapter 11. *Id. and See Exhibit 3; Exhibits C and B, pg. 2; and See Exhibit 5.*

Pursuant to C-Sculptures, LLC and Title 40, Chapter 11, it is clear that Riverstone does not have a “valid license” as required by *South Carolina Code Ann.* § 40-11-370(C) in order to enforce the forum selection clause it seeks to enforce in its Motion to Dismiss. Accordingly, Riverstone’s Motion to Dismiss should be denied.

II. THE MECHANICS’ LIEN STATUTE REQUIRES ITS ENFORCEMENT TO BE IN THE COUNTY WHERE THE BUILDING IS SITUATED

After Plaintiff initiated this action, Riverstone filed a mechanics’ lien against the Project which was recorded in the Office of the Register of Deeds for Pickens County. Plaintiff has since filed a Motion to Amend its Complaint to bring causes of action against Riverstone which enforce

the mechanics' lien statute. Pursuant to Rule 15(a) of the *South Carolina Rules of Civil Procedure*, leave of Court to amend shall be freely given when justice so requires and does not prejudice any other party. *See SCRCP*, Rule 15(a). In the instant scenario, justice clearly requires Plaintiff to be able to amend and Riverstone, itself, invoked the mechanics' lien statute by filing its lien in Pickens County so no prejudice could befall it by Plaintiff's enforcement of the mechanics' lien statute in Pickens County. Furthermore, South Carolina law "strongly favors amendments, and the Court is encouraged to freely grant leave to amend." *Parker v. Spartanburg Sanitary Sewer Dist.*, 362 S.C.276, 607 S.E.2d 711 (S.C.App. 2005). Accordingly, the Court should grant Plaintiff's Motion to Amend so that Plaintiff can bring its claims against Riverstone pursuant to the mechanics' lien statute. It follows, therefore, that Pickens County is the only venue wherein the mechanics' lien statute related to Riverstone's lien can be enforced. *See South Carolina Code Ann.* § 29-5-140 (*requiring enforcement of the lien to be filed in the county in which the building is situated*).

III. THE FORUM SELECTION CLAUSE DOES NOT RELATE TO ALL PLAINTIFF'S CAUSES OF ACTION

South Carolina generally disfavors forum selection clauses. *See Johnson v. Key Equipment Finance*, 367 S.C. 665 at 668, 627 S.E.2d 740 (2006). The South Carolina Supreme Court further held that "a forum selection clause that is narrowly tailored to certain activities between the parties does not foreclose the opportunity to file suit in South Carolina where the cause of action relates to acts inducing the execution of the contract. This type of action is entirely distinguishable from a case where the suit is based solely on the breach of the actual contract." *Id.* at 669.

In the instant case, the forum selection clause is clearly narrowly tailed just to the Contract as it simply states that "Venue shall be in JACKSON COUNTY, NORTH CAROLINA" and there are clearly numerous torts claims in which Plaintiff brought that are distinguishable from Plaintiff's cause of action for breach of contract in addition to Plaintiff's mechanics' lien claims

in which Plaintiff is seeking to amend and bring. Accordingly, Riverstone's Motion to Dismiss should be denied as to the unrelated causes of action.

IV. RIVERSTONE'S ILLEGAL OFFER TO PERFORM WORK OVER ITS LICENSE LIMITATION RENDERS THE REMEDIES AND LIMITATIONS SPECIFIED BY THE CONTRACT INAPPLICABLE

As discussed in Seciton I, above, pursuant to *South Carolina Code Ann.* § 40-11-200(A), it was unlawful for Riverstone enter into the Contract on February 13, 2015 since, on the face of the Contract itself, Riverstone offered to perform work which exceeded its license limitation of Seven Hundred Fifty Thousand Dollars (\$750,000.00). The South Carolina Supreme Court has held that "when wrongs arise inducing a party to execute a contract and not directly from the breach of that contract, the remedies and limitations specified by the contract do not apply". *Id.* at 668 citing *Sterling Financial Inv. Group, Inc. v. Hammer*, 393 F.3d 1223, 1225 (11th Cir.2004); *Maltz v. Union Carbide Chemicals & Plastics Co., Inc.*, 992 F.Supp. 286, 297 (S.D.N.Y.1998); *Busse v. Pacific Cattle Feeding Fund # 1, Ltd.*, 896 S.W.2d 807, 812-13 (Tex.Ct.App.1995). Accordingly, Riverstone's illegal misrepresentation that it could perform work at Five percent (5%) over its license limitation, which certainly had a bearing on Plaintiff entering into the agreement with Riverstone, renders the forum selection clause to not be applicable. *Id.* For the foregoing reasons, Riverstone's Motion to Dismiss should be denied.

CONCLUSION

For the foregoing reasons, Plaintiff's Motion to Amend its Complaint should be granted and Riverstone's Motion to Dismiss should be denied.

Respectfully submitted this 1st day of July, 2016,

/s/ Townes B. Johnson III

Townes B. Johnson III (SC Bar# 75412)

ROE CASSIDY COATES & PRICE, PA

PO Box 10529

GREENVILLE, SC 29603

PH: (864) 349-2600

FAX: (864) 349-0303

Attorneys for Plaintiff

Greenville, South Carolina

Exhibit 1

EXHIBIT
1

[Print this page.](#)**Board: Commercial Contractors****RIVERSTONE DEVELOPMENT GROUP INC**

217 STONEHAVEN DR
CULLOWHEE, NC 28723
(828) 293-2108

License number: 114265**License type:** GENERAL CONTRACTOR**Status:** ACTIVE**Expiration:** 10/31/2016**First Issuance Date:** 06/05/2008**Classification:** BD4**President / Owner:** GUY W BURTT[Click here for Classification definitions and licensee's contract dollar limit](#)**Supervises****GUY W BURTT - (COG)**[File a Complaint against this licensee](#)**Board Public Action History:**[View Orders](#)[View Other License for this Person](#)[No Orders Found](#)

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Exhibit 2

EXHIBIT
2

CURRENT CLASSIFICATION ABBREVIATIONS and PROJECT/DOLLAR LIMITATIONS

The two-letters on a license indicates the designated classification(s) of work (i.e. **BD3**); the number behind the letters indicates their designated dollar limit per contract (i.e. **BD3**); see classifications & project/dollar limits below:

GENERAL CONTRACTOR classifications		MECHANICAL CONTRACTOR classifications	
Asphalt Paving	AP	Air Conditioning	AC
Boiler Installation.....	BL	Electrical.....	EL
Boring & Tunneling (no technical exam)	BT	Heating	HT
Bridges	BR	Lightning Protection	LP
Building (BD, LB, UB) *	BD	Packaged Equipment.....	PK
Concrete.....	CT	Plumbing	PB
Concrete Paving	CP	Process Piping ****	1P/2P
General Roofing	GR	Refrigeration.....	RG
Glass & Glazing	GG		
Grading	GD		
Highway **	HY		
Highway Incidental (no technical exam)	HI		
Interior Renovation (no technical exam)	IR		
Marine	MR		
Masonry (no technical exam)	MS		
Pipelines.....	PL		
Pre-Engineered Metal Buildings	MB		
Public Utility Electrical ***	1U/2U		
Railroad (no technical exam)	RR		
Specialty Roofing	SR		
Structural Framing	SF		
Structural Shapes	SS		
Swimming Pools	SP		
Water & Sewer Lines	WL		
Water & Sewer Plants.....	WP		
Wood Frame Structures.....	WF		

- * **Building (BD)** classification - includes GR, IR, MB, MS, SS, WF (see above).
 "LB" qualifiers took the Limited Building exam; can only be licensed at Group #1, #2, or #3 dollar limitation; cannot work over 3 stories in a building.
 "UB" qualifiers took the Unlimited Building exam (no restrictions except dollar limitation).
- ** **Highway (HY)** classification - includes AP, CP, BR, GD, HI (see above).
- *** **Public Utility Electrical (1U/2U)** classification - 1U given to those licensed prior to 4/1/99 and can engage in stadium lighting work; 2U given to those licensed after 4/1/99 and cannot engage in stadium lighting work.
- **** **Process Piping (1P/2P)** classification - 1P given to those licensed prior to 4/1/99 and can engage in boiler work; 2P given to those licensed after 4/1/99 and cannot engage in boiler work.

PROJECT/DOLLAR LIMITATIONS PER PROJECT

GENERAL CONTRACTORS		MECHANICAL CONTRACTORS	
Group#	\$ Limitation per project	Group#	\$ Limitation per project
Group #1	\$30,000	Group #1	\$17,500
Group #2	\$100,000	Group #2	\$30,000
Group #3	\$350,000	Group #3	\$50,000
Group #4	\$750,000	Group #4	\$125,000
Group #5	\$Unlimited	Group #5	\$Unlimited

Revised 06/2014

2053

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Arbet Residence: JHK Residential Designs



Riverstone
Development Group

anne

* 67	Bath #1 & 2 Granite Countertop	Allowance	\$ 10,000	\$ 10,000	100.00%	\$ 10,000
* 68	Rough Final/Rescan		\$ 1,600	\$ 1,600	0.17%	\$ 1,600
* 69	Insulation		\$ 10,000	\$ 10,000	1.19%	\$ 10,000
* 70	Front Door	Allowance	\$ 1,500	\$ 1,500	0.17%	\$ 1,500
* 71	Windows/Doors	Allowance	\$ 40,239	\$ 40,239	4.81%	\$ 40,239
* 72	Door Hardware & Built Accessories		\$ 3,200	\$ 3,200	0.38%	\$ 3,200
* 73	Driveway		\$ 20,000	\$ 20,000	2.42%	\$ 20,000
* 74	Painting		\$ 9,000	\$ 9,000	1.10%	\$ 9,000
* 75	Wood Flooring (1550 Up & 770 Down) Allowance		\$ 17,400	\$ 17,400	2.13%	\$ 17,400
* 76	Ceramic Tile Materials	Allowance	\$ 6,375	\$ 6,375	0.77%	\$ 6,375
* 77	Tile Installation Labor		\$ 12,887	\$ 12,887	1.58%	\$ 12,887
* 78	Carpeting	Allowance	\$ 12,000	\$ 12,000	1.47%	\$ 12,000
* 79	Stucco		\$ 3,000	\$ 3,000	0.36%	\$ 3,000
* 80	Synthetic	Allowance	\$ 1,950	\$ 1,950	0.24%	\$ 1,950
* 81	Shutters & Sills/Board and Batten		\$ 1,200	\$ 1,200	0.15%	\$ 1,200
* 82	Mirror		\$ 1,800	\$ 1,800	0.22%	\$ 1,800
* 83	Showers Enclosures		\$ 1,500	\$ 1,500	0.18%	\$ 1,500
* 84	Closet/Shelving	Allowance	\$ 2,000	\$ 2,000	0.24%	\$ 2,000
* 85	Mail Box/Entry Columns		\$ 2,000	\$ 2,000	0.24%	\$ 2,000
* 86	Plumbing Labor		\$ 12,500	\$ 12,500	1.53%	\$ 12,500
* 87	Caulking		\$ 1,500	\$ 1,500	0.18%	\$ 1,500
* 88	Plumbing Fixtures (Ferguson) Allowance		\$ 7,682	\$ 7,682	0.93%	\$ 7,682
* 89	HVAC		\$ 20,000	\$ 20,000	2.42%	\$ 20,000
* 90	Electrical		\$ 20,000	\$ 20,000	2.42%	\$ 20,000
* 91	Electrical Fixtures (Ferguson) Allowance		\$ 6,000	\$ 6,000	0.73%	\$ 6,000
* 92	Appliances (Ferguson) Allowance		\$ 10,500	\$ 10,500	1.28%	\$ 10,500
* 93	Home Security System Allowance		\$ 2,500	\$ 2,500	0.31%	\$ 2,500
* 94	Driveway Gravel	Allowance	\$ 8,000	\$ 8,000	0.97%	\$ 8,000
* 95	Screen Enclosure	Optional	\$ 2,500	\$ 2,500	0.31%	\$ 2,500
* 96	Brick lined walls at Billards RM (L&M and Framing)		\$ 2,500	\$ 2,500	0.31%	\$ 2,500
* 97	Generator/Temp heat		\$ 2,500	\$ 2,500	0.31%	\$ 2,500
* 98	Builders Risk Insurance BY OWNER		\$ 2,500	\$ 2,500	0.31%	\$ 2,500
* 99	Elevator		\$ 2,500	\$ 2,500	0.31%	\$ 2,500
* 100	Generac 20 KW Whole house Generator		\$ 2,500	\$ 2,500	0.31%	\$ 2,500
* 101	Interest Carry Post (3 Months)		\$ 2,500	\$ 2,500	0.31%	\$ 2,500
* 102	Garage doors		\$ 6,700	\$ 6,700	0.81%	\$ 6,700
* 103	Liability Insurance		\$ 7,610	\$ 7,610	0.93%	\$ 7,610
* 104	RDG Construction Fee		\$ 104,765	\$ 104,765	12.72%	\$ 104,765
	Total		\$ 873,399	\$ 873,399	100.00%	\$ 873,399
						\$ 208.50

less bar window.

less bath #3 enclosure

added tub at bath 3.

* Items were changed as per Scott Arbet
VE changes 4/9/15.

BA
CEM

* Owner added changes included in main budget
Additional 800 SF of 2 bedrooms, 1 bath, exercise room,
billards room, billards exterior, lower bar space and kitchen,
exterior deck on both sides

Page 2

3 of 3

Arbet Residence: JHK Residentail Designs



Riverstone
Development Group

anne

x	Additional foundation at billiards	\$ 7,500	\$ 7,500	5.46%
x	Additional Framing at lower M&L	\$ 8,200	\$ 8,200	5.97%
x	Add deck M&L	\$ 5,000	\$ 5,000	3.64%
x	Add deck railing M&L	\$ 1,000	\$ 1,000	0.73%
x	Additional trim M&L	\$ 2,500	\$ 2,500	1.82%
x	Added interior doors	\$ 2,400	\$ 2,400	1.75%
x	Additional Granite and bowls at the lower level	\$ 2,230	\$ 2,230	1.62%
x	Additional Painting at the lower level	\$ 10,000	\$ 10,000	7.27%
x	Additional Tile Labor at bathrooms & mech. M&L	\$ 6,650	\$ 6,650	4.84%
x	Additional Cabinets and built ins at Lower level	\$ 14,490	\$ 14,490	10.54%
x	Additional Elect Fixtures	\$ 1,100	\$ 1,100	0.80%
x	Additional Electrical M&L	\$ 3,500	\$ 3,500	2.55%
x	Additional beams at game room & dining	\$ 3,000	\$ 3,000	2.18%
x	Screen enclosure Option	\$ 3,000	\$ 3,000	2.18%
x	Out door lower porch fireplace option w/ Stone & gas	\$ 9,500	\$ 9,500	6.91%
x	Lower gameroom fireplace option w/ Stone & gas	\$ 9,000	\$ 9,000	6.55%
x	Stairs from upper deck to the lower option	\$ 3,000	\$ 3,000	2.18%
x	Additional Insulation	\$ 2,500	\$ 2,500	1.82%
x	Door hardware and bath accessories	\$ 800	\$ 800	0.58%
x	Additional Gym Flooring at lower	\$ 950	\$ 950	0.69%
x	Additional hardwood flooring for billiard Rm. M&L	\$ 1,550	\$ 1,550	1.13%
x	Additional Carpeting in the bedrooms	\$ 1,600	\$ 1,600	1.16%
x	Additional Shelving	\$ 400	\$ 400	0.29%
x	Additional Shower Door	\$ 1,010	\$ 1,010	0.73%
x	Additional Plumbing fixtures M&L	\$ 3,000	\$ 3,000	2.18%
x	Additional HVAC M&L	\$ 3,900	\$ 3,900	2.84%
x	Additional Windows and a slider at the billiard room	\$ 5,500	\$ 5,500	4.00%
x	Additional Drywall	\$ 5,000	\$ 5,000	3.64%
x	Additional siding & Exterior paint - 2 walls / billiard	\$ 1,500	\$ 1,500	1.09%
x	Liability Insurance	\$ 1,198	\$ 1,198	0.87%
x	RDG Construction Fee	\$ 16,489	\$ 16,489	12.00%
	Sub Total of Added items from Prelim Pricing	\$ 137,467	\$ 137,467	94.54%

4/9/15
As discussed,
These Items
Not included in
our base price.

x	Lower level fireplace option w/ Stone & gas	\$ 9,500	\$ 9,500	6.91%
x	Additional Insulation	\$ 2,500	\$ 2,500	1.82%

4/9/15
Optional Items to
Add to base price.

CEM

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EXHIBIT "C"**FINISH SPECIFICATIONS FOR ARBET RESIDENCE**

Scott and Deanna: As a recap to the pricing, the following specifications, allowances and assumptions were made based upon our previous conversations.

Exterior Specifications: Exterior Foundation wall engineering, Survey and subsurface compaction tests for footings, septic system as per permit and allowance, utility conduits, trenches and connections as per allowance, Poured concrete foundation wall at front of the home, rear wall and left/right side, partial wood framed sub-terrace level wall on top of poured wall at right/left side and rear wall as per the allowance, all framed exterior walls to be 2x6 wood walls with R-19 exterior wall insulation, exterior wall air sealing insulation, interior walls to be 2x4 wood framed walls except where indicated or required to be 2X6, walls against concrete foundation to full wood framed walls, exterior waterproofing to be a Tuff-N-Dry system or equal, Exterior wall skin to be zip wall sheathing, stucco at sub-terrace walls, Stucco finish to be a skip trowel finish, Exterior siding to be natural cedar shake shingle, Nichiha exterior cementitious siding, stain grade Pine or equal, Nichiha-Board and Batten, stain grade Pine or equal, Miratec or Pine trim boards and soffits/fascia, exterior colors to be two colors of body with a trim color, exterior beams and brackets to be a stained finish, stack stone exterior per the allowance, exterior decorative beam package to be pressure treated material as per the allowance, Main level and lower level exterior deck to be framed with pressure treated 5/4" decking, exterior porch railings to be pressure treated 2x6 and 2x4 railings with wooden pickets, Front porch to be poured concrete with stone steps to grade, roofing to be Architectural dimension high definition asphalt shingles, Custom Front door to be selected as per allowance, Windows and exterior doors to be Quaker, Hurd or equal, exterior deck posts to be 8"x8" pressure treated with exterior decorative timbers package as per the allowance to match the main front entry design per the plans, custom shutters and hardware, 6" half-round bronze colored gutters and downspouts, driveway to be gravel subgrade with finished Nolen-chucky gravel as per the allowance, exterior crab orchard stepping stone pavers as per the hardscape allowance from driveway to the front porch, garage doors to be natural wood stain grade veneered insulated doors with square top glass and belt drive automatic openers and keypad.

Interior Specifications: Australian Cypress or equal random length, clear sealed hardwood flooring in foyer, lodge, kitchen, dining, guest, laundry, master, Lower game room, Lower Bar, Lower Billiards, bathrooms floors and master shower, bedroom 3 shower, lower level bath shower, and all bathroom floors to be tile, carpet all other bedrooms and master closet, gym flooring at workout room, Custom cabinet package with 42" upper cabinets, level 1 granite countertops throughout with under-mount bowls, 10' tall interior walls at main and lower level, R-11 sound insulation in the floor system, plumbing walls and master bedroom walls, and R-38 blown and batt insulation in the ceilings, fireplaces to be metal prefabricated boxes with metal flue liners concealed in chimney chase with metal exterior shrouds, Exterior chimney to have thin sliced veneer stone as part of the stacked stone allowance, fireplace sizes to be Lodge Room 42", Main level Covered Porch 36" stainless steel and stone façade at fireplace mantels to be natural thin stone veneered up to the custom hand-hewn mantel or had hewn existing tree mantel, 8'-0" solid wood interior doors with stained finish, painted 1X6 base and 1X4 casing trim, interior stairs to be wood stairs for riser and treads with wood top rail and metal pickets railing system, interior beam details to be as per the allowance and included in the Lodge room and entry as per the allowance, Emtek door hardware throughout, interior walls to be drywall with light skip trowel applied finish, walls to be painted with up to two wall colors and ceiling color, closet shelving as per allowance, mirrors to be standard plate glass mirrors wrapped with trim, shower enclosures to be heavy clear glass frameless in oil rubbed bronze finish at the master, guest bathroom and Lower level bath shower, appliances to be Whirlpool Gold as per the allowance, HVAC system to be two units by Trane or equal, gas lines to both fireplaces and kitchen range, plumbing fixtures as per the allowance, electrical to be code minimum with can lights as per the plans, electrical fixtures as per the allowance, Attached garage to have matching finishes to the home for both exterior and interior.

possibly (3) gas lanterns, 2 at front door
1 on post

EXHIBIT "C"**ALLOWANCES FOR ARBET RESIDENCE****Allowances:**

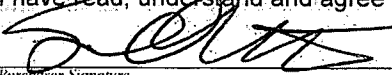
1. Permit Fees	\$ 2,030	As per Pickens County Permitting
2. Landscape & Trees	\$ 5,000	Landscape design & owner selections
3. Hardscapes: Site Stepping Stone	\$ 600	Stepping stones to front porch
4. Footings & Foundation	\$ 40,000	Quantity based upon in place concrete
5. Gravel Fill at Garage and front porch	\$ 2,000	Gravel at garage and front porch as per allowance
6. Stacked Stone Material & Labor	\$ 15,000	Tennessee Stacked Stone as measured in place
7. Exterior Wood Beam Package	\$ 16,650	Doug Fir stain grade custom exterior front entry package
8. Interior Wood Beams at Main Level	\$ 8,000	Wood beams at Lodge Room and Foyer
9. Cabinets	\$ 28,270	Cabinets with no built ins
10. Granite Countertops	\$ 10,800	Granite countertops with under-mount bowls throughout
11. Front Door Allowance	\$ 1,500	Stain grade 8-0 front door and hardware per selection
12. Windows and Exterior Doors	\$ 40,239	Stain Grade windows with grids
13. Wood Flooring	\$ 17,400	Australian Cypress in clear sand and sealed in place
14. Ceramic Tile Materials	\$ 6,375	Tile materials & setting/bedding materials
15. Carpeting	\$ 2,000	Carpeting to be upgraded pad & premium carpet
16. Gym Flooring	\$ 950	Standard grey cushioned flooring
17. Stucco at Foundation	\$ 3,000	Stucco at sub terrace crawl wall
18. Closet Shelving	\$ 2,000	Standard vented shelving in all closets
19. Plumbing Fixtures	\$ 7,682	Kohler / Moen fixtures throughout
20. Electrical Fixtures	\$ 6,000	Lighting package as designed by Ferguson
21. Appliances	\$ 10,500	Whirlpool Gold appliances
22. Driveway Finish Gravel	\$ 8,000	Nolen-chuky finished gravel at drive & turnaround

Total Price for Home, Attached Garage, Sitework, and Allowances: Current Price as of 4/9/15 without client's final finishes decisions and pricing \$ 873,399.00 including client's VE list selections of items 7,8,9,10,11,18 and removal of bar serving window.

Exclusions:

This pricing does not include the following: The Cliffs at Keowee Springs submission/approval fees or deposits, Builder's Risk Insurance, metal roofing, rock removal, any retaining walls (will stack and reuse existing boulders on site), elevator block out framing, screen enclosure at main level porch, fireplaces at lower level game room and lower level porch, stairs to upper level porch from lower level porch, finished guest suite excluded (wood framed walls to support roof only, wood floor system with insulation in the floor), security system, electric power line to dock, any electrical work at dock, waterline to dock, cart path to dock or fire pit area, guardrails at driveway, turnaround or cart path, rear lower level open terrace and lower level deck/porch.

I have read, understand and agree to the above:


Purchaser Signature

Date: _____

Purchaser Signature

Date: _____

CEM

EXHIBIT "D"
ALLOWANCE LOG
ARBET Residence
Contract Allowance Adjustments
Through 4/15/2015

Job # CKS
15--001

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PCO.#	ALLOWANCE ITEM	ORIGINAL	VENDOR/	CURRENT	BALANCE
101	Permit Fees (Home/Well/Septic)	\$2,030			
		\$2,030	TOTAL	\$0	\$2,030
102	Landscape and Trees M&L	\$5,000			
		\$5,000	TOTAL	\$0	\$5,000
103	Hardscapes: Site Stepping Stone	\$600			
	Materials and setting				
		\$600	TOTAL	\$0	\$600
104	Footings and Foundation M&L	\$40,000			
		\$40,000	TOTAL	\$0	\$40,000
105	Gravel Fill at Garage & Front Porch	\$2,000			
	Materials and placement				
		\$2,000	TOTAL	\$0	\$2,000
106	Stacked Stone Material and Labor	\$15,000			
		\$15,000	TOTAL	\$0	\$15,000
107	Exterior Wood Beam Package M&L	\$16,650			
		\$16,650	TOTAL	\$0	\$16,650


Owner's Authorization


Date

EXHIBIT "D"
ALLOWANCE LOG
ARBET Residence
Contract Allowance Adjustments
Through 4/15/2015

Job # CKS
15--001

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PCO #	ALLOWANCE ITEM	ORIGINAL	VENDOR/	CURRENT	BALANCE
		\$0.	TOTAL	\$0	\$0
108	Interior Wood Beam Package at Main Level-M&L	\$8,000			
		\$8,000	TOTAL	\$0	\$8,000
109	Cabinets M&L	\$28,270			
		\$28,270	TOTAL	\$0	\$28,270
110	Granite Countertops M&L	\$10,800			
		\$10,800	TOTAL	\$0	\$10,800
111	Front Door and Hardware Materials	\$1,500			
		\$1,500	TOTAL	\$0	\$1,500
112	Exterior Windows and Doors Mater.	\$40,239			
		\$40,239	TOTAL	\$0	\$40,239
113	Wood Flooring M&L	\$17,400			
		\$17,400	TOTAL	\$0	\$17,400

CEM



Owner's Authorization

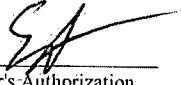
Date

EXHIBIT "D"
ALLOWANCE LOG
ARBET Residence
Contract Allowance Adjustments
Through 4/15/2015

Job # CKS
15-001

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PCO.#	ALLOWANCE ITEM	ORIGINAL	VENDOR/	CURRENT	BALANCE
114	Ceramic Tile Materials & Set Mater.	\$6,375			
		\$6,375	TOTAL	\$0	\$6,375
115	Carpeting M&L	\$2,000			
		\$2,000	TOTAL	\$0	\$2,000
116	Gym Flooring M&L	\$950			
		\$950	TOTAL	\$0	\$950
117	Stucco at Foundation M&L	\$3,000			
		\$3,000	TOTAL	\$0	\$3,000
118	Closet Shelving M&L	\$2,000			
		\$2,000	TOTAL	\$0	\$2,000
119	Plumbing Fixtures Materials	\$7,682			
		\$7,682	TOTAL	\$0	\$7,682
120	Electrical Fixtures Materials	\$6,000			


Owner's Authorization

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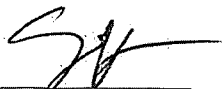

Date

EXHIBIT "D"
ALLOWANCE LOG
ARBET Residence
Contract Allowance Adjustments
Through 4/15/2015

Job # CKS
15-001

ELECTRONICALLY FILED - 2016 Jul 01 3:25 PM - PICKENS - COMMON PLEAS - CASE#2016CP3900103

PCO #	ALLOWANCE ITEM	ORIGINAL	VENDOR/	CURRENT	BALANCE
		\$6,000	TOTAL	\$0	\$6,000
121	Appliances M&L	\$10,500			
		\$10,500	TOTAL	\$0	\$10,500
122	Driveway Finish Gravel M&L	\$8,000			
		\$8,000	TOTAL	\$0	\$8,000
		\$0	TOTAL	\$0	\$0
		\$0	TOTAL	\$0	\$0
	TOTAL ALLOWANCES	\$233,996	TOTAL SPENT TO DATE	\$0	\$233,996
	GRAND TOTAL	\$233,996		\$0	\$233,996
	TOTAL NET REFUND OR PAYMENT DUE				\$0


Owner's Authorization

Date

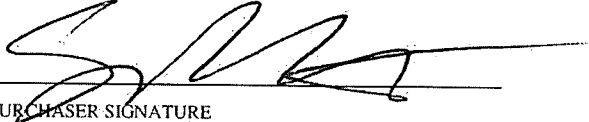
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EXHIBIT "E"

**FINANCING CONTINGENCY
FOR
ARBET Residence**

FINANCING CONTINGENCY CLAUSE: Non-Applicable. Owner to privately finance the project.

DATE



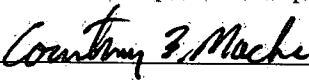
PURCHASER SIGNATURE

DATE

PURCHASER SIGNATURE

Riverstone Development Group, Inc.

BY:



BY: Courtney F. Mache

8/28/15
DATE

EXHIBIT "F"**NOTICE TO PURCHASER ABOUT MOLD, MILDEW, FUNGUS, SPORES AND CHEMICALS IN CONSTRUCTION PRODUCTS**

Every new home contains products that have water, powders, solids and industrial chemicals that are used in constructing the home. The water, powders, solids and industrial chemicals will and do contain mold, mildew, fungus, spores and chemicals which may cause allergic or other bodily reactions in certain individuals. You should consult your physician to determine the molds, mildews, fungus, spores or chemicals that may adversely affect you or members of your family.

THE HOME WHICH YOU ARE PURCHASING CONTAINS MATERIALS WHICH CONTAIN OR ARE AFFECTED BY MOLD, MILDEW, FUNGUS, SPORES AND CHEMICALS. THE CONSTRUCTION PRODUCTS USED IN BUILDING YOUR HOME CONTAIN, AMONG OTHERS, SOME OF THE FOLLOWING CHEMICALS IN MEASURABLE AMOUNTS:

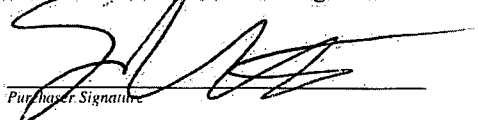
WATER (contains or allows growth of molds, mildew and fungus)
FORMALDEHYDE (e.g. in carpeting and pressed wood products)
ARSENIC (e.g. in treated wood products)
FIBERGLASS (e.g. in insulation products)
PETROLEUM AND PETROLEUM PRODUCTS (e.g. in vinyl and plastic products)
METHYLENE CHLORIDE (e.g. in paint thinners)

IF YOU ARE NOT COMFORTABLE WITH THE FACT THAT THESE CHEMICALS OR SUBSTANCES EXIST IN SOME AMOUNT IN THE HOME YOU ARE PURCHASING, YOU SHOULD NOT PURCHASE THE HOME.

LEAKS, WET FLOORING AND MOISTURE WILL CONTRIBUTE TO THE GROWTH OF MOLDS, MILDEW, FUNGUS OR SPORES. PURCHASER UNDERSTANDS AND AGREES THAT RIVERSTONE DEVELOPMENT GROUP, INC. IS NOT RESPONSIBLE, AND HEREBY DISCLAIMS ANY RESPONSIBILITY FOR ANY ILLNESS OR ALLERGIC REACTIONS WHICH PURCHASER MAY EXPERIENCE AS A RESULT OF MOLD, MILDEW, FUNGUS OR SPORES. IT IS PURCHASER'S RESPONSIBILITY TO KEEP THE HOUSE CLEAN, DRY, WELL-VENTILATED AND FREE OF CONTAMINATION.

Electronic air filters that may assist in effective air filtration are available at additional cost. If you do not understand this Notice you are encouraged to secure the advice of counsel.

I have read, understand and agree to the above:


Purchaser Signature

Date: _____

Purchaser Signature

Date: _____

CEM

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*Riverstone to
build a tight
structure, not
to allow for
leaks.*

*As per Riverstone's
contract and warranty
time frame. Regular
maintenance required by
Homeowner.*

EXHIBIT "G"

BROKER DISCLOSURE For THE CLIFFS AT KEOWEE SPRINGS

Broker Disclosure: Purchaser and Contractor agree that **NONE** is the sole Real Estate Broker (other than those who are employed by Contractor) involved in this transaction and that Broker will be entitled to receive a commission from Contractor. Commission is calculated on the base price of the home selected and is payable fifty percent (50%) at construction loan closing (advance payment) and fifty percent (50%) upon receipt of Slab Draw. Should the home not be completed for any reason, Broker agrees to refund the fifty percent (50%) advance payment back to Builder. Should the blank space not be completed in the foregoing sentence or should the word "NONE" be inserted in it, the following sentence shall be deemed substituted for it: Purchaser warrants and represents that no Real Estate Broker or Salesman is involved in this purchase and sale (other than those who are employed by Contractor) and agrees to indemnify and save harmless Contractor against any claims of a Real Estate Broker or Salesman due to acts or omissions of the Purchaser or Purchaser's representatives.

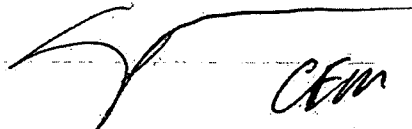
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EXHIBIT "H"
HOMEOWNER'S ASSOCIATION
DISCLOSURE SUMMARY
FOR
THE CLIFFS AT KEOWEE SPRINGS

1. As a Purchaser of Property in this community, you will be obligated to be a member of a Homeowners' Association.
2. There have been or will be recorded restrictive covenants governing the use and occupancy of properties in this community.
3. You will be obligated to pay assessments to the Association, which assessments are subject to periodic change.
4. Your failure to pay these assessments could result in a lien on your property.
5. There MAY BE an obligation to pay rent or land use fees for recreational or other commonly used facilities as an obligation of membership in the Homeowner's Association.
6. The restrictive covenants can not be amended without the approval of the Association Membership.
7. The statements contained in this disclosure form are only summary in nature, and, as a prospective purchaser, you should refer to the covenants and the association governing documents.
8. These documents are matters of public record and can be obtained from the record office in the county where the property is located.

Date: _____

Purchaser: _____

Purchaser: _____

CEM

Exhibit 3

EXHIBIT
3



Riverstone
Development Group

RESIDENTIAL CONSTRUCTION CONTRACT-

This Contract, made this 12 day of February, the year Two Thousand and Fifteen, by and between Riverstone Development Group, Inc. a North Carolina Corporation, whose Contractor's License Number is G114265 and whose mailing address is P.O. Box 1023, Sylva, NC 28779, herein referred to as the "Contractor" and:

Name: Scott Arbet Home Phone: (267) 218-3703
Address: 2083 Welshvalley Road Cell Phone: (267) 218-3703
Address: Phoenixville, PA 19460 Email: arbetconsulting@gmail.com
Soc. Security No. xxx-xx-3049
Name and Manner in which Title will be held: Scott Arbet
Herein referred to as "Homeowner(s)"

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The Homeowner(s) and Contractor agree as follows:

1. The Property

- a. The homeowner(s) owns the real property situated in Pickens County, SC, herein referred to as the "Lot" as follows:

Lot # 57 The Cliffs at Keowee Springs

2. The Contract Amount and Terms of Payment

Contract Sum: The Homeowner(s) 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 Fifty Thousand Dollars and Zero Cents (\$750,000.00) with final contract amount to be adjusted plus or minus 5% based upon client's final selections and design changes to the Arbet Residence home plan to achieve this budget.

3. Payments

- a. An initial amount Ten Percent (10%), constituting a Non-Refundable Deposit, shall be paid to Contractor upon the execution of this Agreement. The Initial Deposit balance due at contract execution must be by Check or by wire transfer of immediately available funds. All funds paid shall be in U.S. Dollars. Both Parties agree that any deposits forwarded Riverstone Development Group, Inc. may be used to begin and prepare for the construction process for items including but not limited to: pre-construction services, estimating services, site planning, surveying, tree identifications, septic engineering, structural engineering, truss plans, energy calculations, etc... The Homeowner(s) agrees to the use of these funds and waive any right to have these funds placed in an interest bearing account.
- b. Progress Payments: Based on applications for payment submitted to the Homeowner(s) ~~Construction Lender~~. By the Contractor, The Homeowner(s) ~~construction lender~~, shall make monthly progress payments on account of the Contract sum to the Contractor according to industry standard American Institute of Architects (AIA) draw schedule. No variation from the AIA draw schedule is authorized without the prior written consent of the Contractor. The Contractor will provide a contractor's affidavit and Partial waivers of lien from itself, each subcontractor and material supplier who has served a Notice of Purchaser and all laborers who provide service for the project for which the Contractor is to report such services through IRS form 1099 and shall do so for the prior month's progress payment by the time of application for the current month's application for payment.

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Signature
Homeowner

Signature

Contractor

- c. Final Payment: Final payment, constituting the entire unpaid balance of the Contract Sum (less 200% of the value of punch-out items if necessary), shall be made by the Homeowner(s) to the Contractor when the Contractor has delivered the Certificate of Occupancy to Homeowner(s). The issuance of a Certificate of Occupancy by the appropriate municipal authority shall be binding and conclusive upon the parties as to whether the dwelling has been substantially completed. The fact that certain surrounding areas may not be completed, or that the dwelling may require minor repairs, touch-ups or adjustments, shall not constitute a valid reason for delay in making Final Payment to Contractor. Homeowner(s) may not take possession and Occupancy of the home, or store any personal property in or about the Home, prior to Final Payment being made. Final payment shall not be withheld from the contractor based upon any "punch-out" work that is still to be completed at the time of final completion.
- d. Payments Due and Unpaid; Right To Stop Work: Payments due and unpaid under the Contract shall bear interest from the date payment is due at the highest rate allowable by law. Contractor shall have the right to stop work if payments are not made when due under this contract, within five (5) business days of submitting application for payment. If Contractor stops work, in addition to making overdue payments current, Homeowner(s) shall pay Contractor any costs associated with re-mobilization of Contractor's forces, prior to Contractor re-commencing work.
4. **The Home to be Built**
- a. Contractor will construct or have constructed the "Arbet Residence", substantially in accordance with the Plans and Specifications attached hereto as Exhibit "A" (the "Home"). The Contractor will build the home substantially in accordance with the construction plans, specifications, Exhibits, and amendments thereto, pertaining to such home, hereafter referred to as the "plans". The plans are on file with the Contractor and are available for inspection by the Homeowner(s) upon reasonable notice. The Contractor may substitute materials, fixtures, equipment and appliances of equal quality as those specified in the plans or plan specification attached. The Contractor may also make changes in construction as may be required by the Homeowner(s) mortgage lender, or any governmental authority having jurisdiction over the aforementioned property, or as may be otherwise required by material shortages, drainage considerations, work stoppages or emergencies. In the event of any increase in permit or impact fees or any change in the applicable building codes regulating construction of the home occurring after the execution of this Contract, it is agreed that Contractor may modify the plans and construction to conform to then current requirements and any cost increase resulting or increased fees shall be an additional cost and shall be paid for by Homeowner(s). In the event of a conflict between the plans and any model home inspected by the Homeowner(s), the plans will control. The Contractor's performance of its work will be governed by construction standards in Jackson County, NC. Defects which are not corrected prior to the issuance of a certificate of occupancy will not entitle Homeowner(s) to delay final payment of the purchase price, so long as the same do not prevent Homeowner(s) from living in the Home. Prior to the signing of this Agreement, the Contractor may have furnished to the Homeowner(s) a floor plan of the home. Such floor plans represent only a graphic approximation of the scale and dimensions designated therein; construction is controlled by the plans, which provide much greater detail and exactitude. The completed home may vary from the floor plan, the model, if any, and the plans as provided above and also to an extent consistent with normal trade, custom, practice and tolerance in the construction industry.
- b. Square Footage: Homeowner(s) and Contractor agree that any verbal or written representations concerning the amount of air-conditioned or non-air conditioned floor space contained in the Home (collectively the "Square Footage") are approximate in nature and are provided solely as a convenience to Homeowner(s). Homeowner(s) acknowledges that, in entering into this Contract, Homeowner(s) has not relied on any representations made by Contractor, any employee or agent

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Homeowner

Contractor

of Contractor or any other person with respect to the Square Footage. Homeowner(s) and Contractor agree that the Purchase Price of the Home is not based upon or in any way related to the Square Footage, and that neither party hereto shall be entitled to an increase nor reduction in the Purchase Price as a result of the actual square footage of the Home being greater or less than the estimated Square Footage as referenced verbally or in writing or on the working drawings as provided to Homeowner(s). The covenants contained in this Paragraph shall survive the Closing.

- c. Changes in the Work: Changes in the plans, specifications or other changes to the scope of the work contemplated in this agreement, and changes to the date of substantial completion shall be agreed upon in writing by Homeowner(s) and Contractor and summarized in a written Change Order. Contractor shall not be required to make any changes or to undertake any construction that is not provided for in the plans until Homeowner(s) and Contractor have, in writing, agreed to an adjustment in the price and time of performance. Any changes to the plans or scope of work shall be reflected in a separate written Change Order which shall be an Addendum to this agreement and shall be payable to Contractor in full at such time as each separate Change Order is submitted by Homeowner(s) (Either Before the work is completed or by the end of each application for payment period). In addition to the payment for the requested change, Homeowner(s) expressly agrees to pay to Contractor an administrative fee in an amount of \$200.00 for each separate Change Order as consideration for Contractor's agreement to such Change Order. Payment for such additional options, and the administrative fee(s) are non-refundable unless Contractor is unable to provide Homeowner(s) with either a selection or a substitute selection of similar quality. Due to cost and quality control considerations and construction operation scheduling requirements, no requests for Change Orders will be accepted by Contractor after drywall installation.
- d. Built-Ins: Homeowner(s) shall assume all liability for any audio, video, T.V., Surround Sound, or Stereo components that Homeowner(s) may request to be incorporated into built-in designs of the home. Homeowner(s) shall assume all additional costs associated with modifications to Built-ins required to accommodate Homeowner(s)'s audio, video, T.V., or stereo components.
- e. Selection of Materials and Appliances: Homeowner(s) shall endeavor to make all selections of colors, grades or other options prior to issuance of building permit. All exterior colors and materials selection shall be made prior to Architectural Review Board submittal. All final selections will need to be completed by the pre-drywall walkthrough. Selections shall be made and materials furnished by Riverstone Development Group, Inc. approved suppliers and Contractors only. Construction of the home will not commence until Homeowner(s) has signed preliminary drawings and completed selection form. If commencement of construction is delayed by Homeowner(s) for any reason or at any time, Contractor reserves the right to adjust the contract price for any price increase implemented after the date of this contract and for extended General Condition costs for the delay equal to the originally budgeted cost per day general condition amount. Failure of Homeowner(s) to make such selections shall entitle Contractor to make selections on behalf of Homeowner(s). Homeowner(s) acknowledges having been informed that there is a possibility, due to the material shortages and/or equipment shortages in the construction industry at any particular time that it may not be possible for Contractor to use exact materials and appliances specified or as shown in any models displayed by Contractor. Homeowner(s) agrees that Contractor may substitute materials and appliances so long as the same are of similar or better quality and of comparable appearance, finish and size. If Contractor upgrades materials or appliances in order to fulfill this obligation, there will be no added cost imposed upon Homeowner(s).
- f. Placement: The direction of the home shall be situated pursuant to the site survey with an optional side facing attached garage. If the homeowner elects to add the optional detached

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Homeowner

CEM
Contractor

garage, additional monies are to be paid by Homeowner(s) at time of contract change order for building the optional detached garage.

- g. ~~Rock Removal:~~ ALL rock removal or any Any rock removal required requiring blasting / jack hammering shall be specifically excluded from this contract. Any costs required for the removal or jack hammering of rock to facilitate the installation of the home, utility lines, and septic/water shall be additional costs to be paid by Owner to Contractor for these services.

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5. Relationships of the Parties

- a. The Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Homeowner(s) to exercise the Contractor's skill and judgment in furthering the interests of the Project. The Homeowner(s) agrees to furnish and approve, in a timely manner, information required by the Contractor and to make payments to the Contractor in accordance with the requirements of the Contract Documents.
- b. 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.

6. The Contract Documents

- a. The Contract Documents consist of this Agreement, Plans, Specifications, Addenda, change orders, 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 negotiation, representations, or agreements, either written or oral. If anything in the other Contract Documents is inconsistent with this Agreement, this Agreement shall govern.

7. Closing and Closing Costs

The closing, including the issuance of title insurance, will take place at Coward, Hicks & Siler P.A., 705 West Main Street, Sylva, NC 28779. The closing date shall be specified in a written notice by Contractor to Homeowner(s) in the manner hereinafter provided for the giving of notice, provided such written notice shall be given not less than seven (7) days prior to the date specified in the notice as the closing date. The closing shall take place on the closing date at the place and at the time specified in the written notice herein provided for.

- a. Closing shall take place no later than thirty (30) days of written notice from contractor. In the event Homeowner(s) fails to close this transaction in the time established for reasons other than Contractor's default or delay, and Contractor agrees to extend the closing. Homeowner(s) shall be required to pay interest on the purchase price equal to the highest rate by law from the date on which the closing was originally scheduled, to and including the date on which the closing actually occurs.
- b. The title which Contractor obligates itself to deliver to Homeowner(s) at the closing will be a marketable title subject to the following matters: (i) real estate taxes for the year in which the transaction is closed; (ii) the mortgage, if any, assumed or executed by Homeowner(s); (iii) restrictions, conditions, reservations, limitations and easements of record; (iv) zoning and building laws of the appropriate municipality; (v) covenants and easements created or to be created in favor of the municipalities, public and private utilities, and the Contractor or Homeowner(s) associations for the installation and maintenance of utilities, lines, mains, pipes, poles, wires, tunnels, basins, canals, etc. with right of access to service the same; (vi) the usual exceptions contained in an owner's policy of title insurance by title insurance companies in the County wherein the premises are located. Homeowner(s) agrees that the purchase and occupancy of the premises, and the obligations of Homeowner(s), will, at all times, be subject to the provisions of the HOMESOWNER(S) ASSOCIATION documents, copies of which has been delivered to Homeowner(s).

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Homeowner.

Contractor

~~e. Costs to be paid by Homeowner(s): All costs and expenses in connection with the closing, unless otherwise indicated in this Agreement, will be paid by the Homeowner(s). Such costs shall include, but not be limited to: (1) Advance maintenance fees for the remainder of the quarter in which closing occurs. If closing occurs in the last month of a quarter, the Homeowner(s) shall pay maintenance fees for the remainder of the month in which closing occurs and for the following quarter; (2) An initial contribution to the Home Homeowner(s)s Association of \$200.00; (3) Homeowner(s)s share of any periodic assessments charged by the Homeowner(s)s Association from the date of closing to the end of the assessment period in which closing occurs and any capital contributions required by the association and provided for by the Homeowner(s)s Association Documents AND ALL MONTHLY HOME OWNERS ASSOCIATION DUES from closing of loan forward; (4) Cost of Owner's Title Policy, Search Fee, Title Exam Fee, Closing Fee, Documentary Stamps on Deed, Any Deposits, Installation Charges or Hookup Fees for Utilities, Homeowner(s)s own Hazard & Liability Insurance, Attorney's Fees for Homeowner(s)s Attorney (if any), Express Mail and Courier Charges, Default Interest (if any); (5) Cost of Mortgage Title Insurance including endorsements, additional closing fee, mortgage intangible tax, mortgage documentary stamp tax, recording lenders documents, application fee, appraisal fees, credit report fee, escrow for taxes and/or insurance, tax service fee, discount points, prepaid interest, flood insurance (if required), termite inspections, and any other charges imposed by Homeowner(s)s lender; (6) Property taxes and solid waste for the current year will be prorated as of the date of loan closing; (7) The expense of recording the deed, any mortgage and certificate of approval in the Public Records of the county where the Lot is located;~~

8. **Date of Commencement and Date of Completion**

- a. The date of commencement of the Work shall be the later of five (5) days from 1) receipt of all permits, and Architectural Review Board approval 2) date of execution of this agreement, and 3) Notice of Commencement filed and recorded by Homeowner(s), and 4) Contractor's receipt of a letter from the Homeowner(s) mortgage lender agreeing to the construction draw schedule and stating that there is money available to the Homeowner(s) for construction draws against this contract or, if Homeowner(s) is not securing a Construction Loan, written evidence to Contractor's reasonable satisfaction, evidencing Homeowner(s)s financial ability to pay the Contract Sum OR Escrowed funds to cover 100% of the contract costs 6) Home site excavated and foundation wall poured.
- b. The Contract Time shall be measured from the Date of Commencement. The Date of Commencement shall be established by the date the foundation wall of the home is poured. Time limits stated in the Contract Documents are of the essence of the Contract. If the Contractor is materially delayed at any time in progress of the Work by changes ordered in the Work by Homeowners, or by labor disputes, fire, unusual, materially delay in deliveries, unavoidable causalities or other causes beyond the Contractor's control, the Contract Time shall be extended by Change Order for such time.
- c. The Contractor shall achieve Substantial Completion not later than Ten (10) months after the Date of Commencement. Substantial Completion shall be achieved upon the issuance of the final Certificate of Occupancy or by a temporary Certificate of Occupancy, by the appropriate municipal authority. The Contractor shall request an extension to the date of Substantial Completion for each rain day(s) or day(s) lost due to Adverse Weather Conditions.
- d. Homeowner(s) shall not direct or interfere with workers. Homeowner shall be responsible for additional costs if directing workers onsite.
- e. The Homeowner(s) shall not store personal property in, take possession of, nor occupy the premises, in any manner, until (1) Contractor receives the Certificate of Occupancy, (2) final

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Homeowner

Contractor

payment is made to the Contractor; and (3) the Contractor completes Punch List items and the same are accepted in writing by Homeowner(s) as complete.

9. Remedies For Default

- a. Default by Homeowner(s): Each of the following shall constitute an act of default by Homeowner(s): 1) Failure to make all deposits as scheduled; or 2) Failure to timely execute and deliver all documents reasonably required by Contractor or the mortgage lender (if any) prior to or at closing; or 3) Failure to make selections of materials for the home in a timely manner as determined solely by the Contractor; or 4) Failure to comply with any other term or condition of this Agreement (including any amendments hereto); or 5) Recording this Agreement in the public records. 6.) Failure to make progress payments in a timely manner as determined solely by the Contractor. If this Agreement is not performed by the Homeowner(s) in accordance with its terms, it may be terminated by the Contractor and upon such termination the Contractor may retain all amounts paid by the Homeowner(s). Such damages are not a penalty, but represent actual damages that will be substantial but are not capable of precise determination. In such event, the Homeowner(s) will not file any action against the Contractor seeking the return of any portion of the payments made under this Agreement or any reduction in the amount of such liquidated damages. Contractor is also entitled to reimbursement for any actual expenses in addition to the non-refundable deposit received. In the event Homeowner(s) fails to close this transaction in the time established for reasons other than Contractor's default or delay, and Contractor agrees to extend the closing in accordance with this Paragraph 8.a., Homeowner(s) shall be required to pay interest on the purchase price equal to the highest rate permissible by law from the date on which the closing was originally scheduled, to and including the date on which the closing actually occurs.
- b. Default by Contractor: If this Agreement is not performed by the Contractor in accordance with its terms, with the Contractor being in default and the Homeowner(s) not being in default hereunder, the Homeowner(s) may seek specific performance or terminate this Agreement by giving prompt seven (7) day written notice, with an additional seven (7) day period to cure such default, return receipt requested, thereof to the Contractor. No other damages, rights or remedies (whether or not the Homeowner(s) shall elect to terminate this Agreement) shall in any case be collectible, enforceable or available to the Homeowner(s), and the Homeowner(s) agrees to accept and take said payments as the Homeowner(s)' total damages and relief hereunder in such event. In connection with the payment of money hereunder to either the Contractor or the Homeowner(s), each party hereby directs any Realtor who is involved in the sale to pay whatever sums it holds under this Agreement to the party entitled to such sums.

10. Insurance

- a. The Contractor shall purchase and maintain the following insurance prior to commencement of work:
Worker's compensation policy providing coverage for all employees of Contractor in amounts not less than minimum coverage required by law. b.) Standard comprehensive general liability policy protecting against liability for bodily injury or property damage with an aggregate limit of not less than \$1,000,000.00 for bodily injury and \$100,000.00 for property damage. Coverage shall include automobile, products/completed operation, and personal injury.
- b. The Homeowner shall purchase and maintain the following insurance prior to commencement of work:
Standard Contractor's "Builder's Risk" policy in an amount not less than the Contract Sum minus the amount allocated to the Lot purchase, naming Homeowner(s) and Contractor as co-insured's and insuring against physical loss and damage to the property under construction. Coverage shall include, but not be limited to, protection against fire, lightning, windstorm, hail,

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Homeowner

Contractor

explosions, smoke, riots, vandalism, theft and malicious mischief, shall be obtained and paid for by Homeowner(s). In the event Homeowner(s) desires Flood Insurance, Homeowner(s) shall secure the same at Homeowner(s)'s own cost and expense. In the event of any Builder's Risk or Flood Insurance Claim, any deductibility will be the responsibility of the Homeowner(s) and not the Contractor.

11. Warranties

The making of final payment by the Homeowner(s) to the contractor of the purchase price shall constitute a waiver and complete release of all claims by the Homeowner(s) against the Contractor with respect to the aforementioned property and this agreement, except those of which the Contractor is notified in writing and are also expressly covered by the warranty. Contractor includes a One (1) year warranty on the home and specific warranties on the home mechanical systems by the individual subcontractors or manufacturers. Contractor has not made, and hereby expressly disclaims any and all implied warranties regarding the property as to its materials and workmanship, including warranties of merchantability, habitability, or suitability and quality or fitness for a particular purpose. Disputes, claims, or complaints against this warranty by the Contractor or Homeowner(s) must be referred to final and binding arbitration. Any and all expenses including, but not limited to, attorney and court costs, other than the direct fee for arbitration, will not be construed as an arbitration expense under this warranty and will be born by the party incurring such costs and expenses.

Contractor shall assign to Homeowner(s) all warranties applicable to the premises received from suppliers, subcontractors and materialmen, and any other warranties pertaining to the premises, appliances, fixtures and systems. All requests to obtain warranty work shall be made in writing and delivered to the Contractor at P.O. Box 1023, Sylva, NC 28779.

THE FOREGOING WARRANTIES AND GUARANTEES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED AND SUCH OTHER WARRANTIES ARE HEREBY DISCLAIMED, CONTRACTOR HEREBY EXPRESSLY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS OF PREMISES FOR USE FOR A PARTICULAR PURPOSE.

12. Miscellaneous Provisions

~~Financing contingency clause: Homeowner(s)'s is to obtain a mortgage commitment on the real property described in the attached contract in the amount of the Contract Sum of Seven Hundred Fifty Thousand Dollars and Zero Cents (\$750,000.00) with final contract amount to be adjusted plus or minus 10% based upon client's final selections and design changes to the Mickey Finn Cottage plan. Homeowner(s) shall, at Homeowner(s)'s expense, make application within forty five (45) days in a good faith effort to obtain the said mortgage commitment. If Homeowner(s) fails to obtain this loan commitment on or before February 4, 2015, (the cancellation period shall be four (4) weeks from the Effective Date. Homeowner(s) shall notify Contractor in writing of his failure to obtain such commitment. Upon Homeowner(s)'s written timely notification to Contractor of his inability to obtain a mortgage loan, this contract shall stand terminated. Homeowner(s)'s failure to give written notification to Contractor before the expiration of the cancellation period shall constitute a waiver by Homeowner(s) of this mortgage commitment contingency clause.~~

- a. Broker Disclosure: Homeowner(s) and Contractor agree that none broker (other than those who are employed by Contractor) is involved in this transaction. Should the blank space not be completed in the foregoing sentence or should the word "NONE" be inserted in it, the following sentence shall be deemed substituted for it: Homeowner(s) warrants and represents that NO Real Estate Broker or Salesman is involved in this purchase and sale (other than those who are employed by Contractor) and agrees to indemnify and save harmless Contractor against any

- claims of a Real Estate Broker or Salesman due to acts or omissions of the Homeowner(s) or Homeowner(s)'s representatives.
- b. The Homeowner(s) acknowledges that NO real estate agent may make any representations as to the design or construction of the home. (Statement of oral statements and written sales materials prior to this contract not deemed reliable.) Non-reliance by Homeowner(s): The Homeowner(s) hereby represents to Contractor that the Homeowner(s) has not relied on and not relying upon any warranties, promises, guarantees or representations made by the Contractor, any agent of the Contractor, or anyone else acting or claiming to act on behalf of the Contractor with respect to the purchase by the Homeowner(s) of the home or any other matters set forth herein unless specifically reduced to writing and made a part of this agreement.
- c. **THE HOMEOWNER(S) REALIZES AND ACKNOWLEDGES THAT ENTRY UPON THE PROJECT OR THE PROPERTY DURING CONSTRUCTION CAN BE DANGEROUS AND THAT HAZARDS MAY EXIST WHICH ARE NOT OBSERVABLE. THE HOMEOWNER(S) ENTRY SHALL BE SOLELY AT HIS OWN RISK. THE HOMEOWNER(S) DOES HEREBY WAIVE ANY AND ALL CLAIMS AGAINST THE CONTRACTOR FOR INJURY OR LOSS TO PERSON OR PROPERTY ARISING OUT OF OR IN CONNECTION WITH SUCH ENTRY BY HOMEOWNER(S) OR ANY OTHER PERSON ACCOMPANYING HIM OR ENTERING AT HIS DIRECTION, AND THAT THE HOMEOWNER(S) SHALL DEFEND, INDEMNIFY AND HOLD THE CONTRACTOR HARMLESS FROM AND AGAINST ANY AND ALL INJURY, LOSS, DAMAGE OR EXPENSE TO PERSONS OR PROPERTY ARISING OUT OF OR IN CONNECTION TO ANY SUCH ENTRY. THE HOMEOWNER(S) MAY NOT ENTER THE PROPERTY WITHOUT THE CONTRACTOR'S PERMISSION.**
- d. Signage: Homeowner(s) agrees to allow installation of Contractor's sign on Homeowner(s)'s lot consistent with signage for the area or subdivision and according to local code enforcement guidelines.
- e. Riverstone Development Group, Inc. Financing: In the event, prior to execution of this agreement, the Homeowner(s) disclosed certain information, which induced the Contractor to accept the Homeowner(s) as a Homeowner(s). If, prior to commencement of construction the Contractor ascertains that any of the information set forth in the Homeowner(s) disclosure is inaccurate or untrue, then the Contractor shall have the right to cancel this Contract and retain all payments made by the Homeowner(s).
- f. Inspection: The Homeowner(s) shall have the right to inspect the completed residence prior to final payment date, and to present to the Contractor "Punch List" of all uncompleted work or defective construction, which would be apparent upon reasonable inspection. The list shall be signed by the Homeowner(s) and presented a minimum of five (5) working days prior to the date of final payment. The Contractor shall make, within a reasonable time, appropriate corrections as to such "Punch List" items. **HOWEVER, NO SUCH ITEMS SHALL BE BASIS FOR DEFERRING PAYMENT OF FINAL PAYMENT (less 200% of the value of the punch-list items if necessary), UNLESS THE DEFECTS COMPLAINED OF, IN THE CONTRACTOR'S OPINION, RENDER THE RESIDENCE UNTENANTABLE.**
- g. Entire contract/governing law: This contract, including any documents referred to in this Contract, constitutes the entire agreement between the parties and supersedes any prior oral or written understandings, negotiations and representations, advertising, promotional activities, maps, artists' renderings, conceptual presentations or otherwise, made by Contractor or Contractor's agents shall in any way be binding on Contractor and will be of no force or effect unless expressly set forth in this Contract as to the Home, without limitation. This contract is entered into North Carolina and shall be governed by the law of North Carolina. Venue shall be in JACKSON COUNTY, NORTH CAROLINA. This contract may not be modified except in

writing, signed by all parties hereto. The failure of either party to require strict performance and compliance with this Contract shall not constitute a waiver or modification of any provision of this Contract or of any subsequent incident of noncompliance with the terms of this Contract.

Attorney Fees: The parties to this Contract agree that in the event that the Contractor has to retain an attorney or to file suit to enforce any portion of this agreement the Homeowner(s) shall be obligated to pay the attorney fees and costs of the Contractor in enforcing the contract.

h. **Legally Binding Contract:** This is a legally binding Contract which binds the parties and their respective heirs, assigns, personal representatives and successors in interest. HOMEOWNER (S) ACKNOWLEDGES THAT HOMEOWNER(S) HAS READ THIS CONTRACT AND HAS HAD AMPLE OPPORTUNITY TO SEEK LEGAL COUNSEL CONCERNING THIS CONTRACT.

i. **Contract not Recordable; Persons Bound; and Notice.** Neither this Contract nor any notice of it shall be recorded in any Public Records; to do so is a substantive breach of this Contract. Execution of this Contract shall not create any lien or lien right in favor of the Homeowner(s), the Homeowner(s) hereby expressly waiving and relinquishing any such lien or lien rights. This Contract shall bind and inure to the benefit of the parties hereto and their successors in interest, heirs and assigns. All notices required to be given under this Agreement shall be in writing and shall be sent by first class United States mail, postage prepaid, addressed to the party at the address as above stated, or at such other address notice of which said party may provide in writing from time to time. Notice given by or to the attorney for either party shall be as effective as if given by or to that party.

j. **Facsimile:** A facsimile (FAX) signature will be deemed to be an original. Offer and acceptance by facsimile is binding.

k. **Joint and Several Obligation:** If more than one person signs this Agreement as Homeowner(s), each such person shall be liable for full performance of all Homeowner(s)'s duties and obligations under it. In addition, either one of them is authorized to act as the agent for, with the right to bind, the other(s) in all matters of every kind or nature with respect to this Agreement. Contractor may enforce this Agreement against each of the Homeowner(s)'s as individuals or together. The Homeowner(s) representative for this project will be Scott Arbet.

l. **Access and Easement:** The Homeowner(s) hereby grants to, and the Contractor hereby reserves, an easement for ingress and egress for itself, its employees, agents, subcontractors, designees, and assigns, over and upon the front, side and rear portions of the Lot and Home as may be required by Contractor in the construction, servicing and completion of the premises or any adjoining premises or adjacent improvements. These easements shall continue until sixty (60) days after the completion of the premises or adjoining premises or adjacent improvements, whichever occurs last and shall survive the closings. This agreement may be executed in multiple counterparts, any one of which shall be deemed to be an original, but all of which shall constitute one and the same instrument.

m. **Assignment:** Neither this Agreement, nor the rights or obligations hereunder, may be assigned in whole or in part, and any attempt at assignment will be a nullity and will constitute the Homeowner(s) in default under this Agreement.

n. **Time is of the essence of this agreement:** All of the parties covenant and agree that the courts of the state of North Carolina shall have personal jurisdiction over the parties to this Agreement for the sole and exclusive purpose of interpreting or construing its content. This agreement may be executed in multiple counterparts, any one of which shall be deemed to be an original, but all of which shall constitute one and the same instrument.

o. **Radon Gas:** Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed Federal and State guidelines have been found in buildings in

South Carolina. Additional information regarding Radon and Radon testing may be obtained from your County Public Health Unit. Contractor assumes no liability for the presence of Radon Gas in the home.

m-p. Utilities: Homeowner and Contractor both agree that sufficient utilities (water, sewer connection / septic availability and power) shall be provided at the homesite by the development without cost to the Contractor. Contractor shall pay for temporary utilities consumption costs only during the construction period. If the development does not have sufficient utilities (water, sewer connection / septic availability and power) then the Contractor will install or provide the required temporary utilities at an additional cost to the Homeowner via a Change Order to the contract for the associated costs to provide and maintain the temporary utilities during construction. Homeowner(s) agrees to transfer all utilities from Contractor's account to their own within 24 hours of the Certificate of Occupancy date. Homeowner(s) further agrees that if they fail to do so Homeowner(s) will pay to the Contractor all utility bills after the closing date plus a \$100 processing fee to the Contractor.

n-q. Flood Zone: Homeowner(s) acknowledges that this single-family lot within The Cliffs at Keowee Springs may be located in an area designated as a potential flood zone by the Federal Emergency Management Agency (FEMA). In the event that Homeowner(s) seeks financing through an institutional lender (i.e. bank, life insurance company, federal or state savings and loan association, mortgage investment trust, etc.); Homeowner(s) may be required to secure flood insurance at their sole cost.

o-r. Mold: Mold is a type of fungus occurring naturally in the environment. Residential construction is not, and cannot be, designed to exclude mold spores. Whether or not Homeowner(s) as a Home Owner experiences mold growth depends largely on how Homeowner(s) manages and maintains the Home. Contractor's responsibility is limited to things that it can control, and Contractor will repair or replace defects in its construction only for the applicable periods designated in accordance with Contractors written warranty. Homeowner(s) agrees that the exclusive remedy for damages caused by mold or other fungi shall be limited to recovery in accordance with Contractors written warranty.

13. Addendums:

- Exhibit A: House Plan Identified As Modified Arbet Residence Contract Set, Dated TBD;
- Exhibit B: Finish Specifications TBD
- Exhibit C: Schedule of Values TBD
- Exhibit D: Allowance Log TBD
- Exhibit E: Financing Contingency
- Exhibit F: Mold Disclosure
- Exhibit G: Broker Disclosure
- Exhibit H: Homeowners Association Disclosure

Date: 2/13/15
 (Signature)
 Scott Emil Arbet
 (Printed name and title)

Date: 2/13/15
 (Signature)
 Courtney E. Macke
 (Printed name and title)

(Signature)
 (Print name and title)

Page 10 of 10
 Created on 2/13/2015 12:27:00 PM 2/12/2015 11:41:07 AM
 Homeowner

CEM
 Contractor

Exhibit "B"

1053

Arbet Residence: JHK Residentail Designs



Riverstone
Development Group

anne

Item No.	ITEM	Main & Upper	% of Total	\$ PER GSF
1	Mobilization and Startup	\$ 20,000	0.29%	\$ 0.29
2	General Conditions	\$ 15,350	0.23%	\$ 0.23
3	Permit Fees Allowance	\$ 2,030	0.03%	\$ 0.03
4	Temporary Erosion Control	\$ 8,100	0.12%	\$ 0.12
5	Pumpers	\$ 1,000	0.01%	\$ 0.01
6	Job Site Signage	\$ 450	0.01%	\$ 0.01
7	Utility Coordination & Utility Layout	\$ 100	0.00%	\$ 0.00
8	General Clean Up	\$ 1,000	0.01%	\$ 0.01
9	Temporary Protection	\$ 200	0.00%	\$ 0.00
10	Pumpers	\$ 1,000	0.01%	\$ 0.01
11	Mobile Engineering Trailer & Trailer	\$ 2,995	0.04%	\$ 0.04
12	Well Drilling ALLOWANCE	\$ -	0.00%	\$ -
13	Septic System	\$ 6,000	0.09%	\$ 0.09
14	Water Sewer Power Connection	\$ 1,500	0.02%	\$ 0.02
15	Drain Pipe / Sleeve at drive	\$ -	0.00%	\$ -
16	Grass Sod	\$ 5,000	0.07%	\$ 0.07
17	Grass Sod	\$ 2,500	0.04%	\$ 0.04
18	Rock Removal	\$ -	0.00%	\$ -
19	Irrigation	\$ -	0.00%	\$ -
20	Landscaping & Trees M&L Allowance	\$ 5,000	0.07%	\$ 0.07
21	Hardscape / Site Preparation Allowance	\$ 1,600	0.02%	\$ 0.02
22	Formwork	\$ 1,500	0.02%	\$ 0.02
23	Formwork	\$ 40,000	0.58%	\$ 0.58
24	Waterproofing	\$ 1,500	0.02%	\$ 0.02
25	Pool Slab	\$ 2,000	0.03%	\$ 0.03
26	Garage Slab	\$ 2,000	0.03%	\$ 0.03
27	Gravel Driveway	\$ 11,000	0.16%	\$ 0.16
28	Masonry Material & Labor - Pavers at front porch	\$ 5,500	0.08%	\$ 0.08
29	Gravel Fill - Garage & Porch	\$ 2,000	0.03%	\$ 0.03
30	Stacked Stone Veneer at front porch Allowance	\$ 15,000	0.22%	\$ 0.22
31	Floor Joists	\$ 7,500	0.11%	\$ 0.11
32	Open Wall Floor Joists (main)	\$ 7,370	0.11%	\$ 0.11
33	Roof Joists	\$ 2,250	0.03%	\$ 0.03
34	Steel Stud Floor Joists	\$ 1,523	0.02%	\$ 0.02
35	Roofing Material Package	\$ 40,000	0.58%	\$ 0.58
36	Roofing Labor Package	\$ 4,189	0.06%	\$ 0.06
37	Groin Vault & Associated Framing	\$ -	0.00%	\$ -
38	Deck Material	\$ 1,000	0.01%	\$ 0.01
39	Deck Labor	\$ 2,000	0.03%	\$ 0.03
40	Deck Railings System (V)	\$ 2,000	0.03%	\$ 0.03
41	Staircase	\$ 5,000	0.07%	\$ 0.07
42	Exterior Siding	\$ 8,000	0.12%	\$ 0.12
43	Exterior Siding Labor	\$ 2,000	0.03%	\$ 0.03
44	Exterior Siding Material	\$ 2,000	0.03%	\$ 0.03
45	Soffits Material (incl. linework)	\$ -	0.00%	\$ -
46	Cladding	\$ 1,500	0.02%	\$ 0.02
47	Stairs	\$ 4,000	0.06%	\$ 0.06
48	Metal Roofing Material & Labor	\$ -	0.00%	\$ -
49	Cumassan Roofing Material	\$ 8,000	0.12%	\$ 0.12
50	Roofing Labor	\$ 5,000	0.07%	\$ 0.07
51	Metal Roof Labor	\$ -	0.00%	\$ -
52	Structural steel Columns at rear porch Allowance	\$ -	0.00%	\$ -
53	Aluminum Material	\$ 15,000	0.22%	\$ 0.22
54	Aluminum Siding	\$ 2,000	0.03%	\$ 0.03
55	Exterior Wood Beam Package Allowance	\$ 16,650	0.24%	\$ 0.24
56	Interior Wood Beams @ main level Allowance	\$ 8,000	0.12%	\$ 0.12
57	Interior Wood Beams @ lower M&L Allowance	\$ -	0.00%	\$ -
58	Interior Siding	\$ 1,500	0.02%	\$ 0.02
59	Interior Siding Labor	\$ 2,000	0.03%	\$ 0.03
60	Interior Siding Material	\$ 2,000	0.03%	\$ 0.03
61	Aluminum Siding	\$ 1,500	0.02%	\$ 0.02
62	Aluminum Siding Labor	\$ 2,000	0.03%	\$ 0.03
63	Additional interior stone at kitchen bar	\$ -	0.00%	\$ -
64	Cabinets & Countertops Allowance	\$ 28,270	0.41%	\$ 0.41
65	Granite Countertops Allowance	\$ 10,800	0.16%	\$ 0.16
66	Custom Range Hood Allowance	\$ -	0.00%	\$ -

ACSF

Lower Level	1,616
Main Floor	2,115
Garage Suite	458
Total ACSF	4,189
Upper porch/deck	461 x
garage	756 x
mech at terrace	246 x
storage at Terrace	53 x
Lower Decks	1,250 x
Front Porch	335 x
Total GSF	7,290 x

CPM

no built ins & bar revision
less at lower bar

Page 1

Exhibit 4

EXHIBIT

4

Draw #11 - 1/5/16 1

DRAFT AIA® Document G703™ - 1992

Continuation Sheet

AIA Document G702™-1992, Application and Certification for Payment, or G736™-2009, Project Application and Project Certificate for Payment, Construction Manager as Adviser Edition, containing Contractor's signed certification is attached.

In tabulations below, amounts are in US dollars.

Use Column I on Contracts where variable retainage for line items may apply.

APPLICATION NO:

011

APPLICATION DATE:

12/28/2015

PERIOD TO:

12/28/2015

ARCHITECT'S PROJECT NO:

N/A

A	B	C	D	E	F	G		H	I
ITEM NO.	DESCRIPTION OF WORK	SCHEDULED VALUE	WORK COMPLETED		MATERIALS PRESENTLY STORED (NOT IN D OR E)	TOTAL COMPLETED AND STORED TO DATE (D + E + F)	% (G ÷ C)	BALANCE TO FINISH (C - G)	RETAINAGE (IF VARIABLE RATE)
			FROM PREVIOUS APPLICATION (D + E)	THIS PERIOD					
1104	Mobilization/Start-Up	20,000.00	20,000.00	0.00	0.00	20,000.00	100.00%	0.00	0.00
1120	General Conditions	75,550.00	75,550.00	0.00	0.00	75,550.00	100.00%	0.00	0.00
1210	Temp. Water/Electric	1,755.00	1,755.00	0.00	0.00	1,755.00	100.00%	0.00	0.00
1312	Temp. Protection	500.00	500.00	0.00	0.00	500.00	100.00%	0.00	0.00
1314	Temp. Heat	0.00	0.00	0.00	0.00	0.00	0.00%	0.00	0.00
1315	Temp. Toilets	1,755.00	1,755.00	0.00	0.00	1,755.00	100.00%	0.00	0.00
1620	Fuel	0.00	0.00	0.00	0.00	0.00	0.00%	0.00	0.00
1702	Surveys	1,200.00	1,200.00	0.00	0.00	1,200.00	100.00%	0.00	0.00
1703	Soil Boring & Engineering	1,895.00	1,895.00	0.00	0.00	1,895.00	100.00%	0.00	0.00
1705	General Cleanup	1,000.00	1,000.00	0.00	0.00	1,000.00	100.00%	0.00	0.00
1706	Dumpsters	4,000.00	4,000.00	0.00	0.00	4,000.00	100.00%	0.00	0.00
1710	Rough/Final/Reclean	1,500.00	900.00	600.00	0.00	1,500.00	100.00%	0.00	0.00
1725	Punch/Out M&E	3,000.00	0.00	3,000.00	0.00	3,000.00	100.00%	0.00	0.00
1750	Jobsite Signage	450.00	450.00	0.00	0.00	450.00	100.00%	0.00	0.00
2002	Clearing & Excavating	16,000.00	16,000.00	0.00	0.00	16,000.00	100.00%	0.00	0.00
2003	Final Grade	2,500.00	2,500.00	0.00	0.00	2,500.00	100.00%	0.00	0.00
2004	Well/Water Connection (Allow)	1,500.00	1,500.00	0.00	0.00	1,500.00	100.00%	0.00	0.00
2005	Septic/Sewer System	6,000.00	6,000.00	0.00	0.00	6,000.00	100.00%	0.00	0.00
2118	Soil Treatment	600.00	600.00	0.00	0.00	600.00	100.00%	0.00	0.00
2124	Finished Gravel Drive (Allowance)	8,000.00	0.00	8,000.00	0.00	8,000.00	100.00%	0.00	0.00
2139	Hardscapes (Allow)	600.00	0.00	0.00	0.00	0.00	0.00%	600.00	0.00

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13830354791

A	B		C	D	E	F	G		H	I
ITEM NO.	DESCRIPTION OF WORK		SCHEDULED VALUE	WORK COMPLETED		MATERIALS PRESENTLY STORED (NOT IN D OR E)	TOTAL COMPLETED AND STORED TO DATE (D + E + F)	% (G ÷ C)	BALANCE TO FINISH (C - G)	RETAINAGE (IF VARIABLE RATE)
				FROM PREVIOUS APPLICATION (D + E)	THIS PERIOD					
2140	Landscaping (Allowance)		5,000.00	0.00	0.00	0.00	0.00	0.00%	5,000.00	0.00
3101	Poured Foundation (Allow)		40,000.00	40,000.00	0.00	0.00	40,000.00	100.00%	0.00	0.00
3102	Concrete Slabs		7,400.00	7,400.00	0.00	0.00	7,400.00	100.00%	0.00	0.00
3104	Gravel Fill (Allow)		2,000.00	2,000.00	0.00	0.00	2,000.00	100.00%	0.00	0.00
4280	Stacked Stone M&L (Allow)		15,000.00	15,000.00	0.00	0.00	15,000.00	100.00%	0.00	0.00
4285	Stone pavers at porch		5,500.00	5,500.00	0.00	0.00	5,500.00	100.00%	0.00	0.00
6100	Framing Materials		40,000.00	40,000.00	0.00	0.00	40,000.00	100.00%	0.00	0.00
6102	Frame Labor		41,890.00	41,890.00	0.00	0.00	41,890.00	100.00%	0.00	0.00
6125	Trusses TR/MN/RF		26,793.00	26,793.00	0.00	0.00	26,793.00	100.00%	0.00	0.00
6150	Column Brackets		0.00	0.00	0.00	0.00	0.00	0.00%	0.00	0.00
6500	Interior Doors		8,160.00	8,160.00	0.00	0.00	8,160.00	100.00%	0.00	0.00
6501	Interior stairs and railing		3,000.00	1,500.00	1,500.00		3,000.00	100.00%	0.00	0.00
6502	Exterior Railing (M&L)		3,000.00	3,000.00	0.00	0.00	3,000.00	100.00%	0.00	0.00
6515	Decks Material & Labor		13,000.00	13,000.00	0.00	0.00	13,000.00	100.00%	0.00	0.00
6635	Interior Trim Material		6,000.00	6,000.00	0.00	0.00	6,000.00	100.00%	0.00	0.00
6640	Interior Trim Labor		12,000.00	10,500.00	1,500.00		12,000.00	100.00%	0.00	0.00
6642	Main Level Interior Beam (Allow)		8,000.00	0.00	0.00	0.00	0.00	0.00%	8,000.00	0.00
6644	Exterior Beam (Allow)		16,650.00	16,650.00	0.00	0.00	16,650.00	100.00%	0.00	0.00
6700	Cabinets (Allow)		28,270.00	28,270.00	0.00	0.00	28,270.00	100.00%	0.00	0.00
6705	Closet Shelving		2,000.00	0.00	0.00	0.00	0.00	0.00%	2,000.00	0.00
7206	Insulation		10,000.00	10,000.00	0.00	0.00	10,000.00	100.00%	0.00	0.00
7245	Waterproofing		3,668.00	3,668.00	0.00	0.00	3,668.00	100.00%	0.00	0.00
7499	Flashing/Bays		1,500.00	1,500.00	0.00	0.00	1,500.00	100.00%	0.00	0.00
7500	Gutters		5,900.00	5,900.00	0.00	0.00	5,900.00	100.00%	0.00	0.00
7821	Asph. Roofing M&L		12,200.00	12,200.00	0.00	0.00	12,200.00	100.00%	0.00	0.00
8360	Garage Door & Opener		6,700.00	6,700.00	0.00	0.00	6,700.00	100.00%	0.00	0.00
8509	Front Door (Allow)		1,500.00	1,500.00	0.00	0.00	1,500.00	100.00%	0.00	0.00

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(1383035479)

A ITEM NO.	B DESCRIPTION OF WORK	C SCHEDULED VALUE	D WORK COMPLETED		F MATERIALS PRESENTLY STORED (NOT IN D OR E)	G TOTAL COMPLETED AND STORED TO DATE (D + E + F)		H BALANCE TO FINISH (C - G)	I RETAINAGE (IF VARIABLE RATE)
			FROM PREVIOUS APPLICATION (D + E)	THIS PERIOD			% (G ÷ C)		
8510	Ext. Windows/Doors (Allow)	40,239.00	40,239.00	0.00	0.00	40,239.00	100.00%	0.00	0.00
9330	Drywall	20,000.00	20,000.00	0.00	0.00	20,000.00	100.00%	0.00	0.00
9560	Stucco (Allow)	3,000.00	3,000.00	0.00	0.00	3,000.00	100.00%	0.00	0.00
9600	Siding & Cornice Materials	20,000.00	20,000.00	0.00	0.00	20,000.00	100.00%	0.00	0.00
9605	Siding & Cornice Labor	17,000.00	17,000.00	0.00	0.00	17,000.00	100.00%	0.00	0.00
9705	Countertops (Allow)	10,800.00	10,800.00	0.00	0.00	10,800.00	100.00%	0.00	0.00
9710	Wood Floor (Allow)	17,400.00	17,400.00	0.00	0.00	17,400.00	100.00%	0.00	0.00
9850	Gym Flooring (Allow)	950.00	950.00	0.00	0.00	950.00	100.00%	0.00	0.00
9860	Carpet (Allow)	2,000.00	0.00	2,000.00	0.00	2,000.00	100.00%	0.00	0.00
9870	Ceramic Tile Mat. (Allow)	6,375.00	6,375.00	0.00	0.00	6,375.00	100.00%	0.00	0.00
9880	Ceramic Tile Labor	12,307.00	12,307.00	0.00	0.00	12,307.00	100.00%	0.00	0.00
9940	Painting M&L	35,000.00	35,000.00	0.00	0.00	35,000.00	100.00%	0.00	0.00
10201	Shutter/Gingerbread	1,200.00	1,200.00	0.00	0.00	1,200.00	100.00%	0.00	0.00
10553	Mantles	400.00	400.00	0.00	0.00	400.00	100.00%	0.00	0.00
10610	Shower Enclosures	3,630.00	0.00	3,630.00	0.00	3,630.00	100.00%	0.00	0.00
10812	Mirrors	1,100.00	0.00	1,100.00	0.00	1,100.00	100.00%	0.00	0.00
10815	Door Hdw/Bath Acc.	3,200.00	2,750.00	450.00	0.00	3,200.00	100.00%	0.00	0.00
11452	Appliances (Allow)	10,500.00	0.00	0.00	0.00	0.00	0.00%	10,500.00	0.00
15310	Firebox & Flue M&L	8,500.00	8,500.00	0.00	0.00	8,500.00	100.00%	0.00	0.00
15315	Fireplace Stone Surround	3,800.00	3,800.00	0.00	0.00	3,800.00	100.00%	0.00	0.00
15400	Plumbing Labor	12,500.00	12,500.00	0.00	0.00	12,500.00	100.00%	0.00	0.00
15410	Gas Lines	1,500.00	1,500.00	0.00	0.00	1,500.00	100.00%	0.00	0.00
15450	Plumbing Fixtures (Allow)	7,682.00	7,682.00	0.00	0.00	7,682.00	100.00%	0.00	0.00
15500	HVAC	20,425.00	20,425.00	0.00	0.00	20,425.00	100.00%	0.00	0.00
16001	Electrical Labor	20,550.00	19,960.00	590.00	0.00	20,550.00	100.00%	0.00	0.00
16005	Electrical Fixtures (Allow)	6,000.00	0.00	0.00	0.00	0.00	0.00%	6,000.00	0.00
17001	Permits (Allow)	2,030.00	2,030.00	0.00	0.00	2,030.00	100.00%	0.00	0.00

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(1383035479)

A ITEM NO.	B DESCRIPTION OF WORK	C SCHEDULED VALUE	D WORK COMPLETED		F MATERIALS PRESENTLY STORED (NOT IN D OR E)	G		H BALANCE TO FINISH (C - G)	I RETAINAGE (IF VARIABLE RATE)
			FROM PREVIOUS APPLICATION (D + E)	THIS PERIOD		TOTAL COMPLETED AND STORED TO DATE (D + E + F)	% (G ÷ C)		
17050	Liability Insurance	7,610.00	7,610.00	0.00	0.00	7,610.00	100.00%	0.00	0.00
17055	RDG Fee	104,765.00	102,765.00	2,000.00	0.00	104,765.00	100.00%	0.00	0.00
	C/O #1	0.00	0.00	0.00	0.00	0.00	0.00%	0.00	0.00
	C/O #2	0.00	0.00	0.00	0.00	0.00	0.00%	0.00	0.00
	C/O #3	0.00	0.00	0.00	0.00	0.00	0.00%	0.00	0.00
		0.00	0.00	0.00	0.00	0.00	0.00%	0.00	0.00
	GRAND TOTAL	873,399.00	816,929.00	24,370.00	0.00	841,299.00	96.32%	32,100.00	0.00

DRAFT

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(1383035479)

Exhibit 5

EXHIBIT
5

STATE OF SOUTH CAROLINA

COUNTY OF PICKENS

NOTICE AND CERTIFICATE
OF MECHANIC'S LIEN

TO:

Scott Emil Arbet
2083 Welsh Valley Road
Phoenixville, PA 19460

Scott Emil Arbet
1074 Cliffs Vista Parkway
Six Mile, SC 29682

NOTICE IS HEREBY GIVEN that Riverstone Development Group, Inc. (SC license # G114265) is due the sum of Thirty One Thousand Two Hundred Seventy Eight and 00/100 Dollars (\$31,278) together with interest, attorney fees and costs allowed by law, pursuant to a signed agreement between Scott Arbet and Riverstone Development Group, Inc. A statement of a just and true account of said indebtedness with all just credit given is attached hereto as **Exhibit A** and made part hereof. This amount is due and owing with interest, fees and costs allowable by law.

That said debt is due for labor performed or furnished, and/or for materials furnished and actually used in the erection, alteration, or repair of buildings or structures situated on, or otherwise improving, the real estate hereinafter described, by virtue of agreement with, or by consent of the owner thereof, or a person or persons authorized by, or rightfully acting for, said owner; or that said debt is due because such improvements have been authorized by said owner. That the work performed by Riverstone Development Group, Inc. is valued at One Million Four Thousand One Hundred and Ninety Seven and 00/100 Dollars (\$1,004,197.00). That Riverstone Development Group, Inc. first labored on, or furnished labor and/or materials for such buildings, structures, or improvements on or about February 13, 2015. That Riverstone Development Group, Inc. last labored on, or furnished labor and/or materials for such buildings, structures, or

improvements on January 28, 2016, which is within ninety (90) days of the date of service and filing of this notice.

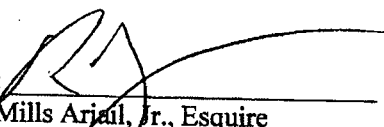
That by service thereof and filing of Notice and Certificate, and pursuant to the provisions of the Statutes in such cases made and provided Riverstone Development Group, Inc. has claims to a lien to secure the payment of the debt so due and the costs of enforcing said lien upon the buildings or structures herein above mentioned and upon the following described real estate:

All that certain piece, parcel or lot of land situate, lying and being in the State of South Carolina, County of Pickens, being known and designated as Lot 57, Phase 4, as shown on a survey of "The Cliffs at Keowee at Keowee Springs, Phase 4, Lots 53 thru 68", prepared by Lindsey & Associates, Inc., dated 2/29/2008 and recorded in the ROD for Pickens County, SC in Plat Book 591 at Page 273. Reference to said plat is hereby made for a more complete and accurate metes and bounds description thereof.

TMS#4140-00-19-0987

This being a portion of the same property conveyed to Thoroughbred Properties of Keowee, LLC by deed of Harold P. Welborn, Jr., as Clerk of Court for Pickens County, SC, CASE# 2011-CP-39-1021, recorded 12/05/2011 in the ROD for Pickens County, SC in Deed Book 1422 at Page 295.

This the 19 day of February, 2016.

By: 
R. Mills Ariail, Jr., Esquire
LAW OFFICE OF R. MILLS ARIAIL, JR.
11 North Irvine Street, Suite 11
Greenville, SC 29601

SWORN to before me this 19th day of February, 2016.

Danise Tanner Labeck
Notary Public for South Carolina
My Commission Expires: 7/20/2019

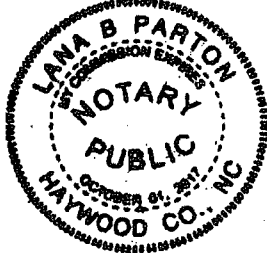
Exhibit A

STATE OF SOUTH CAROLINA)
COUNTY OF PICKENS) VERIFIED STATEMENT OF ACCOUNT

PERSONALLY APPEARED before me Courtney Macke, Owner of Riverstone Development Group, Inc. who first being duly sworn, deposes and says that the following is a true and accurate statement of the amounts owed to Riverstone Development Group, Inc. for services and materials between Riverstone Development Group, Inc. and Scott Emil Arbet for Scott Arbet's house located at 1074 Cliffs Vista Parkway, Six Mile, SC 29682:

TOTAL AMOUNT PAID BY ARBET:	\$960,422.00
AMOUNT OWED FOR EXTENDED GENERAL CONDITIONS:	\$18,994
AMOUNT OWED FOR UNPAID WORK PERFORMED:	\$6182
AMOUNT OWED FOR ARBET'S ADDED CHANGES AND EXTRAS:	\$1,018
AMOUNT OWED FOR ALLOWANCE OVERAGES:	<u>\$5,084</u>
TOTAL AMOUNT OWED BY ARBET:	<u>\$31,278</u>

I hereby certify that the foregoing is a true and accurate Statement of Account due in connection with this Mechanic's Lien.



Courtney Macke
Courtney Macke

SWORN to before me this 19 of February, 2016

Lana B Parton
Notary Public for North Carolina
My Commission Expires: 10-1-2017

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF PICKENS	)	THIRTEENTH JUDICIAL CIRCUIT
	)	
Scott E. Arbet,	)	C. A. No. 2016-CP-39-00103
	)	
Plaintiff,	)	
	)	
v.	)	PLAINTIFF'S MOTION FOR
	)	PARTIAL SUMMARY JUDGMENT
	)	
Riverstone Development Group, Inc.,	)	
	)	
Defendant.	)	
	)	

TO: R. MILLS ARIAIL, JR., ESQ., COUNSEL FOR DEFENDANT RIVERSTONE DEVELOPMENT GROUP, INC.

COME NOW, the plaintiff, Scott E. Arbet ("Plaintiff" or "Arbet"), pursuant to *South Carolina Rules of Civil Procedure* Rule 56(c), and hereby move this Court, at such date and time as the Court shall direct, for the entry of an Order granting summary judgment in its favor on his first cause of action in his Amended Complaint. In support of its Motion for Summary Judgment, Plaintiff would show the following facts are undisputed:

- 1) Riverstone is a licensed general contractor with the South Carolina Contractor's Licensing Board and holds a "BD4" (also known as a "Group Four") license classification under License No.: 114265. *See Exhibit 1 to Plaintiff's Memorandum in Opposition to Defendant Riverstone Development Group, Inc.'s Motion to Dismiss filed July 1, 2016 ("Memo in Opp"): Riverstone's License.*
- 2) Pursuant to *South Carolina Code Ann.* § 40-11-260(A)(4), a BD4 license classification limits a contractor from bidding on or performing jobs which exceed Seven Hundred Fifty Thousand Dollars (\$750,000.00). *See South Carolina Code Ann.* § 40-11-260(A)(4) and *See Exhibit 2 to Memo in Opp: The South Carolina Contractor's*

Licensing Board's "Current Classification Abbreviations and Project/Dollar Limitations".

- 3) Riverstone and Plaintiff entered into a written contract ("Contract") on or about February 13, 2015, wherein Riverstone agreed to be the general contractor for the construction of a residence for Plaintiff, located in Pickens County, South Carolina ("Project").
- 4) The "Contract Sum" under the Contract was "Seven Hundred Fifty Thousand Dollars and Zero Cents (\$750,000.00) with final contract amount to be adjusted plus or minus 5% based upon client's final selections and design changes to the Arbet Residence home plan to achieve this budget". *See Exhibit 3 to Memo in Opp: The Residential Construction Contract between Riverstone and Plaintiff with Exhibits A through H; Section 2.*
- 5) Pursuant to the Contract as entered into on February 13, 2015, Exhibits A (the "House Plans Identified As Modified Arbet Residence Contract Set, Dated TBD"), B (the "Finish Specifications TBD"), C (the "Schedule of Values TBD"), and D (the "Allowance Log TBD") were incomplete and needed to be determined. *Id.*; Section 13.
- 6) Pursuant to Section 12(g) of the Contract, the Contract could "not be modified except in writing, signed by all parties hereto". *Id.*; Section 12(g). Accordingly, on or about April 9, 2015, prior to construction commencing, the parties formalized and executed the "Schedule of Values" and "Finish Specifications" the for the Project and those became "Exhibit B" and "Exhibit C", respectively, to the Contract. *Id.*; *Exhibits B and C.*

- 7) Pursuant to "Exhibit C" to the Contract, the "[c]urrent price as of 4/9/15 [for the Home, Attached Garage, Sitework, and Allowances] without client's final finishes decisions and pricing \$ 873,399.00 including client's VE list selections of items 7, 8, 9, 10, 11, 18 and removal of bar serving window". *Id.*; *Exhibit C*.
- 8) The "Schedule of Values" of Exhibit B to the Contract also states that the total cost of construction would be Eight Hundred Seventy-Three Thousand, Three Hundred Ninety-Nine and 0/100ths Dollars (\$873,399.00). *Id.*; *Exhibit B*, pg. 2.
- 9) After a dispute arose between the parties regarding the work Riverstone performed and the amounts due under the Contract, if any, Riverstone filed a mechanics' lien against the Project which was recorded in the Office of the Register of Deeds for Pickens County in Mechanics Lien Book 2016 at Page 520. *See Exhibit 4 to Memo in Opp: Riverstone's Mechanics' Lien*.
- 10) Pursuant to Riverstone's mechanics' lien, "the work performed by [Riverstone] is value at One Million, Four Thousand, One Hundred and Ninety-Seven and 00/100 Dollars (\$1,004,197.00)" and, of that alleged amount, Plaintiff has paid Nine Hundred Sixty Thousand, Four Hundred Twenty-Two and 0/100ths Dollars (\$960,422.00). *Id.*
- 11) The written construction contract, the Contract, is void *ab initio* and Riverstone is precluded by *South Carolina Code Ann.* § 40-11-370(C) from enforcing the provisions of the Contract.

For the foregoing reasons, the Plaintiff respectfully requests that the Court enter an Order granting Plaintiff's motion for summary judgment on his first cause of action of his Amended Complaint.

Respectfully submitted this 27th day of November, 2017,

/s/ Townes B. Johnson III

Townes B. Johnson III (SC Bar# 75412)

TOWNES B. JOHNSON III, LLC

PO Box 9246

GREENVILLE, SC 29604

PH: (864) 757-4899

Attorneys for Plaintiff

Greenville, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF PICKENS	)	THIRTEENTH JUDICIAL CIRCUIT
	)	
Scott E. Arbet,	)	C. A. No. 2016-CP-39-00103
	)	
Plaintiff,	)	
	)	
v.	)	PLAINTIFF'S AMENDED MOTION
	)	FOR PARTIAL SUMMARY JUDGMENT
	)	
Riverstone Development Group, Inc.,	)	
	)	
Defendant.	)	
	)	

TO: R. MILLS ARIAIL, JR., ESQ., COUNSEL FOR DEFENDANT RIVERSTONE DEVELOPMENT GROUP, INC.

COMES NOW, the plaintiff, Scott E. Arbet ("Plaintiff" or "Arbet") and hereby amends his Motion for Partial Summary Judgment to move this Court for the entry of an Order granting summary judgment in its favor on Defendant Riverstone Development Group, Inc.'s counterclaims for Quantum Meruit and Breach of Contract in addition to his first cause of action in his Amended Complaint on the same grounds as stated in his original Motion for Partial Summary Judgment.

Respectfully submitted this 2nd day of December 2018,

/s/ Townes B. Johnson III
Townes B. Johnson III (SC Bar# 75412)
TOWNES B JOHNSON III, LLC
PO Box 9246
Greenville, South Carolina 29604
PH: (864) 757-4899
tjohnson@sc.legal

Attorneys for Defendant

Greenville, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF PICKENS	)	THIRTEENTH JUDICIAL CIRCUIT
	)	
Scott E. Arbet,	)	C. A. No. 2016-CP-39-00103
	)	
Plaintiff,	)	
	)	
v.	)	DEFENDANT RIVERSTONE
	)	DEVELOPMENT GROUP, INC.'S
	)	OPPOSITION TO PLAINTIFF'S
Riverstone Development Group, Inc. and	)	MOTION FOR PARTIAL SUMMARY
Yoder's Building Supply, Inc.,	)	JUDGMENT
	)	
Defendants.	)	
	)	

Defendant Riverstone Development Group, Inc. ("Riverstone") submits its Opposition to Plaintiff Scott E. Arbet's ("Arbet") Motion for Partial Summary Judgment ("Motion").

INTRODUCTION

Riverstone is a general contractor, and at all relevant times to this lawsuit, possessed a South Carolina Group IV general contractor's license, which allowed it to bid on and perform jobs up to \$750,000. (Exhibit 1, Affidavit of Courtney Macke ("Macke Aff.") ¶7.) In February 2015, Arbet asked Riverstone to construct a residential home for Arbet, and on February 13, 2015 Arbet and Riverstone entered into a Residential Construction Contract ("Contract") to memorialize their arrangement. (Macke Aff., at Ex. A, ¶2.) Despite Plaintiff's assertions to the contrary, the Contract is for "Seven Hundred Fifty Thousand Dollars and Zero Cents (\$750,000), with final amount to be adjusted plus or minus 5% based upon client's final selections and design changes[.]" (Macke Aff., at Ex. A, ¶2.)

The Contract states that changes to the work must be agreed upon in writing by both parties and summarized in a written change order. (Macke Aff., at Ex. A, ¶4(c).) After Riverstone started construction, Plaintiff requested construction changes that pushed the Contract amount above the initial \$750,000 amount, to approximately \$875,377. (Macke Aff. ¶16 & Ex. C.) In 2016, Plaintiff refused to pay Riverstone for part of the construction work, so Riverstone filed a mechanic's lien. This lawsuit followed. This Court should deny Plaintiff's Motion for Partial Summary Judgment because: (1) Riverstone possessed the correct general contractor licensure to perform the work for the initial \$750,000 contract amount; (2) neither statute or case law allow Plaintiff to request that this Court declare the Contract void *ab initio*, and a genuine issue of material fact exists as to whether the Contract amount is for the permissible \$750,000 or more; and (3) Plaintiff acted with unclean hands by requesting the changes that caused the contract amount to exceed the initial \$750,000 amount.

FACTS

Riverstone is a licensed general contractor with the South Carolina Department of Labor, Licensing, and Regulation, Contractor's Licensing Board ("Contractor's Licensing Board"). (Macke Aff. ¶8.) Riverstone first received its general contractor license from the Contractor's Licensing Board on June 5, 2008, when it received a Group V unlimited general contractor's license. (Macke Aff. ¶7.) Per this unlimited Group V license, Riverstone could bid on and perform South Carolina general contracting jobs of any value. *See* S.C. Code Ann. § 40-11-260(A)(5) (2015).¹ Riverstone also holds, and for all relevant times has held, unlimited contractor licenses in North Carolina and Florida. (Macke Aff. ¶9.) In 2014, Riverstone decided

¹ This statute was amended in July 2016. For purposes of this lawsuit, the pre-amendment version from the 2015 South Carolina Code of Laws controls.

to step down its unlimited Group V license to a Group IV license, so that Riverstone did not have to do as much annual paperwork for renewal. (Macke Aff. ¶7.) Per the Group IV license, Riverstone could bid on projects up to \$750,000. *See* S.C. Code Ann. § 40-11-260(A)(4) (2015)

On February 13, 2015, Riverstone and Arbet entered into the Contract. (Macke Aff. ¶4 & Ex. A.) Per the Contract, Arbet agreed to pay “Seven Hundred Fifty Thousand Dollars and Zero Cents (\$750,000)[,] with final contract amount to be adjusted plus or minus 5% based upon client’s final selections and design changes to the Arbet Residence home plan to achieve this budget.” (Macke Aff. ¶5 & Ex. A, ¶ 2 (emphasis omitted).) Despite the admittedly poor grammar in this portion of the Contract, Riverstone and Plaintiff intended that it would build Plaintiff’s house for \$750,000. For the \$750,000 contract sum, Riverstone and Plaintiff agreed that Riverstone would build Plaintiff’s residence based on the plans and specifications attached to the Contract (“Contract Plans and Specifications”).

Arbet assured Riverstone that Arbet would not make any change orders during construction. (Macke Aff. ¶15 & Ex. B, at p. 2.) As a result of these assurances, Riverstone agreed to remove the Contract provision assigning a \$200 administrative fee for change orders. (Macke Aff. ¶15 & Ex. A.) Riverstone also reduced its client fee by \$27,000 in reliance on Arbet’s assurances that Arbet would not make change orders. (Macke Aff. ¶16 & Ex. B, at p. 2.)

In April 2015, less than two months after Riverstone and Plaintiff entered into the Contract, Plaintiff requested a change order that pushed the Contract above the \$750,000 amount, to over \$875,337. (Macke Aff. ¶16 & Ex. C.)

Between February 2015 and January 2016, Arbet requested twelve change orders, in direct contravention of his promises and the parties’ contractual intent. (Macke Aff. ¶¶16-17 & Ex. C.) Arbet’s unanticipated and unilateral twelve change orders increased the Contract amount

by \$263,892, to a total of \$1,013,892. (Macke Aff. ¶20 & Ex. C, p. 17 (listing the final price after the twelfth change order).)

ARGUMENT

I. Summary Judgment Standard

Plaintiff may only receive summary judgment when “the pleadings, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that [Plaintiff is] entitled to judgment as a matter of law.” *Folkens v. Hunt*, 290 S.C. 194, 196, 348 S.E.2d 839, 841 (Ct. App. 1986). “All ambiguities, conclusions, and inferences arising from the evidence must be construed most strongly against [Plaintiff]. Even when there is no dispute as to the evidentiary facts, but only as to the conclusions or inferences to be drawn from them, summary judgment should be denied.” *Nelson v. Charleston Cty. Parks & Recreation Comm.*, 362 S.C. 1, 605 S.E.2d 744 (Ct. App. 2004). “[S]ince it is a drastic remedy, summary judgment should be cautiously invoked so that [Riverstone Development Group] will not be improperly deprived of a trial on disputed factual issues.” *Englert, Inc. v. LeafGuard USA, Inc.*, 377 S.C. 129, 133-34, 659 S.E.2d 496, 498 (2008). If triable issues exist, those issues must go to the jury.” *Schmidt v. Courtney*, 357 S.C. 310, 592 S.E.2d 326 (Ct. App. 2003).

As discussed below, this case is replete with disputed factual and legal issues. Accordingly, this Court should deny Plaintiff’s Motion for Partial Summary Judgment.

II. Neither South Carolina Code §40-11-370(C) Nor Case Law Preclude Riverstone From Enforcing the Contract

The thrust of Plaintiff’s argument is that South Carolina Code §40-11-370(C) precludes Riverstone from recovering under the Contract, because although the Contract was initially for \$750,000, Plaintiff argues that the Contract was ultimately worth over \$750,000, and therefore

that Riverstone exceeded its permissible \$750,000 licensing limit. Plaintiff's argument is neither supported by the plain language of Section 40-11-370(C) nor case law.

South Carolina Code §40-11-370(C) states, in pertinent part, that a contractor "which does not have a valid license as required by this chapter may not bring an action either at law or in equity to enforce the provisions of a contract[.]"

In his July 1, 2016 Memorandum in Opposition to Defendant's Motion to Dismiss and In Support of Plaintiff's Motion to Amend ("Opposition to MTD") and Motion for Partial Summary Judgment, Plaintiff argues that South Carolina Code §40-11-370(C) precludes Riverstone's enforcement of the Contract. In his Opposition to MTD, Plaintiff cites to *C-Sculptures, LLC v. Brown*, 403 S.C. 53, 742 S.E.2d 359 (2013) for the proposition that "an 'under-licensed' general contractor does not have a 'valid license' as required by [South Carolina Code] §40-11-370(C) ... and was precluded from enforcing the provisions of the related construction contract." (Opposition to MTD p. 4 (emphasis omitted).) While Plaintiff does not cite *C-Sculptures* in his Motion for Partial Summary Judgment, Riverstone believes that Plaintiff bases his analysis on this case law. Moreover, the Court's understanding of *C-Sculptures* is critical to distinguishing it from the instant case.

The *C-Sculptures* court considered whether South Carolina Code §40-11-370(C) precluded contract enforcement by a general contractor who possessed a Group II license, which limited it to projects not exceeding \$100,000, but who bid on, and agreed to build a home, worth over \$800,000. 403 S.C. at 55, 742 S.E.2d at 360. A dispute arose between the parties, and the contractor filed an action to enforce a mechanic's lien. *Id.* An arbitrator held that Section 40-11-370(C) did not preclude the contractor's recovery, and the South Carolina Court of Appeals affirmed. *Id.* In analyzing whether Section 40-11-370(C) precluded enforcement, the *C-*

Sculptures court noted that the contractor admitted that it did not have the appropriate license, but sought to avoid the precluding effect of Code §40-11-370(C) by arguing that it was merely *under-licensed*, and not *unlicensed*. *Id.* The Supreme Court rejected the contractor's perceived distinction and noted that the contractor did not have the proper licensure at the contract's formation. 403 S.C. at 58-59, 742 S.E.2d at 362.

This case is distinguishable from *C-Sculptures* for several reasons. First, in this case, when Riverstone entered into the Contract, it had a valid Group IV license for projects up to \$750,000, whereas in *C-Sculptures* the contractor had a license for projects worth \$100,000 but bid on a project worth \$800,000. Thus, at the outset of this Contract, Riverstone was in compliance with its statutory licensing requirements. The cases cited by the *C-Sculptures* court support this distinction. In *Duckworth v. Cameron*, 270 S.C. 647, 244 S.E.2d 217 (1978), an *unlicensed* general contractor contracted to build a house and began construction, and received his general contractor license before he completed the house. The Supreme Court precluded the contractor from enforcing the contract because he was *unlicensed* when he entered into the contract. In *Skiba v. Gessner*, 374 S.C. 208, 648 S.E.2d 605 (2007), in which a contractor was *unlicensed* when he contracted, the Supreme Court quoted Section 40-11-370(C), stating that "an entity which does not have a valid license as required by Chapter 40 may not bring an action at law or in equity to enforce the provisions of a contract."

The common thread in *C-Sculptures*, *Duckworth*, and *Skiba* are that the general contractors in those cases either did not have a license (*Duckworth* and *Skiba*) or were grossly under-licensed (*C-Sculptures*). In these cases, the Supreme Court harshly reacted to unlicensed and grossly under-licensed general contractors flouting regulatory and statutory requirements in bidding for and constructing houses. *See, e.g., C-Sculptures*, 403 S.C at 59, 742 S.E.2d at 362

(Pleicones, J., dissenting (“I am appalled that respondent, licensed only for construction projects up to \$100,000, bid upon this project that *far exceeded the scope of his license.*”) (emphasis added)).

Unlike *C-Sculptures*, the Contract was worth \$750,000, and Riverstone possessed a Group IV license for projects up to \$750,000. Unlike *C-Sculptures*, Riverstone previously possessed a Group V license that allowed it to work on projects with an unlimited dollar amount. (Macke Aff. ¶7.) Unlike *C-Sculptures*, Riverstone possesses unlimited licenses in North Carolina and Florida. (Macke Aff. ¶9.) Unlike *C-Sculptures*, Plaintiff requested the changes that pushed the Contract above the \$750,000 licensing limitation. (Macke Aff. ¶16 & Ex. C.) While Riverstone respects South Carolina state sovereignty, Riverstone respectfully requests that this Court take judicial notice of Riverstone’s North Carolina and Florida unlimited general contractor licenses, and Riverstone’s previous South Carolina Group V unlimited license, to assuage the Court that Riverstone does not intend to disregard South Carolina licensing requirements. The legislative purpose of South Carolina Code §40-11-370(C) is to prevent unlicensed and grossly under-licensed contractors from performing faulty construction at the risk of innocent consumers, not to allow consumers to twist the statutory intent to hold hostage properly-licensed contractors to clients’ requested changes.

Riverstone anticipates that Plaintiff will argue that when Plaintiff made the change orders pushing the Contract amount over the Group IV \$750,000 licensing threshold, that Riverstone should have known that per South Carolina Code §40-11-300(B) Riverstone was “engaging in general or mechanical construction without the required license or certificate,” and should have “immediately withdraw[n] from the construction project.” Perhaps it should have. However, this argument fails at this juncture for two reasons.

First, Plaintiff has unclean hands that bar his recovery. Without Plaintiff's requested change orders, the Contract amount would have remained at \$750,000, within Riverstone's Group IV license. Riverstone is cognizant that as a sophisticated business entity well-versed in licensing requirements, it had the option to accept or reject Plaintiff's change orders. Riverstone does not seek to solely shift blame to Plaintiff. Riverstone simply argues that this is an issue of disputed material fact that makes summary judgment inappropriate at this stage.

Second, neither the statute nor the Supreme Court, in *C-Sculptures* or any other decision, has addressed whether South Carolina Code §40-11-370(C) forecloses a contractor's lawsuit on a contract where the contractor possessed *proper* licensing when the contract was formed, but where a client's change order *caused* the contract to exceed permissible limits at a later time.

For these two reasons, South Carolina Code §40-11-370 does not preclude Riverstone from recovering under the Contract, and this Court should deny Arbet's Motion on this ground.

III. Declaratory Judgment is Inappropriate Because (1) Neither Code §40-11-370(C) Nor Case Law Authorize This Court to Declare the Contract Void *Ab Initio*, and (2) There Exists a Genuine Issue of Material Fact About the Contract Amount at Issue

Plaintiff's Motion for Partial Summary Judgment only requests that this Court grant summary judgment on his declaratory judgment cause of action. This cause of action asks this Court for a declaratory judgment finding that Riverstone violated South Carolina Code §40-11-5 *et seq.*, and therefore the Contract is void *ab initio* and Riverstone cannot enforce it.

Plaintiff's Motion for Partial Summary Judgment has several procedural and substantive problems.

First, Plaintiff asks for improper relief under South Carolina case law. Plaintiff cites South Carolina Code §40-11-370(C) as the controlling statute in its Motion. (Pl.'s Mot. for Partial Summary J., at p. 3.) South Carolina Code §40-11-370(C) states, in pertinent part, that

“an entity which does not have a valid license as required by this chapter may not bring an action either at law or in equity to enforce the provisions of a contract.” Neither Section 40-11-370(C), *C-Sculptures, LLC v. Brown*, nor any other case law authorizes this Court to declare the Contract void *ab initio*. See S.C. Code Ann. §40-11-370(C); *C-Sculptures, LLC v. Brown*, 403 S.C. 53, 742 S.E.2d 359 (2013); *C-Sculptures, LLC v. Brown*, 394 S.C. 519, 716 S.E.2d 678 (Ct. App. 2011). Plaintiff cannot request relief not authorized by statute or case law.

Even disregarding Plaintiff’s inability to request the Contract void *ab initio*, Plaintiff also requests a declaratory judgment to determine that Riverstone is precluded from enforcing the Contract under Section 40-11-370(C). However, under the South Carolina Uniform Declaratory Judgment Act, South Carolina Code §15-53-70, “the court may refuse to render or enter a declaratory judgment or decree when such judgment or decree, if rendered or entered, would not terminate the uncertainty or controversy giving rise to the proceeding.” Here, Riverstone welcomes “resolution of the controversy giving rise to the proceeding,” which is a determination of the parties’ rights and responsibilities under the initial \$750,000 Contract, for which exists a genuine issue of material fact for which summary judgment is improper. Plaintiff conflates the initial \$750,000 Contract, within Riverstone’s proper licensing range, with Plaintiff’s subsequent change orders that pushed the Contract above \$750,000. Plaintiff then argues that Riverstone exceeded the limit of its Group IV license, and *became* precluded from enforcing the Contract under South Carolina Code §40-11-370(C). This analytical position is unsupported by statute or case law. This Court should deny Plaintiff’s Motion for Partial Summary Judgment because neither statute nor case law permit Plaintiff to request the Contract declared void, and a genuine issue of material fact exists as to whether the Contract was for \$750,000 or a larger amount.

IV. Plaintiff Acted With Unclean Hands By Requesting the Contract Changes That Pushed the Contract Amount Above the \$750,000 Licensing Threshold

Plaintiff sought out Riverstone for its building expertise. Plaintiff entered into the Contract with Riverstone for \$750,000 to build Plaintiff's home. (Macke Aff. ¶ 5 & Ex. A.) Plaintiff then requested Contract changes that pushed the Contract way above Riverstone's \$750,000 Group IV licensing threshold. (Macke Aff. ¶16 & Ex. C.) Plaintiff cannot now shrug his shoulders and wipe his unclean hands of his involvement. Because a genuine issue of material fact exists as to whether Plaintiff has unclean hands in this case, this Court should deny Plaintiff's Motion for Partial Summary Judgment.

South Carolina unclean hands case law is well-established. When a court "is sitting in equity, and thus viewing evidence for its preponderance, [the court is] to consider the equities of both sides, balancing the two to determine what, if any, relief to give." *Anderson v. Buonforte*, 365 S.C. 482, 493, 617 S.E.2d 750, 755 (Ct. App. 2005). The doctrine of unclean hands "precludes [Plaintiff] from recovering in equity if he acted unfairly in a matter that is the subject of the litigation to the prejudice of [Riverstone]." *First Union Nat'l Bank of S.C. v. Soden*, 333 S.C. 554, 568, 511 S.E.2d 372, 379 (Ct. App. 1998). For Plaintiff to seek relief, he "must come with clean hands. It is far more than a mere banality. It is a self-imposed ordinance that closes the door of the court of equity to one tainted with inequity or bad faith relative to the matter in which he seeks relief." *Emery v. Smith*, 361 S.C. 207, 220, 603 S.E.2d 598, 605 (Ct. App. 2004) (quoting *Precision Instrument Mfg. Co. v. Auto. Maint. Mach. Co.*, 324 U.S. 806, 814 (1945)). "The decision to grant equitable relief is in the discretion of the trial judge." *Soden*, 333 S.C. at 568, 511 S.E.2d at 379.

Here, Plaintiff requested the changes to the Contract that pushed it above the \$750,000 licensing threshold. Riverstone obviously cannot predict if Plaintiff would have brought up this

licensing issue had the parties not disputed. However, it is suspicious that Plaintiff did not have a problem with Riverstone's Group IV licensure when Plaintiff signed the Contract, or when Plaintiff requested the changes that pushed the contract above \$750,000, but only when Plaintiff decided he did not want to pay for the remainder of the work Riverstone performed. Because of Plaintiff's participation in the increase of the Contract above the \$750,000 Group IV licensure limit, this Court should find that there is a genuine issue of material fact as to whether Plaintiff came to this lawsuit with unclean hands, and deny Plaintiff's Motion for Partial Summary Judgment.

CONCLUSION

Riverstone respectfully requests that this Court deny Plaintiff's Motion for Partial Summary Judgment and allow this case to proceed to trial for three reasons.

First, Riverstone is not precluded from enforcing the Contract under South Carolina Code §40-11-370(C), as Riverstone held the proper \$750,000 licensure at the Contract's formation, and neither the plain language of South Carolina Code §40-11-370(C) nor case law foreclose a lawsuit to enforce a Contract where a general contractor initially held the proper licensure at contract formation, but where the consumer's requested contract changes push the contract amount above the licensure limits.

Second, Plaintiff's requested relief of declaring the contract void *ab initio* is not authorized by South Carolina statute or case law, and a genuine issue of material fact exists regarding whether the Contract is for the permissible \$750,000 amount, or a larger amount. Third, Plaintiff acted with unclean hands by requesting the changes that led to the Contract's increase over \$750,000, and cannot now seek statutory refuge from the changes he requested.

Respectfully Submitted,

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*Attorney for Defendant Riverstone Development
Group, Inc.*

November __, 2018
Greenville, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF PICKENS	)	THIRTEENTH JUDICIAL CIRCUIT
	)	
Scott E. Arbet,	)	C. A. No. 2016-CP-39-00103
	)	
Plaintiff,	)	
	)	DEFENDANT RIVERSTONE
v.	)	DEVELOPMENT GROUP, INC.'S
	)	MOTION TO ALTER OR AMEND
Riverstone Development Group, Inc. and	)	JUDGMENT
Yoder's Building Supply, Inc.,	)	
	)	
Defendants.	)	
	)	

Pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure, Riverstone Development Group, Inc. ("Riverstone") respectfully moves the Court to alter or amend its January 7, 2019 Order ("Order") granting Plaintiff Scott E. Arbet's ("Arbet") Amended Motion for Partial Summary Judgment.

INTRODUCTION

This is a construction case in which Arbet and Riverstone entered into a Residential Construction Contract ("Contract") for Riverstone to construct a home for Arbet. In the Contract, the parties agreed that Plaintiff would pay Riverstone "Seven Hundred Fifty Thousand Dollars and Zero Cents (\$750,000), with [the] final amount to be adjusted plus or minus 5% based upon client's final selections and design changes[.]" Affidavit of Courtney Macke ("Macke Aff."), Exhibit A. During construction, Plaintiff requested twelve unanticipated change orders that pushed the construction price over the \$750,000 threshold allowed by Riverstone's South Carolina Labor, Licensing, and Regulation Group IV license. The parties disputed over the construction, and this lawsuit followed. This Court granted Plaintiff's Motion for Partial Summary Judgment.

ARGUMENT

I. Summary Judgment for Plaintiff is Inappropriate Because the Contract is Ambiguous and the Intent of the Parties Cannot Be Determined from the Four Corners of the Contract

Because the Contract terms are ambiguous as to the amount that Plaintiff was to pay Riverstone, summary judgment was inappropriate, and Riverstone requests that this Court vacate its judgment.

As stated above, the Contract payment terms were for “Seven Hundred Fifty Thousand Dollars and Zero Cents (\$750,000), with [the] final amount to be adjusted plus or minus 5% based upon client’s final selections and design changes[.]” Macke Aff., Ex. A.

Riverstone intended that the Contract be for \$750,000. In its Order, this Court states that “[Riverstone] bid on the Arbet Project which, on its face, could have exceed[ed] Riverstone’s] license limitation.” Order at 4. Furthermore, this Court also stated that “it cannot be disputed that the [construction] exceeded \$750,000. Order at 4.¹

These are both issues to be determined later on at trial. Before these issues can be adjudicated at trial, Plaintiff must prove that he is entitled to summary judgment.

The construction of the Contract is a question of law for this Court. *See Soil Remediation Co. v. Nu-Way Envtl., Inc.*, 325 S.C. 231, 234, 482 S.E.2d 554, 555 (1997). When this Court considers a motion for summary judgment that presents a question as to the construction of a written contract, if the contract language is “plain and unambiguous, the question is one of law.” *First-Citizens Bank Trust Co. v. Conway Nat’l Bank*, 282 S.C. 303, 305, 317 S.E.2d 776, 777 (Ct. App. 1984). However, summary judgment is improper where there is a “question as to the

¹ This Court fully disregarded the affidavit of Courtney Macke dated December 13, 2019 whereby it was shown that the SC Department of Labor, Licensing and Regulation dismissed all of Arbet’s claims and allegations against Riverstone. The SC Department of Labor, Licensing and Regulation is the regulatory board governing the licensing requirements and they did not find fault or state that Riverstone violated any SC statutes, laws or regulations.

construction of the written contract, and the contract is ambiguous because the intent of the parties cannot be gathered from the four corners of the instrument.” *Bishop v. Benson*, 297 S.C. 14, 17, 374 S.E.2d 517, 518-19 (Ct. App. 1988). The Contract is ambiguous if it is “capable of being understood in more than one way or a contract unclear in meaning because it expresses its purpose in an indefinite manner.” *Klutts Resort Realty, Inc. v. Down'Round Dev. Corp.*, 268 S.C. 80, 89, 232 S.E.2d 20, 25 (1977). Where a contract is unclear or is ambiguous and capable of more than one construction, the parties' intentions are matters of fact to be submitted to a jury. *Wheeler v. Globe Rutgers Fire Ins. Co. of City of N.Y.*, 125 S.C. 320, 325, 118 S.E. 609, 610 (1923).

In this case, the Contract is ambiguous, and the intent of the parties cannot be gathered from the four corners of the Contract.

Riverstone submitted an affidavit stating that it believed that the Contract was intended to be for \$750,000. Macke Aff. ¶6. Arbet submitted an affidavit alleging that the Contract was initially for \$750,000 but admitted that a change order increased the Contract amount to \$873,399, which is \$123,399, or 16%, more than the original \$750,000 Contract amount. Affidavit of Scott E. Arbet (“Arbet Aff.”) ¶¶5-6. This scenario is the exact reason why summary judgment is inappropriate at this juncture, and why this Court should allow the parties to proceed to trial. Arbet claims that the intent of the Contract was to initially state a \$750,000 amount, which he implies would then “become firmer” and increase to the \$873,399 amount. Arbet Aff. ¶6. However, Arbet’s Contract reading only proves that the Contract is ambiguous, as the first change order for \$123,999 is 16% of the original price, far higher than the “plus or minus 5%” that is “based upon client’s final selections and design changes.” Arbet cannot utilize the Contract’s intent when it benefits him and disregard its implications when it hurts his case. A

trial in this matter would give the Court a full opportunity to view live testimony from the parties, judge credibility, and ascertain the parties' intent in signing the Contract.

At a bare minimum, the parties disagree "as to the construction of the [Contract,]" *Bishop*, 297 S.C. at 17, 374 S.E.2d at 518-19, and the Contract's payment language is "capable of being understood in more than one way . . . because it expresses its purpose in an indefinite manner." *Klutts Resort Realty, Inc.*, 268 S.C. at 89, 232 S.E.2d at 25. Because the Contract is ambiguous, summary judgment is inappropriate, and Riverstone requests that this Court alter or amend its judgment and submit the matter to a jury for trial.

II. The South Carolina Supreme Court's C-Sculptures, LLC v. Brown Decision is Distinguishable from This Case

This Court relies on *C-Sculptures, LLC v. Brown*, 403 S.C. 53, 742 S.E.2d 359 (2013) in making its ruling. In *C-Sculptures*, a general contractor possessed a Group II license, which limited it to construction projects worth up to \$100,000. 403 S.C. at 55, 742 S.E.2d at 360. The contractor agreed to build a home for \$800,000. *Id.* In analyzing whether the contractor was prohibited from enforcing the construction contract, the Supreme Court noted that the contractor did not have a valid license for the project at its inception. *Id.*

C-Sculptures is distinguishable from this case. In *C-Sculptures*, the contractor's licensure was \$700,000 lower than the contract price. In *C-Sculptures*, the contract violated South Carolina statutes from the second the contractor entered into it, as the contractor never possessed appropriate licensure.

Here, Riverstone was licensed for \$750,000, and the parties drafted a Contract for "\$750,000 . . . plus or minus 5%[.]" Here, the initial Contract was arguably within the scope of

Riverstone's \$750,000 licensure, but then was pushed out of the licensure by the change orders requested by Arbet.

This Court should alter or amend its judgment because *C-Sculptures* is distinguishable from this case, and the South Carolina Supreme Court has not ruled on whether a contractor is foreclosed from judicial remedies where it initially performs within its licensing thresholds, but then is pushed out of the licensing classification by a client's change orders.

CONCLUSION

Riverstone respectfully requests that this Court vacate its Order Granting Plaintiff's Motion for Partial Summary Judgment for two reasons.

First, the Contract is ambiguous, the intent of the parties cannot be gathered from the Contract's four corners, and summary judgment is therefore inappropriate.

Second, *C-Sculptures* is distinguishable from this case, and the neither caselaw nor statutes prohibits Riverstone from enforcing the Contract where it initially held the proper licensure, but where Plaintiff's change orders pushed the Contract amount above the licensure limits.

Respectfully Submitted,

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*Attorney for Defendant Riverstone Development
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January 11, 2019
Greenville, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF PICKENS	)	THIRTEENTH JUDICIAL CIRCUIT
	)	
Scott E. Arbet,	)	C. A. No. 2016-CP-39-00103
	)	
Plaintiff,	)	
	)	
v.	)	PLAINTIFF'S MEMORANDUM IN
	)	OPPOSITION TO DEFENDANT'S
	)	MOTION TO ALTER OR AMEND
Riverstone Development Group, Inc.,	)	JUDGMENT
	)	
Defendant.	)	
	)	

TO: R. MILLS ARIAIL, JR., ESQ., COUNSEL FOR DEFENDANT RIVERSTONE DEVELOPMENT GROUP, INC.

COMES NOW, the Plaintiff, Scott E. Arbet ("Plaintiff"), and hereby submits his Memorandum in Opposition to Defendant Riverstone Development Group, Inc.'s ("Defendant") Motion to Alter or Amend the Court's January 7, 2019 Order ("Order") granting Plaintiff's Motion for Partial Summary Judgment.

ARGUMENT

I. THE PARTIES INTENDED THAT THE FINAL CONTRACT AMOUNT BE ADJUSTED BASED UPON ARBET'S FINAL SELECTIONS AND DESIGN CHANGES

In its Motion to Alter or Amend, Defendant erroneously argues the contract terms of the February 13, 2015 agreement between Plaintiff and Defendant ("Contract") are ambiguous and the intent of the parties cannot be gathered from the four corners of the Contract. As undisputedly discussed and pointed out by Defendant the parties agreed that the "Contract Sum" under the Contract would be "Seven Hundred Fifty Thousand Dollars and Zero Cents (\$750,000.00) with final contract amount to be adjusted plus or minus 5% based upon client's final selections and design changes to the Arbet Residence home plan to achieve this budget". Despite Defendant's

suggestion, otherwise, the Contract's language is clear and the only way to construe the Contract's contract sum provision is that the parties intended for it to be finalized at a later date - specifically "upon client's final selections and design changes to the Arbet Residence home plan". This language, accordingly, is not ambiguous, but rather, a clear, intentionally agreed upon provision for the contract sum to be finalized at a later date. *See McGill v. Moore*, 381 S.C. 179, 185, 672 S.E.2d 571, 574 (2009) ("Where the contract's language is clear and unambiguous, the language alone determines the contract's force and effect."). The suggestion that a clear, intentionally agreed upon provision to be finalized later is ambiguous is not supported by South Carolina law and is patently erroneous. The Court, therefore, was correct in determining that:

1) Defendant bid on the project which, on its face, could have exceed Defendant's license limitation in violation of *South Carolina Code Ann.* § 40-11-260(A)(4) (2015) since the contract sum was \$750,000.00 "plus or minus 5% based upon client's final selections and design changes";

2) that the project exceeded \$750,000.00;

3) Defendant did not withdraw from the Arbet Project once the total cost of construction exceeded the Defendant's \$750,000.00 license limitation as required by *South Carolina Code Ann.* § 40-11-300(B); and

4) Defendant continued to perform work on the Arbet Project after the contract sum exceeded Defendant's \$750,000.00 license limitation in violation of *South Carolina Code Ann.* § 40-11-260(A)(4) (2015).

For the foregoing reasons, the Court's grant of Plaintiff's Motion for Summary Judgment was proper.

II. ANY AMBIGUITY WOULD HAVE TO BE CONSTRUED AGAINST DEFENDANT, WHICH DRAFTED THE AGREEMENT

Assuming, *arguendo*, that the Contract's contract sum provision is ambiguous, which Plaintiff expressly denies, any such ambiguity would have to be construed against the Defendant which drafted the agreement. *See Williams v. Teran, Inc.*, 266 S.C. 55, 60, 221 S.E.2d 526, 529 (1976) (noting the rule of contract interpretation that an ambiguous contract will be construed against the drafting party); and *See Chassereau v. Global Sun Pools, Inc.*, 373 S.C. 168, 175, 644 S.E.2d 718, 722 (2007) ("[A] court will construe any doubts and ambiguities in an agreement against the drafter of the agreement."); and *See November 27, 2018 Affidavit of Courtney Macke, Ex. A*. Accordingly, in the matter at hand, the Contract's contract sum provision has to be construed such that Defendant's agreed to a contract which could have exceed Defendant's license limitation in violation of *South Carolina Code Ann.* § 40-11-260(A)(4) (2015) and the Contract's final contract sum exceeded Defendant's \$750,000.00 license limitation in violation of *South Carolina Code Ann.* § 40-11-260(A)(4) (2015).

For the foregoing reasons, the Court's grant of Plaintiff's Motion for Summary Judgment was proper.

III. UNDER-LICENSED CONTRACTORS DO NOT HAVE VALID LICENSE AS REQUIRED BY SOUTH CAROLINA CODE ANN. § 40-11-370(C)

The Court properly found that "under-licensed" contractors do not have a "valid license" as required by *South Carolina Code Ann.* § 40-11-370(C) as to avoid the door-closing effect and to enable the contractor to be able to enforce the terms of a contract. *See e.g. C-Sculptures, LLC v. Brown*, 403 S.C. 53, 742 S.E.2d 359 (2013) (wherein an under-licensed general contractor was deemed not to have a valid license to perform work on the project and, consequently, was precluded from enforcing the provisions of the related construction contract). Despite

Defendant's argument that it makes it distinguishable, The South Carolina Supreme Court did not distinguish between the degree to which a contractor was "under-licensed", but rather found that any "under-licensed" contractor did not have a "valid license" as required by *South Carolina Code Ann.* § 40-11-370(C). *Id.* Further, as Defendant agrees that the *C-Sculptures* "contract violated South Carolina statutes from the second the contractor entered into it, as the contractor never possessed appropriate licensure" the Defendant is in the same position as the Defendant was precluded from bidding on or performing jobs which exceeded \$750,000.00 in accordance with *South Carolina Code Ann.* § 40-11-260(A)(4) (2015) and clearly bid on the Plaintiff's project which, on its face, could have been five percent (5%) greater than Defendant's license limitation.

For the foregoing reasons, the Court's grant of Plaintiff's Motion for Summary Judgment was proper.

CONCLUSION

For the foregoing reasons, Riverstone's Motion to Alter or Amend Judgment should be denied.

Respectfully submitted this 22nd day of January, 2019,

/s/ Townes B. Johnson III

Townes B. Johnson III (SC Bar# 75412)

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Attorneys for Plaintiff

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM PICKENS COUNTY
Court of Common Pleas

The Honorable Perry H. Gravely, Circuit Court Judge

2019 FEB 26 A 8 59

CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

Case No. 2016-CP-39-00103

Riverstone Development Group, Inc.,.....Appellant,

v.

Scott E. Arbet,.....Respondent.

MOTION TO DISMISS

To the Honorable Jenny Abbott Kitchings, South Carolina Court of Appeals:

Pursuant to Rule 240, SCACR, the Respondent, Scott E. Arbet ("Arbet"), respectfully requests the issuance of a motion to dismiss the Appellant, Riverstone Development Group, Inc. ("Riverstone")'s appeal of the Court's Order Granting Arbet's Amended Motion for Partial Summary Judgment based on the Order being interlocutory.

Background

The Amended Complaint filed by Arbet in this matter brought causes of actions against Riverstone for: 1) Declaratory Judgment; 2) Breach of Contract; 3) Breach of Express and Implied Warranties; 4) Negligence; 5) Negligent Misrepresentation; 6) Fraud; 7) Constructive Fraud; 8) Breach of Fiduciary Duty; 9) Violation of the South Carolina Unfair Trade Practices Act; 10) Violation of South Carolina Code Ann. § 29-5-20, *et seq.*;

11) Slander of Title; and 12) Equitable Indemnification. Thereafter, Riverstone brought counterclaims against Arbet for Breach of Contract and Quantum Meruit.

On November 28, 2017, Arbet filed a Motion for Partial Summary Judgment on its Declaratory Judgment cause of action regarding whether the construction contract between the parties and Riverstone's mechanics' lien were void for Riverstone's violation of South Carolina Code Ann. § 40-11-5, *et seq.* On December 2, 2018, amended its motion to seek summary judgment on Riverstone's counterclaims of Quantum Meruit and Breach of Contract on the same basis. On January 7, 2019, Arbet's amended motion for Summary Judgment was granted and the Honorable Perry H. Gravely entered an Order barring Riverstone in law and equity from enforcing the provisions of the contract; dismissing Riverstone's counterclaims and dissolving Riverstone's mechanics' lien. The Honorable Perry H. Gravely, thereafter, denied Riverstone's Motion to Amend.

Arbet's causes of action for Declaratory Judgment as to Riverstone's supplier's mechanics lien; Breach of Contract; Breach of Express and Implied Warranties; Negligence; Negligent Misrepresentation; Fraud; Constructive Fraud; Breach of Fiduciary Duty; Violation of the South Carolina Unfair Trade Practices Act; Violation of South Carolina Code Ann. § 29-5-20, *et seq.*; Slander of Title; and Equitable Indemnification are all still pending and have not been decided by the Court.

Discussion

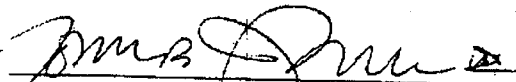
As Arbet's causes of action for Declaratory Judgment as to Riverstone's supplier's mechanics lien; Breach of Contract; Breach of Express and Implied Warranties; Negligence; Negligent Misrepresentation; Fraud; Constructive Fraud; Breach of Fiduciary Duty; Violation of the South Carolina Unfair Trade Practices Act; Violation of South

Carolina Code Ann. § 29-5-20, *et seq.*; Slander of Title; and Equitable Indemnification have not been determined, a final decision has not been made by the Court. *See e.g. Lewis v. State*, 368 S.C. 630, 631, 630 S.E.2d 464, 464 (2006). ("Any judgment or decree, leaving some further act to be done by the court before the rights of the parties are determined, is interlocutory; but if it so completely fixes the rights of the parties that the court has nothing further to do in the action, then it is final.") (quoting Adickes v. Allison & Bratton, 21 S.C. 245, 259 (1884)). This appeal, therefore, being based on an unappealable interlocutory order, should be dismissed.

CONCLUSION

For the foregoing reasons, Respondent respectfully requests that Appellant's appeal be dismissed.

TOWNES B. JOHNSON III, LLC



Townes B. Johnson III, S.C. Bar # 75412

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Attorneys for the Respondent

February 21, 2019
Greenville, South Carolina



TOWNES B. JOHNSON III, LLC
ATTORNEY AT LAW

February 21, 2019

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2019 FEB 26 A 8:58

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

Re: Scott E. Arbet vs. Riverstone Development Group, Inc.
Case No. 2016-CP-39-00103

Dear Ms. Kitchings:

Enclosed please find for filing the original and six (6) copies of Respondent Scott E. Arbet's Motion to Dismiss Appellant's Appeal in the above-referenced matter:

- (1) Motion to Dismiss;
- (2) Certificate of Mailing of the Motion to Dismiss;

Please send me a filed copy in the enclosed prepaid envelope.

NO Copies sent
MB

Sincerely,

Janie Mobley,
Paralegal to Townes B. Johnson, III

Cc: R. Mills Ariail, Jr.
Pickens County Clerk of Court

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

2019 FEB 26 A 8 59

APPEAL FROM PICKENS COUNTY
Court of Common Pleas

CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

The Honorable Perry H. Gravely, Circuit Court Judge

Case No. 2016-CP-39-00103

Riverstone Development Group, Inc., ... Appellant,

v.

Scott E. Arbet, ... Respondent.

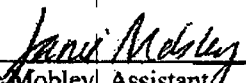
CERTIFICATE OF MAILING

This is to certify that I have served a true copy of the foregoing **Motion to Dismiss Appellant's Appeal** on this 21st day of February, 2019 by depositing a copy of same in the United States mail, proper postage affixed, addressed as follows:

Pickens County Clerk of Court
PO Box 215
Pickens, SC 29671

R. Mills Ariail, Jr., Esq.
11 North Irvine Street, Suite 11
Greenville, SC 29601

Greenville, South Carolina


Janie Mobley, Assistant
TOWNES B. JOHNSON III, LLC

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STATE OF SOUTH CAROLINA

COUNTY OF PICKENS

SCOTT E. ARBET,

Plaintiff,

vs.

RIVERSTONE DEVELOPMENT
GROUP, INC.,

Defendant.

) IN THE COURT OF
) COMMON PLEAS
) OF THE THIRTEENTH
) JUDICIAL CIRCUIT

) TRANSCRIPT OF RECORD
) 2016-CP-39-00103

ORIGINAL

December 6, 2018
Pickens, South Carolina

B E F O R E:

HONORABLE PERRY H. GRAVELY, Judge.

A P P E A R A N C E S

TOWNES BOYD JOHNSON, III, ESQUIRE
For The Plaintiff

ROBERT MILLS ARIAIL, JR., ESQUIRE
For The Defendant

Julie A. Cendroski,
Circuit Court Reporter
Seventh Judicial Circuit

I N D E X

WITNESSPAGE

ANNOUNCEMENT OF CASE

By The Court

4

MOTION FOR SUMMARY JUDGMENT

By Mr. Johnson

6

REPLY TO MOTION FOR SUMMARY JUDGMENT

By Mr. Ariail

13

FURTHER ARGUMENT

By Mr. Johnson

19

FURTHER ARGUMENT

By Mr. Ariail

21

FINAL ARGUMENT

By Mr. Johnson

23

COURT TAKES UNDER ADVISEMENT

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CERTIFICATE OF COURT REPORTER

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EXHIBITS

MARKED

ENTERED

NO EXHIBITS PROFFERED

1 RIVERSTONE DEVELOPMENT GROUP VS. SCOTT ARBET

2 THE COURT: All right. Well, I guess we need to
3 officially go on the record here for Scott Arbet versus
4 Riverstone Development. Is it Arbit? Arbet?

5 MR. JOHNSON: Arbet.

6 THE COURT: Arbet, okay. Motion for partial
7 summary judgment.

8 MR. JOHNSON: Yes, Your Honor. Townes Johnson on
9 behalf of the plaintiffs, Your Honor. Your Honor, this
10 is a motion for partial summary judgment. And in the
11 motion, Your Honor, we have asked the Court to rule upon
12 our first cause of action. And in the motion we
13 actually asked for the Court to make a ruling on South
14 Carolina Code 40-11-370(C), Your Honor.

15 I filed an amendment to the motion to more
16 expressly state that that goes towards their
17 counterclaims as well. That was not within the last ten
18 days of it, Your Honor. I know, I think Mills was
19 gonna ---

20 MR. ARIAIL: Your Honor, I object. If you deny
21 it, then I'll be glad to put it all on one little -- but
22 I can't ---

23 THE COURT: You want your cake and eat it to?

24 MR. ARIAIL: Yeah, I do. I mean, if you're gonna
25 -- I know he filed within the last ten days. I told him

1 I was gonna have to object to that based on that. He's
2 filed for, I guess, the motion for partial summary
3 judgment is under declaratory judgment aspect of it. I
4 mean, we can hear it then ---

5 MR. JOHNSON: Well -- and, Your Honor, part of
6 the declaratory judgment is making their mechanics' lien
7 dissolved, which is based on this whole issue of whether
8 or not the contract is enforceable.

9 MR. ARIAIL: I will agree that they're all tied
10 into one bailiwick here and, you know, I've got some
11 arguments about why declaratory judgement is not
12 appropriate. And I think I've got some good arguments
13 as to why it shouldn't apply to breach of contract and
14 Quantum Meruit too.

15 THE COURT: Let me ask you this. I mean, again,
16 I'm gonna defer you, because I mean the whole purpose
17 of the ten-day notice is to make sure that you're not
18 prejudiced by him filing this.

19 MR. ARIAIL: Right.

20 THE COURT: Do you feel -- I mean, do you feel
21 like you need anything else to hear this, to hear this
22 motion or if you want to have some, I mean, some
23 additional time to maybe -- or does your memorandum
24 cover those issues in here?

25 MR. ARIAIL: Yeah. I mean, I can just ----

1 THE COURT: I don't want you to be prejudiced,
2 but I don't want us just to unnecessarily have to come
3 back at some other day hearing the same arguments.

4 MR. ARIAIL: I think we have them all together
5 listed, and I think all my arguments apply to both ends
6 of declaratory judgment. So I don't see anything
7 additional that I need. I'm willing to go forward
8 today.

9 THE COURT: All right. And I'll give you, um, I
10 will give you the opportunity after the hearing if you
11 feel like you need to submit something else, then I'll,
12 I'll let you do that.

13 MR. ARIAIL: Sure.

14 THE COURT: Okay? And that way we can go forward
15 on, on both. On the amended motion for partial summary
16 judgment.

17 MR. ARIAIL: That's fine, Your Honor, thank you.

18 THE COURT: Okay.

19 MR. JOHNSON: Thank you, Judge. So, Your Honor,
20 this, this Motion for Summary Judgment is on our first
21 cause of action and there would be a counterclaim as
22 well, then, Your Honor.

23 As a little bit of a background, the -- I'll go
24 through the statutory scheme real quick on commercial
25 contractors. And, Your Honor, these are -- and the

1 first two documents are documents given by Mills. It's
2 the statutes in question. It's a South Carolina case
3 called *C-Sculptures versus Brown*.

4 And then, Your Honor, there's the affidavit of
5 Scott Arbet. And my prior -- I don't know if you
6 remember hearing a Motion to Dismiss a year and however
7 long ago, Your Honor, but my, my memo in response to
8 that motion is attached, which includes the same
9 argument that I'm gonna make here today, Your Honor.

10 But on the statutory scheme, as it relates to
11 commercial construction, Title 40, Chapter 11 controls,
12 Your Honor. And it says that you have to have a
13 license. And then it goes into the license
14 qualifications and classifications. Your Honor, this
15 was -- there's no dispute that Riverstone was a
16 commercial contractor, and so they're governed by Title
17 40, Chapter 11.

18 They agree that they had a BD4 license, which
19 back in 2015 capped their license capability at
20 \$750,000. And, Your Honor, the -- well, the contract in
21 question, Your Honor, was initially signed February
22 13th, 2015. And in that contract on the face it says
23 that the contract sum will be \$750,000, plus or minus if
24 -- sorry. With the final contract amount to be
25 adjusted, plus or minus 5 percent based on the client's

1 final selections and the design changes to the Arbet
2 residence who had planned to achieve his budget.

3 Your Honor, we're not disputing that that's what
4 the February 13th, 2015, agreement says. During the
5 next couple months the Arbets were finalizing their home
6 plans. And if you look, if you look at the contract,
7 which is attached as Exhibit A to the affidavit, Your
8 Honor, in Section 13 it goes through the exhibits to
9 that contract. And at that time the plans and specs and
10 the, really the, the meat of the project were TBD, to be
11 determined.

12 So the next two months there's those aspects.
13 Those plans and specs were finalized and the parties
14 came to some hard numbers. And the Exhibit B and
15 Exhibit C to the contract were more formalized and the
16 parties got to a \$837,000 figure -- \$873,000 figure,
17 Your Honor.

18 And those exhibits were incorporated into the
19 main contract. And if you look at Exhibit B to the
20 affidavit, Your Honor, that's the initial change order.
21 And this change order was pre-construction. And if you
22 look at the language of the actual change order -- Your
23 Honor, I'm pulling it up. Your Honor, I'm sorry.

24 The -- it says the contract has changed as
25 follows. And then number one: Additional costs under

1 final design changes, per Exhibit B dated April 9th,
2 2015.

3 And then it goes down to say: The original
4 contract sum was 750,000. And then five lines below
5 that it says: The new contract sum, including this
6 change order will be 875,337.

7 Your Honor, that's all pre-construction. But
8 that really is irrelevant to this motion, Your Honor.
9 The -- going back to the statutory scheme, they are
10 bound to the \$750,000 threshold. And it is, it is
11 illegal for a contractor to offer services above that
12 threshold. That is in Section 40-11-200.

13 It says: A person who practices or offers to
14 practice in this state in violation of this chapter is
15 guilty of a misdemeanor. That on the face of the
16 initial contract in February, they were clearly offering
17 to do 750,000, plus or minus 5 percent. The plus 5
18 percent gets you to 700, I think, 87,000. So at that
19 time they were offering and that's a misdemeanor.

20 The -- the -- sorry, Your Honor, running in late.
21 So where was I going? Your Honor, I guess we'll go
22 ahead and get into C-Sculptures. Shoot. I tell you
23 what, I'm a little flustered from my speeding ticket.

24 THE COURT: I'll tell you what, do you want to
25 take a break?

1 MR. JOHNSON: No, no, no, I don't need a break.

2 THE COURT: We've been sitting here for a while,
3 we don't mind.

4 MR. JOHNSON: No problem, no. Your Honor, I
5 guess we'll go through the -- golly.

6 THE COURT: Let's take a five-minute recess.

7 MR. JOHNSON: No, no, no, Your Honor, I'm fine
8 really. I should have collected my thoughts a minute
9 before I started. The -- well, you know, they're going
10 to argue that ---

11 THE COURT: Well, let me just ask you a question
12 here: On your -- you want me to, based on that statute,
13 how does that -- I mean that statute says that the
14 contract's not enforceable, okay? Let's just go to your
15 -- and you're saying you're entitled to summary judgment
16 on your first cause of action for breach of contract
17 saying that they -- that that contract is void ab initio
18 based on declaratory judgment. All right. How does
19 that statute get you -- aren't you using that statute
20 backwards? I mean, do you have any authority that says
21 just because they can't enforce it means that you should
22 be declared that it's invalid for the ---

23 MR. JOHNSON: Well, Your Honor, I do -- I do --
24 it was illegal for them to enter into the contract and
25 based on that it is void ab initio. But as to it

1 relates to their, to their mechanics' lien and to their
2 counterclaims, that ties in as well. Your Honor, so the
3 -- their counterclaims are based on the enforceability
4 of the contract.

5 THE COURT: Well, how about quantum meruit?

6 MR. JOHNSON: Your Honor, the South Carolina Code
7 on 40-11-370 is very clear that -- it says: The entity
8 which does not have a valid license as required by this
9 chapter may not bring an action either at law or in
10 equity. And so, Your Honor, that would bar, that would
11 bar any quantum meruit claim.

12 THE COURT: And law and equity to enforce the
13 provisions of a contract, but under quantum meruit
14 you're not enforcing the terms of a contract, are you?
15 You're saying we gave these services and that's the
16 value that ---

17 MR. JOHNSON: Your Honor, this ---

18 THE COURT: I know it's in equity, but it's not
19 in equity to enforce the provisions of the contract. I
20 mean, I think that equity to enforce the terms of a
21 contract would be like an injunction or something like
22 that. But does that bar any equitable action by that?

23 MR. JOHNSON: Yes, it does, Your Honor. The --
24 and C-Sculptures goes to that --

25 THE COURT: Okay.

1 MR. JOHNSON: -- that exact conclusion. In
2 C-Sculptures there is a similar case scenario as it is
3 here. This case is obviously not nearly as egregious as
4 it is in C-Sculptures. The C-Sculptures is a class two
5 contractor, which the threshold was 100,000 and he
6 signed up to do an \$800,000 house.

7 But, you know, in that case, Your Honor -- and
8 this is an arbitration case. This is an arbitration
9 case where the court found that it was not -- it was a
10 manifest disregard for the law for not looking at the
11 statute and reading it as it is written. And the court
12 found that if you are under-licensed you're not having a
13 valid license and that all the contractors' cause of
14 action in that case were barred, Your Honor.

15 THE COURT: How much has your clients paid under
16 that contract so far?

17 MR. JOHNSON: Our clients have paid over 900,000.
18 And, Your Honor, the mechanics' lien that was filed in
19 this case states that the total contract number is over
20 a million which, Your Honor, the -- but they're gonna
21 argue that this case can differentiate from C-Sculptures
22 based on the timeline and the changes and that, you
23 know, that we were responsible for pushing them above
24 this threshold.

25 But the statutory scheme, Your Honor, is very

1 clear on that as well. In 40-11-300(B) it says: An
2 entity or an individual engaging in general mechanical
3 construction on a project without the required license
4 or certificate must immediately withdraw from the
5 construction project and may not act as a subcontractor
6 on the construction project. So, Your Honor, that
7 argument goes nowhere.

8 As soon as -- even if construction had started,
9 which it had not, by the time they signed that first
10 change order, they were required by law to immediately
11 withdraw. Your Honor, they absolutely did not do that.
12 And it's undisputable.

13 And so, Your Honor, based on C-Sculptures and the
14 door closing provision of 40-11-370(C), based on the
15 contract itself and its exhibits, there is no dispute
16 that they are under-licensed for this project and that
17 they are absolutely barred in law and equity to pursue
18 any claims against the Arbets. And that's the relief
19 we're seeking here today, Your Honor.

20 THE COURT: Mr. Ariail?

21 MR. ARIAIL: Thank you, Your Honor. May it
22 please the Court. I've handled I don't know how many
23 different ones of these cases where I've used the same
24 statute that he has to bar recovery for a breach of
25 contract. There's no question. The issue, the problem

1 that he, Arbet, has is that if you'll read the
2 C-Sculptures case, as you read all these cases, they
3 deal with under-licensed or unlicensed contract.

4 As you'll see in this case, my clients had the
5 license for \$750,000 pursuant to their license, which
6 was BD4. That allowed them to do that. They entered
7 into a contract, Arbet signed it. They had things laid
8 out that they were gonna keep it within that.

9 If you'll look at the case law, I'll go through
10 some other points here in a second. I think this is
11 extremely relevant and I put it in our motion. What
12 matters is if you have a license for the amount at the
13 formation of the contract.

14 Every single one of the cases, and I've had a few
15 *Lenz v. Walsh*, *C-Sculptures*, let me go through the rest
16 of them in here. This was *Columbia Pools versus Moon*.
17 And I've highlighted on there *Lenz v. Walsh*. *Duckworth*
18 *v. Cameron*. They all lead back to and deal with the
19 contract formation in what they had at the time.

20 Here's the reason why. And I think it is
21 extremely relevant. If you'll read the cases, there's
22 no question I would not be sitting here today arguing.
23 I told my clients when I walked in, if you came in with
24 a \$500,000 license and you entered into a contract to
25 perform work that was a million dollars, there's no

1 question. I've dealt with that. That's a -- they're
2 gonna lose.

3 Here you enter into a contract. They're
4 performing the work. They're doing what they need to
5 do. They go along and start putting together this plan.
6 Enter into a contract with them for what we call a
7 semi-custom home, which is gonna keep it in that price
8 range. They put as part of the contract their no change
9 orders. We're taking out our administrative fees for
10 change orders because you've told us that you do not
11 want to have change orders. You're not gonna -- I'm not
12 gonna change anything up. I'm gonna let you guys build
13 the house specifically for \$750,000.

14 What happened was, and I'm telling you we're
15 gonna get into this during the trial is, this was a
16 sophisticated homeowner who knew how to play the system
17 and put them above to be able to then come back and try
18 to say you're precluded from coming against me because
19 you went above your license. This statute was not made
20 to do that.

21 And I can tell you why. It's my duty and intent
22 was to protect homeowners from builders that come in,
23 try to get them into contracts for work that they can't
24 do. It was not meant in a scenario where a homeowner
25 enters into a contract, agrees to a price, and then goes

1 above the amount to be used as a sword instead of a
2 shield. .That was not what it was meant to do.

3 And as you can see, and I put as part of this
4 package, I think is extremely relevant, he signs off on
5 numerous change orders saying he agreed to the contract
6 price of \$750,000. He's the one that's asking for the
7 change orders. He's the one that wants these things
8 differently.

9 My clients, in fact, said hold on a second.
10 We're concerned about this. Went down to Pickens County
11 Building Board and said, hey, we've got an issue. He
12 wants to go above. We got a contract. They were told,
13 hey, you've got a contract, you're okay, you can go
14 above. You can't deal with or keep a homeowner for
15 asking for changes.

16 So to say that he can now come in and use this
17 door closing statute to be able to do that, I think
18 clearly goes against the intent of that statute. They
19 had the contract. They signed it. They agreed to it.
20 They went in and did the work pursuant to that. And now
21 they're coming back and having to deal with this from
22 the standpoint of he's using it as a sword when it
23 should not be allowed to do that.

24 Now, as part of our -- I put in the case law in
25 Courtney Macke's affidavit. We went through and we

1 showed you. And I think what is relevant to this, Your
2 Honor, is this is a summary judgment motion. If there
3 is a question as to how this was entered into and what
4 the parties did, I clearly think there's a question of
5 fact simply because they've got a contract that said
6 \$750,000, which is what their license allows them to do.

7 At that point in time we can get into the intent
8 of the parties and who did what and all that, and a
9 determination can be made as to who was doing what and
10 when. But right now, I think based on the affidavits
11 and based upon the case law, they had \$750,000 license
12 at the contract formation. I think we survived that.

13 You'll also see the change orders were made
14 requested by Mr. Arbet. And they did, as any contractor
15 would do, in a situation where they're going through
16 with a house. They're trying to keep him happy.
17 They're trying to do what he asked. He paid for the
18 amount. He paid above and beyond.

19 He paid 900,000 for it, so he didn't have a
20 problem when they got to their \$750,000 limit. He has a
21 problem at the end of the -- at the end of the
22 construction when he doesn't want to pay. And when my
23 clients are saying we got to get our payment because
24 we've got to pay our subs who you haven't paid. So this
25 is where we kind of stand with that.

1 Now, as part of this, and I think it's -- I think
2 I kind of argued a little bit about it. They're asking
3 for declaratory judgment in regard to the contract was
4 void ab initio. I don't think there's any case law they
5 cited that you can say that this statute or the case law
6 makes the contract void. I didn't see anything and
7 hadn't found anything.

8 I also have not found any case law where a
9 contractor has signed the contract for the amount that
10 he's licensed for and then goes above on change orders
11 at the request of the homeowner. All the cases that
12 have been cited and had sent up there are unlicensed or
13 under-licensed on a contract. That's, that's what we
14 have. We don't have anything showing, and I couldn't
15 find anything, and I did as diligent research as I
16 could, showing where that was the case and where they
17 would be precluded based upon that.

18 Now, the key to this, Your Honor, and what I
19 think is relevant is all this needs to come to light
20 during this trial. We're gonna try this case hopefully
21 in the next couple months to be able to have all this
22 come in to understand, you know, how we got from point A
23 to point Z. Right now we've got enough from our
24 position that it should be denied, we should be allowed
25 to go forward. If they want to make a DV motion at

1 trial they can do that, but right now based upon what we
2 have I think we should be given the benefit of the doubt
3 based upon, I think, substantial issues of material fact
4 and be able to go forward and be able to put forth that.

5 Second of all, you know, we had tried to resolve
6 this and we're trying to make progress in regard to this
7 motion. I haven't even had a chance to take the
8 deposition of Mr. Arbet, nor have we done any discovery
9 in regards to deposition. We've been waiting on a
10 motion to hear this. And as a result of that, I think
11 we need additional information presented before a
12 definitive, I guess, ruling is made, which I would say
13 could be done at trial.

14 Based upon all that, I think, you know, my view
15 and my hope is that the Court will deny this motion
16 based upon numerous grounds and not falling within what
17 is necessary for this granting of a motion for summary
18 judgment. Thank you, Your Honor.

19 THE COURT: Reply?

20 MR. JOHNSON: Yes, Your Honor. The contract
21 amount on the face of it from February 13th, 2015, is
22 not \$750,000; it's \$750,000, plus or minus five percent
23 depending on what the plans and specks come out to be.
24 That is illegal. They cannot offer that under South
25 Carolina law, Your Honor. And that is very clear in

1 40-11-200. A person who practices or offers to practice
2 in this state in violation of this chapter is guilty of
3 a misdemeanor. It cannot be disputed that they offered
4 to do services in violation of their license. On its
5 face of a February agreement they are offering to do
6 that in violation of this agreement. It's a
7 misdemeanor. That is illegal. That makes the contract
8 void ab initio.

9 On top of that, the -- Mr. Ariail's position that
10 this case can differentiate from the others based on
11 that initial amount and then the subsequent change
12 orders flies in the face of the whole statutory scheme,
13 Your Honor. They wouldn't have put -- they would have
14 put 40-11-270, which says: A licensee is confined to
15 the limitations of the licensee's licensed group and
16 licensed classifications or subclassifications as
17 provided in this chapter.

18 They're confined to that. He -- they cannot go
19 over 750. And they go further to say that if you do go
20 over, you immediately have to withdraw. Those are the
21 statutes, Your Honor. They -- and so that, that
22 coincides with C-Sculptures, that if you are
23 under-licensed, you do not have a valid license pursuant
24 to the statute. And the door closing effect of
25 40-11-370(C) precludes you from pursuing any claims in

1 law and equity.

2 And none of those facts are in dispute, Your
3 Honor. And summary judgment is appropriate as to the
4 contract being void, the mechanics' lien being invalid,
5 and their counterclaims against us, Your Honor.

6 MR. ARIAIL: Your Honor, if I can address those
7 points real quick. And I wanted to make sure I put
8 forth, my clients did have unlimited licenses before
9 this. In fact, as I put in as part of the affidavit,
10 they had unlimited licenses up until 2014. They went
11 back on the one in South Carolina because it cost so
12 much and they were in the middle of, you know, having to
13 get an audit and do all this information.

14 They got unlimited licenses, so it's not like
15 they're trying to evade or scheme to get around this.
16 They entered into a contract for 750. They told and
17 have said as part of the affidavit, they even addressed
18 the issue with Mr. Arbet when it came up that he was
19 going above this amount.

20 I don't see how there's any scheme or any type of
21 ill will towards him or trying to get around this.
22 Clearly they knew about it. They addressed it with the
23 Pickens County Building Board and tried to make sure
24 they were doing that.

25 I think what the issue I have too with Mr.

1 Johnson's analysis, Your Honor, in regard to this is
2 that, you know, there are some things under here which,
3 you know, saying the licensee combined the limitations
4 of a license group, things of that nature. Well, they
5 are doing certain things in their license group. They
6 are confined to a certain amount.

7 What he's trying to do is tie all these in
8 together to preclude them from going against them in law
9 and equity to be able to recover. Those are separate
10 things. There's a misdemeanor. There's a criminal
11 portion to this statute. I don't think it's the most
12 artfully drafted statute, but I also think that based
13 upon where we are and the case law that's there, they're
14 not doing what was precluded as part of this case law or
15 what was the intent of this statute.

16 Out of that, the benefit of the doubt and based
17 upon where we are going in favor of the nonmoving party
18 if there's any issues out there, I don't think, you
19 know, my review of it, I don't think there's any other
20 option but to deny it until a lot of this stuff comes
21 out because they clearly have arguments that they've put
22 as part of their affidavit and part of the motion and
23 that fit within what they did was legal and allowed
24 based upon the signing of that contract. Thank you,
25 Your Honor.

1 THE COURT: All right. It's your motion, you get
2 the final word. Did I cut you off?

3 MR. ARIAIL: No, you're good.

4 MR. JOHNSON: Sure. I, Your Honor, again, it
5 cannot be construed that what they did was legal. The
6 40-11-200: A person who offers to practice in this
7 state ---

8 THE COURT: All right, just new information.

9 MR. JOHNSON: New information. Well, Your Honor,
10 I mean and going into -- I think this gets off of the
11 subject into all this other stuff about the house, but I
12 mean, as stated in Mr. Arbet's affidavit, he had no idea
13 about their licensing capabilities or anything like
14 that. When -- our initial conversation is when he
15 learned about that. And so this whole thing about him
16 having a scheme to, you know, use this as a, as a sword
17 is far fetched. And he wouldn't have gone and paid him
18 over \$200,000 over this threshold if that was the case,
19 Your Honor. It just doesn't make any sense.

20 But the -- I think it's very clear that they
21 violated the law, that they were under-licensed and that
22 11 -- 40-11-370 (C) precludes them from any contractual
23 lien. Their lien is void, their counterclaim should be
24 dismissed, and the contract is void ab initio.

25 THE COURT: All right.

1 MR. JOHNSON: Thank you, Judge.

2 THE COURT: I want to, since y'all gave me -- I
3 want to look at these cases that you both provided.
4 Some of them are duplicates so I don't have to read too
5 much. And the memorandum and all and I'll let y'all
6 know what I come up with.

7 MR. JOHNSON: Thank you, Judge.

8 MR. ARIAIL: If I, based upon --

9 THE COURT: Anything else?

10 MR. ARIAIL: -- anything else I ---

11 THE COURT: I think the way it was argued, I
12 mean, I don't think there was any additional.

13 MR. ARIAIL: I don't think there is. I just want
14 to hold that open in case my clients or --

15 THE COURT: Okay.

16 MR. ARIAIL: -- I find something else.

17 THE COURT: Okay. All right.

18 MR. JOHNSON: Thank you, Your Honor.

19 THE COURT: Have a safe trip back to Greenville.

20 MR. JOHNSON: I will, Judge.

21 (Court concluded at 4:05 p.m.)

22

23 --- THIS ENDS REQUESTED TRANSCRIPT ---

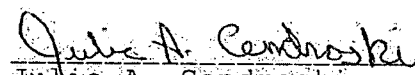
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COURT REPORTER CERTIFICATE

I, the undersigned Julie A. Cendroski, Court Reporter for the Seventh Judicial Circuit Court of the State of South Carolina, do hereby certify that to the best of my ability the foregoing is a true, accurate, and complete transcript of record of all the proceedings and evidence introduced in the hearing and/or trial of the captioned case, relative to appeal, in the Court of Common Pleas for Pickens County, South Carolina, on the 6th day of December, 2018.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.


Julie A. Cendroski
Circuit Court Reporter
Seventh Judicial Circuit

STATE OF NORTH CAROLINA)
)
COUNTY OF JACKSON)

AFFIDAVIT OF COURTNEY MACKE

PERSONALLY APPEARED BEFORE ME COURTNEY MACKE, who, being duly sworn,
deposes and says:

1. My name is Courtney Macke. I am over the age of 21 and am competent to give this affidavit. The information contained in this Affidavit is within my personal knowledge.

2. I am Riverstone Development Group's ("Riverstone") Vice President.

3. In late 2014 and early 2015, Scott Arbet ("Arbet") asked Riverstone to construct a residential home for Arbet (the "Construction").

4. On or around February 13, 2015, Arbet and Riverstone entered into a Residential Construction Contract ("Contract") to memorialize our arrangement. A copy of the Contract is attached as Exhibit A to this affidavit.

5. In the Contract, Riverstone and Arbet agreed that Riverstone would build a house for Arbet for "Seven Hundred Fifty Thousand Dollars and Zero Cents (\$750,000), with [the] final amount to be adjusted plus or minus 5% based upon [Arbet's] final approval." Exhibit A, ¶

2.

6. By using this language, Riverstone and Arbet intended that Riverstone would perform the Construction for \$750,000 based on the plans and specifications attached to the Contract ("Contract Plans and Specifications").

7. Between 2008 and 2010, Riverstone had a South Carolina General Contractor Group V license, but Riverstone let the Group V license change to a South Carolina General Contractor Group IV license ("Group IV license"), commonly known as a "BD4" license, as

Riverstone did not do enough business in South Carolina to warrant the recertification cost for the Group V license.

8. At the time Riverstone and Arbet signed the Contract, Riverstone had a South Carolina Group IV license.

9. In addition to the South Carolina Group IV license, Riverstone also has unlimited general contractor's licenses in North Carolina and Florida. In North Carolina, Riverstone has unlimited license # 63423, and in Florida, Riverstone does business as PQS Construction and has unlimited license # CGC1504410.

10. In the Contract, Riverstone and Arbet agreed that any changes to the Construction would have to be agreed upon in a writing signed by both parties. See Exhibit A, ¶ 4(c).

11. Riverstone performs both "semi-custom" and "custom" house constructions.

12. In custom construction jobs, the homeowner chooses many of the design options on the house, including architectural plans, layout, and building materials. Because a custom job is done from scratch, and does not utilize previously-created plans, designs, or work processes, Riverstone charges more.

13. In contrast, in semi-custom construction jobs, the homeowner exercises less control over the building process, as the homeowner chooses an architectural design and layout from projects that Riverstone has already done. Semi-custom jobs cost less, as Riverstone and its clients agree in advance on the general scope of the construction and do not factor in additional custom costs.

14. Riverstone and Arbet agreed to construction of a semi-custom home for \$750,000.

15. To this end, Arbet assured Riverstone that Arbet did not want Riverstone to build him a fully-custom home, and that Arbet would not be making any change orders during

construction. See Exhibit B, November 10, 2015 E-mail from Guy Burt to Scott Arbet, p. 2. In exchange for Arbet's assurances, Riverstone agreed to reduce its administrative building fees from fifteen percent to twelve percent, which totaled a \$27,000 savings for Arbet. See *id.* Furthermore, Arbet requested that Riverstone strike its boilerplate \$200 fee for processing change orders as Arbet assured Riverstone that he knew what he wanted and would not have changes, and Riverstone complied. *Id.*

16. In April 2015, only two months after Arbet and Riverstone entered into the Contract, Arbet requested a \$125,337 change order ("Change Order 1") to finish the Construction's lower level. As discussed below, this was the first change order out of twelve. A copy of these twelve change orders is attached as Exhibit C. Change Order 1 increased the Construction cost from \$750,000 to \$875,337. Exhibit C, p. 1.

17. A brief summary of the twelve change orders is listed below:

- Change Order 001 - \$125,337 increase
- Change Order 002 - \$13,466 increase
- Change Order 003 - \$6,837 increase
- Change Order 004 - \$4,213 increase
- Change Order 005 - \$37,939 increase
- Change Order 006 - \$8,838 increase
- Change Order 007 - \$15,319 increase
- Change Order 008 - \$17,364 increase
- Change Order 009 - \$3,922 increase
- Change Order 010 - \$11,308 increase
- Change Order 011 - \$11,349 increase

- Change Order 012 - \$8,000 increase

18. Around the time Arbet requested Change Order 1, Guy Burtt and I met with Arbet at the Construction site. We told Arbet that Riverstone would need to discuss Arbet's changes with the Pickens County Building Codes Administration and related agencies, as Arbet's changes would exceed Riverstone's Group IV license.

19. Riverstone contacted the Pickens County Building Codes Administration division, and a representative told us that Riverstone did not need to obtain an additional permit for Arbet's requested changes, as Riverstone could not control clients requesting changes.

20. As a result of these twelve change orders, the Construction cost \$1,013,892, which is \$263,892 over the \$750,000 Contract amount. See Exhibit C, p. 17 (listing final price after the twelfth change order).

21. Arbet usurped Riverstone's ability to act as general contractor by directly contacting manufacturers, service providers, or vendors and requesting changes contrary to those agreed to with Riverstone. For example, Arbet and Riverstone initially agreed that the kitchen would have electric appliances. After Construction began, Arbet changed his mind and decided that he wanted gas appliances. I spoke with the customer service representative for the gas company, who told me that Arbet incorrectly stated that the Construction had gas heat, a gas water heater, and gas appliances, and that the gas company offered to run a line for free to the house based upon Arbet's representations. Arbet and Riverstone never agreed to gas heat or a gas water heater, and the only appliances that used gas were the fireplaces and a range. When the gas company learned that the Construction did not have gas heat or water heaters, it refused to issue Arbet a credit for installation of the gas lines. Although Arbet provided incorrect and misleading information to the gas company, Arbet blamed Riverstone for this issue.

22. Although the Riverstone principals each have 28 years of experience in the construction business, Arbet often micromanaged our work, telling us how to best manage our subcontractor crews. This interference slowed our work and made it difficult to expeditiously complete the Construction.

23. Arbet withheld necessary funds that delayed construction on his house. For example, Arbet refused to pay costs needed to protect building materials from inclement weather and finalize cleanup on the job site, and he often withheld allocated funds when he believed that the requested work had not been completed, even when it had. He also refused to pay the extended general conditions for the additional work.

24. Many times, Arbet misremembered previous conversations or agreements with Riverstone where he changed the scope of the Construction, and then later accused Riverstone of failing to perform a scope of work that had already been decided. For example, on November 9, 2015 Arbet e-mailed Riverstone and stated that he was withholding money for laying a gym floor. See Exhibit C, p. 3. However, instead of the gym floor, Arbet asked Riverstone to lay hardwood floor, which it did at an additional \$1,500 cost.

25. To ensure that Arbet had a positive customer service experience, Riverstone absorbed many internal and external costs related to the numerous changes that Arbet requested. For example, Riverstone performed the following work at no charge to Arbet: reinstalling the lower level game room sliding doors and windows, reinstalling the master bedroom windows, completely redesigning the lower level, redesigning the room above the garage, redesigning the crawl space, and redesigning the house's framing. None of this work was called for in the Contract.

26. Instead of making key decisions on design elements so that the Construction could proceed, Arbet and his girlfriend constantly changed their mind on their wishes, sometimes at the last minute before a critical time occurred. Arbet's changes significantly delayed the Construction on multiple occasions.

27. As one example, Arbet had a June 1, 2015 deadline to choose a wood beam for the house exterior. Arbet chose a wood beam, but then changed his mind on the size of the beam the day before the wood beam was shipped, causing a two-month delay. Riverstone received the beam on August 6, 2015.

28. From November 2015 through January 2016, Arbet continued withholding funds necessary to complete the Construction, interfering with Riverstone's ability to act as general contractor, and unilaterally changing design and installation decisions. The continued dispute between the parties is evidenced in a January 21, 2016 e-mail exchange between Riverstone and Arbet, which is attached as Exhibit D.

29. On January 26, 2016 Arbet e-mailed Riverstone and agreed to pay Riverstone outstanding amounts owed by January 28, 2016. A copy of this e-mail is attached as Exhibit E.

30. On January 28, 2016, Riverstone sent a Default of Contract letter to Arbet notifying him that he was in default and the remedies that Riverstone had pursuant to the Contract. A copy of the letter is attached as Exhibit F.

31. To date, Arbet has not paid the outstanding money that it owes Riverstone.

FURTHER AFFIANT SAYETH NOT.

Courtney Macke
Courtney Macke

SWORN TO before me this 27
Day of NOV., 2018.

Lana B Parton
Notary Public for North Carolina
My Commission Expires: 11-14-2022

LANA B PARTON
Notary Public
Haywood Co., North Carolina
My Commission Expires Nov. 14, 2022



Riverstone
Development Group

RESIDENTIAL CONSTRUCTION CONTRACT-

This Contract, made this 12 day of February, the year Two Thousand and Fifteen, by and between Riverstone Development Group, Inc. a North Carolina Corporation, whose Contractor's License Number is G114265 and whose mailing address is P.O. Box 1023, Sylva, NC 28779, herein referred to as the "Contractor" and:

Name: Scott Arbet

Home Phone: (267) 218-3703

Address: 2083 Welshvalley Road

Cell Phone: (267) 218-3703

Address: Phoenixville, PA 19460

Email: arbetconsulting@gmail.com

Soc. Security No. xxx-xx-3049

Name and Manner in which Title will be held: Scott Arbet

Herein referred to as "Homeowner(s)"

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The Homeowner(s) and Contractor agree as follows:

1. The Property

- a. The homeowner(s) owns the real property situated in Pickens County, SC, herein referred to as the "Lot" as follows:

Lot # 57 The Cliffs at Keowee Springs

2. The Contract Amount and Terms of Payment

Contract Sum: The Homeowner(s) 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 Fifty Thousand Dollars and Zero Cents (\$750,000.00) with final contract amount to be adjusted plus or minus 5% based upon client's final selections and design changes to the Arbet Residence home plan to achieve this budget.

3. Payments

- a. An initial amount Ten Percent (10%), constituting a Non-Refundable Deposit, shall be paid to Contractor upon the execution of this Agreement. The Initial Deposit balance due at contract execution must be by Check or by wire transfer of immediately available funds. All funds paid shall be in U.S. Dollars. Both Parties agree that any deposits forwarded Riverstone Development Group, Inc. may be used to begin and prepare for the construction process for items including but not limited to: pre-construction services, estimating services, site planning, surveying, tree identifications, septic engineering, structural engineering, truss plans, energy calculations, etc... The Homeowner(s) agrees to the use of these funds and waive any right to have these funds placed in an interest bearing account.
- b. Progress Payments: Based on applications for payment submitted to the Homeowner(s) ~~Construction Lender~~, By the Contractor, The Homeowner(s) ~~construction lender~~, shall make monthly progress payments on account of the Contract sum to the Contractor according to industry standard American Institute of Architects (AIA) draw schedule. No variation from the AIA draw schedule, is authorized without the prior written consent of the Contractor. The Contractor will provide a contractor's affidavit and Partial waivers of lien from itself, each subcontractor and material supplier who has served a Notice of Purchaser and all laborers who provide service for the project for which the Contractor is to report such services through IRS form 1099 and shall do so for the prior month's progress payment by the time of application for the current month's application for payment.

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Scott Arbet
Homeowner

CEM

Contractor

- c. Final Payment: Final payment, constituting the entire unpaid balance of the Contract Sum (less 300% of the value of punch-out items if necessary), shall be made by the Homeowner(s) to the Contractor when the Contractor has delivered the Certificate of Occupancy to Homeowner(s). The issuance of a Certificate of Occupancy by the appropriate municipal authority shall be binding and conclusive upon the parties as to whether the dwelling has been substantially completed. The fact that certain surrounding areas may not be completed, or that the dwelling may require minor repairs, touch-ups or adjustments, shall not constitute a valid reason for delay in making Final Payment to Contractor. Homeowner(s) may not take possession and Occupancy of the home, or store any personal property in or about the Home, prior to Final Payment being made. Final payment shall not be withheld from the contractor based upon any "punch-out" work that is still to be completed at the time of final completion.
- d. Payments Due and Unpaid; Right To Stop Work: Payments due and unpaid under the Contract shall bear interest from the date payment is due at the highest rate allowable by law. Contractor shall have the right to stop work if payments are not made when due under this contract, within five (5) business days of submitting application for payment. If Contractor stops work, in addition to making overdue payments current, Homeowner(s) shall pay Contractor any costs associated with re-mobilization of Contractor's forces, prior to Contractor re-commencing work.

4. **The Home to be Built**

- a. Contractor will construct or have constructed the "Arbet Residence", substantially in accordance with the Plans and Specifications attached hereto as Exhibit "A" (the "Home"). The Contractor will build the home substantially in accordance with the construction plans, specifications, Exhibits, and amendments thereto, pertaining to such home, hereafter referred to as the "plans". The plans are on file with the Contractor and are available for inspection by the Homeowner(s) upon reasonable notice. The Contractor may substitute materials, fixtures, equipment and appliances of equal quality as those specified in the plans or plan specification attached. The Contractor may also make changes in construction as may be required by the Homeowner(s) mortgage lender, or any governmental authority having jurisdiction over the aforementioned property, or as may be otherwise required by material shortages, drainage considerations, work stoppages or emergencies. In the event of any increase in permit or impact fees or any change in the applicable building codes regulating construction of the home occurring after the execution of this Contract, it is agreed that Contractor may modify the plans and construction to conform to then current requirements and any cost increase resulting or increased fees shall be an additional cost and shall be paid for by Homeowner(s). In the event of a conflict between the plans and any model home inspected by the Homeowner(s), the plans will control. The Contractor's performance of its work will be governed by construction standards in Jackson County, NC. Defects which are not corrected prior to the issuance of a certificate of occupancy will not entitle Homeowner(s) to delay final payment of the purchase price; so long as the same do not prevent Homeowner(s) from living in the Home. Prior to the signing of this Agreement, the Contractor may have furnished to the Homeowner(s) a floor plan of the home. Such floor plans represent only a graphic approximation of the scale and dimensions designated therein; construction is controlled by the plans, which provide much greater detail and exactitude. The completed home may vary from the floor plan, the model, if any, and the plans as provided above and also to an extent consistent with normal trade, custom, practice and tolerance in the construction industry.
- b. Square Footage: Homeowner(s) and Contractor agree that any verbal or written representations concerning the amount of air-conditioned or non-air conditioned floor space contained in the Home (collectively the "Square Footage") are approximate in nature and are provided solely as a convenience to Homeowner(s). Homeowner(s) acknowledges that, in entering into this Contract, Homeowner(s) has not relied on any representations made by Contractor, any employee or agent

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Homeowner

Contractor

of Contractor or any other person with respect to the Square Footage. Homeowner(s) and Contractor agree that the Purchase Price of the Home is not based upon or in any way related to the Square Footage, and that neither party hereto shall be entitled to an increase nor reduction in the Purchase Price as a result of the actual square footage of the Home being greater or less than the estimated Square Footage as referenced verbally or in writing or on the working drawings as provided to Homeowner(s). The covenants contained in this Paragraph shall survive the Closing.

- c. Changes in the Work: Changes in the plans, specifications or other changes to the scope of the work contemplated in this agreement, and changes to the date of substantial completion shall be agreed upon in writing by Homeowner(s) and Contractor and summarized in a written Change Order. Contractor shall not be required to make any changes or to undertake any construction that is not provided for in the plans until Homeowner(s) and Contractor have, in writing, agreed to an adjustment in the price and time of performance. Any changes to the plans or scope of work shall be reflected in a separate written Change Order which shall be an Addendum to this agreement and shall be payable to Contractor in full at such time as each separate Change Order is submitted by Homeowner(s) (Either Before the work is completed or by the end of each application for payment period). ~~In addition to the payment for the requested change, Homeowner(s) expressly agrees to pay to Contractor an administrative fee in an amount of \$200.00 for each separate Change Order as consideration for Contractor's agreement to such Change Order.~~ Payment for such additional options, and the administrative fee(s) are non-refundable unless Contractor is unable to provide Homeowner(s) with either a selection or a substitute selection of similar quality. Due to cost and quality control considerations and construction operation scheduling requirements, no requests for Change Orders will be accepted by Contractor after drywall installation.
- d. Built-Ins: Homeowner(s) shall assume all liability for any audio, video, T.V., Surround Sound, or Stereo components that Homeowner(s) may request to be incorporated into built-in designs of the home. Homeowner(s) shall assume all additional costs associated with modifications to Built-ins required to accommodate Homeowner(s)'s audio, video, T.V., or stereo components.
- e. Selection of Materials and Appliances: Homeowner(s) shall endeavor to make all selections of colors, grades or other options prior to issuance of building permit. All exterior colors and materials selection shall be made prior to Architectural Review Board submittal. All final selections will need to be completed by the pre-drywall walkthrough. Selections shall be made and materials furnished by Riverstone Development Group, Inc. approved suppliers and Contractors only. Construction of the home will not commence until Homeowner(s) has signed preliminary drawings and completed selection form. If commencement of construction is delayed by Homeowner(s) for any reason or at any time, Contractor reserves the right to adjust the contract price for any price increase implemented after the date of this contract and for extended General Condition costs for the delay equal to the originally budgeted cost per day general condition amount. Failure of Homeowner(s) to make such selections shall entitle Contractor to make selections on behalf of Homeowner(s). Homeowner(s) acknowledges having been informed that there is a possibility, due to the material shortages and/or equipment shortages in the construction industry at any particular time that it may not be possible for Contractor to use exact materials and appliances specified or as shown in any models displayed by Contractor. Homeowner(s) agrees that Contractor may substitute materials and appliances so long as the same are of similar or better quality and of comparable appearance, finish and size. If Contractor upgrades materials or appliances in order to fulfill this obligation, there will be no added cost imposed upon Homeowner(s).
- f. Placement: The direction of the home shall be situated pursuant to the site survey with an optional side facing attached garage. ~~If the homeowner elects to add the optional detached~~

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garage, additional monies are to be paid by Homeowner(s) at time of contract change order for building the optional detached garage.

- g. ~~Rock Removal: ALL rock removal or any~~ Any rock removal required requiring blasting / jack hammering shall be specifically excluded from this contract. Any costs required for the removal or jack hammering of rock to facilitate the installation of the home, utility lines, and septic/water shall be additional costs to be paid by Owner to Contractor for these services.

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5. Relationships of the Parties

- a. The Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Homeowner(s) to exercise the Contractor's skill and judgment in furthering the interests of the Project. The Homeowner(s) agrees to furnish and approve, in a timely manner, information required by the Contractor and to make payments to the Contractor in accordance with the requirements of the Contract Documents.
- b. 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.

6. The Contract Documents

- a. The Contract Documents consist of this Agreement, Plans, Specifications, Addenda, change orders, 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 negotiation, representations, or agreements, either written or oral. If anything in the other Contract Documents is inconsistent with this Agreement, this Agreement shall govern.

7. Closing and Closing Costs

The closing, including the issuance of title insurance, will take place at Coward, Hicks & Siler P.A., 705 West Main Street, Sylva, NC 28779. The closing date shall be specified in a written notice by Contractor to Homeowner(s) in the manner hereinafter provided for the giving of notice, provided such written notice shall be given not less than seven (7) days prior to the date specified in the notice as the closing date. The closing shall take place on the closing date at the place and at the time specified in the written notice herein provided for.

- a. Closing shall take place no later than thirty (30) days of written notice from contractor. In the event Homeowner(s) fails to close this transaction in the time established for reasons other than Contractor's default or delay, and Contractor agrees to extend the closing, Homeowner(s) shall be required to pay interest on the purchase price equal to the highest rate by law from the date on which the closing was originally scheduled, to and including the date on which the closing actually occurs.
- b. The title which Contractor obligates itself to deliver to Homeowner(s) at the closing will be a marketable title subject to the following matters: (i) real estate taxes for the year in which the transaction is closed; (ii) the mortgage, if any, assumed or executed by Homeowner(s); (iii) restrictions, conditions, reservations, limitations and easements of record; (iv) zoning and building laws of the appropriate municipality; (v) covenants and easements created or to be created in favor of the municipalities, public and private utilities, and the Contractor or Homeowner(s) associations for the installation and maintenance of utilities, lines, mains, pipes, poles, wires, tunnels, basins, canals, etc. with right of access to service the same; (vi) the usual exceptions contained in an owner's policy of title insurance by title insurance companies in the County wherein the premises are located. Homeowner(s) agrees that the purchase and occupancy of the premises, and the obligations of Homeowner(s), will, at all times, be subject to the provisions of the HOMEOWNER(S) ASSOCIATION documents, copies of which has been delivered to Homeowner(s).

~~c. Costs to be paid by Homeowner(s): All costs and expenses in connection with the closing, unless otherwise indicated in this Agreement, will be paid by the Homeowner(s). Such costs shall include, but not be limited to: (1) Advance maintenance fees for the remainder of the quarter in which closing occurs. If closing occurs in the last month of a quarter, the Homeowner(s) shall pay maintenance fees for the remainder of the month in which closing occurs and for the following quarter; (2) An initial contribution to the Home Homeowner(s) Association of \$200.00; (3) Homeowner(s)'s share of any periodic assessments charged by the Homeowner(s)'s Association from the date of closing to the end of the assessment period in which closing occurs and any capital contributions required by the association and provided for by the Homeowner(s)'s Association Documents AND ALL MONTHLY HOME OWNERS ASSOCIATION DUES from closing of loan forward; (4) Cost of Owner's Title Policy, Search Fee, Title Exam Fee, Closing Fee, Documentary Stamps on Deed, Any Deposits, Installation Charges or Hookup Fees for Utilities, Homeowner(s)'s own Hazard & Liability Insurance, Attorney's Fees for Homeowner(s)'s Attorney (if any), Express Mail and Courier Charges, Default Interest (if any); (5) Cost of Mortgage Title Insurance including endorsements, additional closing fee, mortgage intangible tax, mortgage documentary stamp tax, recording lenders documents, application fee, appraisal fees, credit report fee, escrow for taxes and/or insurance, tax service fee, discount points, prepaid interest, flood insurance (if required), termite inspections, and any other charges imposed by Homeowner(s)'s lender; (6) Property taxes and solid waste for the current year will be prorated as of the date of loan closing; (7) The expense of recording the deed, any mortgage and certificate of approval in the Public Records of the county where the Lot is located;~~

8. Date of Commencement and Date of Completion

- a. The date of commencement of the Work shall be the later of five (5) days from 1) receipt of all permits, and Architectural Review Board approval 2) date of execution of this agreement, and 3) Notice of Commencement filed and recorded by Homeowner(s), and 4) Contractor's receipt of a letter from the Homeowner(s) mortgage lender agreeing to the construction draw schedule and stating that there is money available to the Homeowner(s) for construction draws against this contract or, if Homeowner(s) is not securing a Construction Loan, written evidence to Contractor's reasonable satisfaction, evidencing Homeowner(s)'s financial ability to pay the Contract Sum OR Escrowed funds to cover 100% of the contract costs 6) Home site excavated and foundation wall poured.
- b. The Contract Time shall be measured from the Date of Commencement. The Date of Commencement shall be established by the date the foundation wall of the home is poured. Time limits stated in the Contract Documents are of the essence of the Contract. If the Contractor is materially delayed at any time in progress of the Work by changes ordered in the Work by Homeowners, or by labor disputes, fire, unusual materially delay in deliveries, unavoidable causalities or other causes beyond the Contractor's control, the Contract Time shall be extended by Change Order for such time.
- c. The Contractor shall achieve Substantial Completion not later than Ten (10) months after the Date of Commencement. Substantial Completion shall be achieved upon the issuance of the final Certificate of Occupancy or by a temporary Certificate of Occupancy, by the appropriate municipal authority. The Contractor shall request an extension to the date of Substantial Completion for each rain day(s) or day(s) lost due to Adverse Weather Conditions.
- d. Homeowner(s) shall not direct or interfere with workers. Homeowner shall be responsible for additional costs if directing workers onsite.
- e. The Homeowner(s) shall not store personal property in, take possession of, nor occupy the premises, in any manner, until (1) Contractor receives the Certificate of Occupancy, (2) final

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Homeowner

Contractor

payment is made to the Contractor, and (3) the Contractor completes Punch List items and the same are accepted in writing by Homeowner(s) as complete.

9. Remedies For Default

a. Default by Homeowner(s): Each of the following shall constitute an act of default by Homeowner(s): 1) Failure to make all deposits as scheduled; or 2) Failure to timely execute and deliver all documents reasonably required by Contractor or the mortgage lender (if any) prior to or at closing; or 3) Failure to make selections of materials for the home in a timely manner as determined solely by the Contractor; or 4) Failure to comply with any other term or condition of this Agreement (including any amendments hereto); or 5) Recording this Agreement in the public records. 6.) Failure to make progress payments in a timely manner as determined solely by the Contractor. If this Agreement is not performed by the Homeowner(s) in accordance with its term, it may be terminated by the Contractor and upon such termination the Contractor may retain all amounts paid by the Homeowner(s). Such damages are not a penalty, but represent actual damages that will be substantial but are not capable of precise determination. In such event, the Homeowner(s) will not file any action against the Contractor seeking the return of any portion of the payments made under this Agreement or any reduction in the amount of such liquidated damages. Contractor is also entitled to reimbursement for any actual expenses in addition to the non-refundable deposit received. In the event Homeowner(s) fails to close this transaction in the time established for reasons other than Contractor's default or delay, and Contractor agrees to extend the closing in accordance with this Paragraph 8.a., Homeowner(s) shall be required to pay interest on the purchase price equal to the highest rate permissible by law from the date on which the closing was originally scheduled, to and including the date on which the closing actually occurs.

b. Default by Contractor: If this Agreement is not performed by the Contractor in accordance with its terms, with the Contractor being in default and the Homeowner(s) not being in default hereunder, the Homeowner(s) may seek specific performance or terminate this Agreement by giving prompt seven (7) day written notice, with an additional seven (7) day period to cure such default, return receipt requested, thereof to the Contractor. No other damages, rights or remedies (whether or not the Homeowner(s) shall elect to terminate this Agreement) shall in any case be collectible, enforceable or available to the Homeowner(s), and the Homeowner(s) agrees to accept and take said payments as the Homeowner(s)' total damages and relief hereunder in such event. In connection with the payment of money hereunder to either the Contractor or the Homeowner(s), each party hereby directs any Realtor who is involved in the sale to pay whatever sums it holds under this Agreement to the party entitled to such sums.

10. Insurance

a. The Contractor shall purchase and maintain the following insurance prior to commencement of work:

Worker's compensation policy providing coverage for all employees of Contractor in amounts not less than minimum coverage required by law. b.) Standard comprehensive general liability policy protecting against liability for bodily injury or property damage with an aggregate limit of not less than \$1,000,000.00 for bodily injury and \$100,000.00 for property damage. Coverage shall include automobile, products/completed operation, and personal injury.

b. The Homeowner shall purchase and maintain the following insurance prior to commencement of work:

Standard Contractor's "Builder's Risk" policy in an amount not less than the Contract Sum minus the amount allocated to the Lot purchase, naming Homeowner(s) and Contractor as co-insured's and insuring against physical loss and damage to the property under construction. Coverage shall include, but not be limited to, protection against fire, lightning, windstorm, hail,

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Homeowner

Contractor

explosions, smoke, riots, vandalism, theft and malicious mischief, shall be obtained and paid for by Homeowner(s). In the event Homeowner(s) desires Flood Insurance, Homeowner(s) shall secure the same at Homeowner(s)'s own cost and expense. In the event of any Builder's Risk or Flood Insurance Claim, any deductibility will be the responsibility of the Homeowner(s) and not the Contractor.

11. Warranties

The making of final payment by the Homeowner(s) to the contractor of the purchase price shall constitute a waiver and complete release of all claims by the Homeowner(s) against the Contractor with respect to the aforementioned property and this agreement, except those of which the Contractor is notified in writing and are also expressly covered by the warranty. Contractor includes a One (1) year warranty on the home and specific warranties on the home mechanical systems by the individual subcontractors or manufacturers. Contractor has not made, and hereby expressly disclaims any and all implied warranties regarding the property as to its materials and workmanship, including warranties of merchantability, habitability, or suitability and quality or fitness for a particular purpose. Disputes, claims, or complaints against this warranty by the Contractor or Homeowner(s) must be referred to final and binding arbitration. Any and all expenses including, but not limited to, attorney and court costs, other than the direct fee for arbitration, will not be construed as an arbitration expense under this warranty and will be born by the party incurring such costs and expenses.

Contractor shall assign to Homeowner(s) all warranties applicable to the premises received from suppliers, subcontractors and materialmen, and any other warranties pertaining to the premises, appliances, fixtures and systems. All requests to obtain warranty work shall be made in writing and delivered to the Contractor at P.O. Box 1023, Sylva, NC 28779.

THE FOREGOING WARRANTIES AND GUARANTEES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED AND SUCH OTHER WARRANTIES ARE HEREBY DISCLAIMED, CONTRACTOR HEREBY EXPRESSLY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS OF PREMISES FOR USE FOR A PARTICULAR PURPOSE.

12. Miscellaneous Provisions

~~Financing contingency clause: Homeowner(s)'s is to obtain a mortgage commitment on the real property described in the attached contract in the amount of the Contract Sum of Seven Hundred Fifty Thousand Dollars and Zero Cents (\$750,000.00) with final contract amount to be adjusted plus or minus 10% based upon client's final selections and design changes to the Mickey Finn Cottage plan. Homeowner(s) shall, at Homeowner(s)'s expense, make application within forty-five (45) days in a good faith effort to obtain the said mortgage commitment. If Homeowner(s) fails to obtain this loan commitment on or before February 4, 2015, (the cancellation period shall be four (4) weeks from the Effective Date, Homeowner(s) shall notify Contractor in writing of his failure to obtain such commitment. Upon Homeowner(s)'s written timely notification to Contractor of his inability to obtain a mortgage loan, this contract shall stand terminated. Homeowner(s)'s failure to give written notification to Contractor before the expiration of the cancellation period shall constitute a waiver by Homeowner(s) of this mortgage commitment contingency clause.~~

- a. **Broker Disclosure:** Homeowner(s) and Contractor agree that none broker (other than those who are employed by Contractor) is involved in this transaction. Should the blank space not be completed in the foregoing sentence or should the word "**NONE**" be inserted in it, the following sentence shall be deemed substituted for it: Homeowner(s) warrants and represents that NO Real Estate Broker or Salesman is involved in this purchase and sale (other than those who are employed by Contractor) and agrees to indemnify and save harmless Contractor against any

- claims of a Real Estate Broker or Salesman due to acts or omissions of the Homeowner(s) or Homeowner(s)'s representatives.
- b. The Homeowner(s) acknowledges that NO real estate agent may make any representations as to the design or construction of the home. (Statement of oral statements and written sales materials prior to this contract not deemed reliable.) Non-reliance by Homeowner(s): The Homeowner(s) hereby represents to Contractor that the Homeowner(s) has not relied on and not relying upon any warranties, promises, guarantees or representations made by the Contractor, any agent of the Contractor, or anyone else acting or claiming to act on behalf of the Contractor with respect to the purchase by the Homeowner(s) of the home or any other matters set forth herein unless specifically reduced to writing and made a part of this agreement.
- c. **THE HOMEOWNER(S) REALIZES AND ACKNOWLEDGES THAT ENTRY UPON THE PROJECT OR THE PROPERTY DURING CONSTRUCTION CAN BE DANGEROUS AND THAT HAZARDS MAY EXIST WHICH ARE NOT OBSERVABLE. THE HOMEOWNER(S) ENTRY SHALL BE SOLELY AT HIS OWN RISK. THE HOMEOWNER(S) DOES HEREBY WAIVE ANY AND ALL CLAIMS AGAINST THE CONTRACTOR FOR INJURY OR LOSS TO PERSON OR PROPERTY ARISING OUT OF OR IN CONNECTION WITH SUCH ENTRY BY HOMEOWNER(S) OR ANY OTHER PERSON ACCOMPANYING HIM OR ENTERING AT HIS DIRECTION, AND THAT THE HOMEOWNER(S) SHALL DEFEND, INDEMNIFY AND HOLD THE CONTRACTOR HARMLESS FROM AND AGAINST ANY AND ALL INJURY, LOSS, DAMAGE OR EXPENSE TO PERSONS OR PROPERTY ARISING OUT OF OR IN CONNECTION TO ANY SUCH ENTRY. THE HOMEOWNER(S) MAY NOT ENTER THE PROPERTY WITHOUT THE CONTRACTOR'S PERMISSION.**
- d. Signage: Homeowner(s) agrees to allow installation of Contractor's sign on Homeowner(s)'s lot consistent with signage for the area of subdivision and according to local code enforcement guidelines.
- e. Riverstone Development Group, Inc. Financing: In the event, prior to execution of this agreement, the Homeowner(s) disclosed certain information, which induced the Contractor to accept the Homeowner(s) as a Homeowner(s). If, prior to commencement of construction the Contractor ascertains that any of the information set forth in the Homeowner(s) disclosure is inaccurate or untrue, then the Contractor shall have the right to cancel this Contract and retain all payments made by the Homeowner(s).
- f. Inspection: The Homeowner(s) shall have the right to inspect the completed residence prior to final payment date, and to present to the Contractor "Punch List" of all uncompleted work or defective construction, which would be apparent upon reasonable inspection. The list shall be signed by the Homeowner(s) and presented a minimum of five (5) working days prior to the date of final payment. The Contractor shall make, within a reasonable time, appropriate corrections as to such "Punch List" items. **HOWEVER, NO SUCH ITEMS SHALL BE BASIS FOR DEFERRING PAYMENT OF FINAL PAYMENT (less 200% of the value of the punch-list items if necessary), UNLESS THE DEFECTS COMPLAINED OF, IN THE CONTRACTOR'S OPINION, RENDER THE RESIDENCE UNFIT FOR OCCUPANCY.**
- g. Entire contract/governing law: This contract, including any documents referred to in this Contract, constitutes the entire agreement between the parties and supersedes any prior oral or written understandings, negotiations and representations, advertising, promotional activities, maps, artists' renderings, conceptual presentations or otherwise made by Contractor or Contractor's agents shall in any way be binding on Contractor and will be of no force or effect unless expressly set forth in this Contract as to the Home, without limitation. This contract is entered into North Carolina and shall be governed by the law of North Carolina. Venue shall be in JACKSON COUNTY, NORTH CAROLINA. This contract may not be modified except in

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Created on 2/13/2015 12:27:00 PM 2/12/2015 11:41:00 AM

Homeowner

Contractor

writing, signed by all parties hereto. The failure of either party to require strict performance and compliance with this Contract shall not constitute a waiver or modification of any provision of this Contract or of any subsequent incident of noncompliance with the terms of this Contract.

Attorney Fees: The parties to this Contract agree that in the event that the Contractor has to retain an attorney or to file suit to enforce any portion of this agreement the Homeowner(s) shall be obligated to pay the attorney fees and costs of the Contractor in enforcing the contract.

h. **Legally Binding Contract:** This is a legally binding Contract which binds the parties and their respective heirs, assigns, personal representatives and successors in interest. HOMEOWNER (S) ACKNOWLEDGES THAT HOMEOWNER(S) HAS READ THIS CONTRACT AND HAS HAD AMPLE OPPORTUNITY TO SEEK LEGAL COUNSEL CONCERNING THIS CONTRACT.

i. **Contract not Recordable; Persons Bound; and Notice.** Neither this Contract nor any notice of it shall be recorded in any Public Records; to do so is a substantive breach of this Contract. Execution of this Contract shall not create any lien or lien right in favor of the Homeowner(s), the Homeowner(s) hereby expressly waiving and relinquishing any such lien or lien rights. This Contract shall bind and inure to the benefit of the parties hereto and their successors in interest, heirs and assigns. All notices required to be given under this Agreement shall be in writing and shall be sent by first class United States mail, postage prepaid, addressed to the party at the address as above stated, or at such other address notice of which said party may provide in writing from time to time. Notice given by or to the attorney for either party shall be as effective as if given by or to that party.

j. **Facsimile:** A facsimile (FAX) signature will be deemed to be an original. Offer and acceptance by facsimile is binding.

k. **Joint and Several Obligation:** If more than one person signs this Agreement as Homeowner(s), each such person shall be liable for full performance of all Homeowner(s)'s duties and obligations under it. In addition, either one of them is authorized to act as the agent for, with the right to bind, the other(s) in all matters of every kind or nature with respect to this Agreement. Contractor may enforce this Agreement against each of the Homeowner(s)'s as individuals or together. The Homeowner(s) representative for this project will be Scott Arbet.

l. **Access and Easement:** The Homeowner(s) hereby grants to, and the Contractor hereby reserves, an easement for ingress and egress for itself, its employees, agents, subcontractors, designees, and assigns, over and upon the front, side and rear portions of the Lot and Home as may be required by Contractor in the construction, servicing and completion of the premises or any adjoining premises or adjacent improvements. These easements shall continue until sixty (60) days after the completion of the premises or adjoining premises or adjacent improvements, whichever occurs last and shall survive the closings. This agreement may be executed in multiple counterparts, any one of which shall be deemed to be an original, but all of which shall constitute one and the same instrument.

m. **Assignment:** Neither this Agreement, nor the rights or obligations hereunder, may be assigned in whole or in part, and any attempt at assignment will be a nullity and will constitute the Homeowner(s) in default under this Agreement.

n. **Time is of the essence of this agreement:** All of the parties covenant and agree that the courts of the state of North Carolina shall have personal jurisdiction over the parties to this Agreement for the sole and exclusive purpose of interpreting or construing its content. This agreement may be executed in multiple counterparts, any one of which shall be deemed to be an original, but all of which shall constitute one and the same instrument.

o. **Radon Gas:** Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed Federal and State guidelines have been found in buildings in

South Carolina. Additional information regarding Radon and Radon testing may be obtained from your County Public Health Unit. Contractor assumes no liability for the presence of Radon Gas in the home.

Utilities: Homeowner and Contractor both agree that sufficient utilities (water, sewer connection / septic availability and power) shall be provided at the homesite by the development without cost to the Contractor. Contractor shall pay for temporary utilities consumption costs only during the construction period. If the development does not have sufficient utilities (water, sewer connection / septic availability and power) then the Contractor will install or provide the required temporary utilities at an additional cost to the Homeowner via a Change Order to the contract for the associated costs to provide and maintain the temporary utilities during construction. Homeowner(s) agrees to transfer all utilities from Contractor's account to their own within 24 hours of the Certificate of Occupancy date. Homeowner(s) further agrees that if they fail to do so Homeowner(s) will pay to the Contractor all utility bills after the closing date plus a \$100 processing fee to the Contractor.

Flood Zone: Homeowner(s) acknowledges that this single-family lot within The Cliffs at Keowee Springs may be located in an area designated as a potential flood zone by the Federal Emergency Management Agency (FEMA). In the event that Homeowner(s) seeks financing through an institutional lender (i.e. bank, life insurance company, federal or state savings and loan association, mortgage investment trust, etc.), Homeowner(s) may be required to secure flood insurance at their sole cost.

Mold: Mold is a type of fungus occurring naturally in the environment. Residential construction is not, and cannot be, designed to exclude mold spores. Whether or not Homeowner(s) as a Home Owner experiences mold growth depends largely on how Homeowner(s) manages and maintains the Home. Contractor's responsibility is limited to things that it can control, and Contractor will repair or replace defects in its construction only for the applicable periods designated in accordance with Contractors written warranty. Homeowner(s) agrees that the exclusive remedy for damages caused by mold or other fungi shall be limited to recovery in accordance with Contractors written warranty.

13. Addendums:

- Exhibit A: House Plan Identified As Modified Arbet Residence Contract Set, Dated TBD.
- Exhibit B: Finish Specifications TBD
- Exhibit C: Schedule of Values TBD
- Exhibit D: Allowance Log TBD
- Exhibit E: Financing Contingency
- Exhibit F: Mold Disclosure
- Exhibit G: Broker Disclosure
- Exhibit H: Homeowners Association Disclosure

Date: 2/13/15

(Signature)

Scott Emil Arbet

(Printed name and title)

(Signature)

(Print name and title)

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Created on 2/13/2015 12:27:00 PM 2/13/2015 11:41:00 AM

Homeowner

Date: 2/13/15

(Signature)

Courtney E. Macke

(Printed name and title)

Contractor

Courtney Macke

From: Guy Burt <gburt@riverstonedevelopmentgroup.com>
Sent: Tuesday, November 10, 2015 12:06 PM
To: 'Scott Arbet'
Cc: 'Courtney Macke'; 'Guy Burt'; 'Deanna Centofante'
Subject: RE: Updates -Riverstone Follow Up 11-10-15

Follow Up Flag: Follow up
Flag Status: Flagged

Guy and Courtney,

Below is a long list of comments, questions, etc. for us to discuss this week before I leave. Today please.

Lights have been ordered. Some are in stock and some will take a couple of weeks to come in. If you want "what's in" or available very soon rather than waiting for everything to be in please let us know. We'd like to avoid multiple delivery fees. We can pick them up or they can deliver everything at once. Please provide the lighting as soon as possible as discussed with Courtney on site. Hopefully this will not further delay the job.

Appliances will be ready in December as you requested. Payment has been arranged. OK, As you requested, Court will coordinate the delivery date with Terry Tate.

Landscaping is being designed. I requested CAD drawing from Courtney today (please send to jeff.sexton@att.net) to allow for an accurate design plan. If no CAD drawing is available could you turn a drawing into a plan? Was that budgeted for in general costs or would that come out of our allowance? Please advise so we know how to move forward and get a plan in front of the ARB. We can also do local if necessary. As discussed on site yesterday, we are requesting this cad drawing from the surveyor. We hope to have something soon. Your landscaping budget is \$5,000, as you are aware, and was provided to you before we started the project. We do not have an outside landscape designer as part of your allowance for a semi-custom home (typical). Just as we did not the line item cost for the design of the home plans.

When you inquire about the hickory stairs please ask about simple bull nose piece and the separate piece of wood from flooring as a cost as well as FULL cut pieces. I think this may be the way to go to get the look while having structural integrity as both pieces are substantial at approximately 6 inches each. If necessary from a cost perspective we could do pine risers and paint the top set of risers to match the upstairs wall/trim and paint the bottom set of risers dark to match the downstairs flooring. I don't understand why pine rather than cypress or similar hardwood was budgeted for stairs as original plan had cypress or similar flooring. We have discussed this on several occasions but we can recap if writing for your benefit. \$7.50/sf was budgeted for hardwood flooring. Never was cypress or another hardwood budgeted for the stair treads. The stair treads in this type of hardwood flooring is outrageously expensive (as you agreed this would not be what you are after). Hardwood flooring stair treads would not fit in the \$750,000 "semi-custom home" goal budget. Pine is commonly used as the bull nose stair tread of choice even in the higher end, multimillion dollar homes. It is cost effective, stains well and more often than not the owner installs a carpet runner on the stair treads, covering most of the bull nose tread (as discussed). This looks very nice with the pine stair treads. As Guy had mentioned previously onsite, the stained pine treads and painted risers would match your exterior windows perfectly and tie the two together nicely (stained pine windows and painted trim).

I have been very busy with work preparing for my upcoming board meeting in Chicago and didn't keep up with money transfers so it will be Wednesday afternoon or Thursday morning before funds are in your account for Draw request #9 but still less than a week since I got it. I have also adjusted the requested funds slightly. Details provided below. I will promptly pay for these items as all others when work is completed or more near completion. Please adjust Draw #9 as outlined below. Details below.

For General Conditions we have approximately two months left on project and have already paid in 85.9% of funds. \$8000 was held back. As discussed, because of the homeowner selection delays and numerous custom changes we will run out of our general conditions budgeted for the job prior to completion. We discussed this during our meeting on 9-22-15 at the, "Turn house." As a recap, we want nothing more than for you as our Riverstone client to enjoy your experience, not be stressed out over the selection process and know that we have provided the best service available. We also explained because of the delays, we would likely have to pay out of pocket (RDG fee) to finish the home. There has been a tremendous amount of, "Custom Changes" that were not a part of the project nor did we account for custom changes with your home. During the preconstruction you had lead us to believe that this was not going to be a full custom home, thus we dropped our fee by 3% (\$27,000+) by lowering our fee from 15% to 12%. We then agreed to strike the \$200 processing fee for the administrative and coordination costs to process the custom changes. At that time of contract signing, you had said that, "We will not have changes, we know exactly what we want."

You are currently at change order #10 with 6 to 10 line items on each change order, thus far. There is very little (if anything) on this home that has not had a custom change or modification. While we feel a little mislead, we still want your experience to be a pleasant one. We were hoping to have the home completed for you by Christmas. As discussed, because of the changes and selection delays this will not be possible. Our current projected timeline to complete the home is Mid-January. Once the countertops are set, we will have a more definitive timeframe for completion.

A couple of examples are as follows:

Selection	Original Due Date	Riverstone Received
	Impact Delay	
1. Exterior wood beam before shipping)	6-1-15 2 months	8-6-15 (Client changed day
2. Plumbing Fixtures finalized	5-18-15	Still not
3. Cabinet Selection 15	6-1-15	Still pending 9-28-
4. Appliances 15	8-1-15	3 months 10-5-
5. Paint Colors 15	6-1-15	2 months 9-30-
6. Electrical Fixtures selections	7-1-15 Still Pending	4 months Still have not received
7. Hardwood Floor 15	7-1-15	10-20- 3.5 months
8. Tile Floor 15	7-1-15	10-27- 3.5 months
9. Carpeting selections	8-1-15 Still Pending	Still have not received
10. Closet shelving selections	8-1-15 Still Pending	Still have not received
11. Landscape/Driveway selections	9-1-15 Still Pending	Still have not received

More available if necessary...

We hope to have the home completed in mid-January. Withholding the funds necessary to pay for our internal costs to construct your home will only hurt if not stop the process. We are well within our contractual right to claim for, "Extended General Conditions." We have not done so, to date as a courtesy to you as our client. PLEASE DO NOT WITH HOLD THESE FUNDS.

Water, irrigation, and possible electric damage done on the path area. Also, similar damage to septic pipe. Please correct and confirm all in working order. We will need this complete before landscaping. Understood, this was caused by Duke Power. Court is currently working to resolve this with Duke Power but you may have to get involved due to it being your home. You will likely have more leverage as the homeowner. We will follow up with you as it is resolved.

What is temp protection for \$500? held for now until we understand and agree. This is for booties, rosin paper, labor etc. for the tile, hardwood, cabinets, etc. All of which are nearing the need for protection. PLEASE DO NOT WITH HOLD THESE FUNDS.

General clean-up has already been paid 100% yet there is a lot to do. This is typical... This will come out of our fee when necessary. We have paid more than the general clean up budget line item to date.

Rough Final/Re/clean has been paid 26.7% ... we will hold off as there is a ton of clean up to do. \$500 held back Again, PLEASE DO NOT WITH HOLD THESE FUNDS. This is only hurting and slowing down the process.

Clearing ... already paid 100% but few trees should be removed as they are well within the 10 ft. area we discussed prior to clearing and foundation. There is one big oak that is within 8 feet of home hanging over garage. Trimming will not be sufficient as this tree has to go. There are a few other trees within the 10 foot area. We have paid 100% for clearing already. We are not sure this was discussed with Court or myself? You actually said in July that you were glad you did not take out any more trees. "It was perfect" If you would like to discuss additional tree removal we can arrange an onsite meeting to discuss. Tree clearing within a 10' area around the home is a general guideline not a hard and fast requirement.

Tile installation cost needs to be reduced on a percentage basis using approximately 220 sq feet based on areas planned and budgeted for but not done (laundry and mech room). This should include material, prep, and finishing labor. We estimate this is about 23% or all related cost including RDG fee. Also, the overage for tile will possibly be reduced as the extra tile over what we decide to keep will be accepted for full refund. Specifics to be defined at end of project. Scott, we can't deduct costs for materials that are an allowance on tile materials you did not purchase at the mechanical and laundry room. These floor finishes are allowances for both tile and hardwood and ultimately you pay for only what is installed. A portion of the tile labor will be credited towards the hard wood flooring in these areas. Please set the tile materials you want to return and we will coordinate the return with Fran once we are completed. Whatever is returned, we will credit against your tile allowance and you will receive the credit for the return. As suggested, you should keep some tiles for extras at completion as they are from the same die lot, should you need a repair for any reason in the in the future.

Gym floor \$950 we are not doing. \$950 held Scott, as you already know because we completely customized/redesigned your lower level, you no longer have a gym. However the floor is still there. It is now hardwood flooring of which you are over by approx. \$1,500 so far. The \$950 will be applied to this and noted for your records. The gym/storage room became larger bathroom& shower and a full bedroom. These are all

three allowance items and you will know what the costs are on these and will only pay for what is installed. PLEASE DO NOT WITH HOLD THESE FUNDS.

Painting/staining is not near complete. \$6,000 held OK

Exterior railings we will pay as work is started/almost completed. Deck has already been paid for 100%. \$1,500 held from what line item? Your custom SS railing as well as stairs to grade will be in addition the budget amount?

Shutters - please provide specific drawings of what will be provided prior to request for payment. \$1,200 held As per the plans. They will not custom fabricate the shutters until payment is made.

Fireplace stone request is for the interior main floor FP that has not been started so we will provide \$1,000 for materials but hold off on full payment until near completion. Exterior fireplace was already 100% paid in the change order. Note the FP was paid for full stone surround including stone at top of chimney/roof. We will need to work out credit. \$2,500 held Again, this was never included as stone. The exterior fireplace stacked stone at the chimney was removed in an effort to achieve your \$750,000 goal budget, as discussed on several occasions. The change order was for the lower level interior stone fireplace. As a compromise, please release at least \$2500 of these funds for the stacked stone fireplace install. The remaining fireplaces will now start since the exterior fireplace is completed, as requested.

Please do NOT use the wet trim wood that was left outside for our doors/windows. Courtney mentioned when we were on site last week it would be replaced with dry wood as you indicated it was supposed to be put into garage but it was left out in rain for days. Some pieces have already been used. We paid \$6,000 for quality trim materials not water stained. Understood... We actually pointed this out on site. We are monitoring this and will not install water logged or wet materials.

HVAC near complete and will hold off a bit until final working order/sign off etc. \$1,500 held This will be started up this week and fully operational. Please process the full payment for this line item as it will be complete this week.

RDG fee. . . again with two months left to finish project, or roughly 20% to go we are currently at 80.63% paid in already which makes sense per project. Please submit next request as work is completed. Again, PLEASE DO NOT WITH HOLD THESE FUNDS. This is only hurting and slowing down the process.

Corrected and or redesigned at no charge thus far.

1. - Corrected/removed and reinstalled the Lower level game room sliders and windows
2. Corrected/removed and reinstalled the Master windows
3. Purchased a 30 year Tuff and Dry vs. a 15 year
4. Redesigned the lower level completely (Bar, Bed Rm, added a fireplace, deck extensions, etc.)
5. Redesigned the room above the garage
6. Redesign the crawl space
7. 2x6 Exterior walls w/ R19, plans called for 2x4

Just a few items that were paid for out of our fee for you as our client... More available if necessary.

Please confirm what the \$200 for door hardware is. Your door hardware at the lower level... Digital, key code lock.

Stairs and railings. Can we have a drawing of what this could look like in budget? You might be able to acquire a drawing from JHK Designs. Or send us something from Houzz.

Side areas under the last window added above garage has "curved drywall": that dips down on both sides at the lowest point just before the opening at the window. Please correct. Court is currently looking into and will resolve this.

For areas that got wet like the slider door on terrace level, what will be done so that the door looks good when stained and the water marks are removed? As discussed with Court, this will have a wood conditioner applied prior to staining. Locks have been ordered and the home will be locked up.

Back large "board" area between the big windows on main level has big space between and doesn't look good. How will this be corrected. We are not sure what you're describing? We will look into this with you onsite Wednesday.

Hydro seeding/spraying of hill side. When can this be done? The rain continues to wash away the exposed soil. Court has been try to accomplish this for the past couple weeks. Rain, rain and more rain has put the crews behind. This will be a part of the landscape allowance but really needs to be incorporated into the landscape design. For now until we receive the landscape design, we will seed the bank area on Wednesday. I attempted to do this Monday but it was pouring down rain.

Several things have been 100% paid that are not completed including a lot of the change orders. We would like an updated timeline for when each description of work will be completed for main contract and also for the individual change orders. We would also like an updated accounting of what money is left in the Arbet RDG account for our home toward the unfinished projects that were already funded (for example the \$33,000 for above garage). Given that RDG earmarks specific dollars for each activity hopefully this should be easy to provide. You struck the \$200 change order processing fee from the contract? Again, we will not be generating an accounting breakdown of the \$33,000. Please make the selections that we need so we may be able to finish the home.

We will be closely reviewing the project and payment requests as we complete the home. We should have our weekly meetings that we've talked about and formally had a few times but not regularly. Let's plan on having one this Wednesday before I head out of town. OK, Courtney has been meeting with you weekly onsite since you have moved to SC. We certainly can have more formal meetings, however we find it inappropriate to point out the items in writing that you are delaying in getting us selections on. This is why our formal written meetings have been few and our more personable weekly face to face meetings have occurred. We could do it after we meet with Alan for templating. We don't have any "issues" to discuss just want to keep communication open. We have some critical issues we need to discuss. This in no way puts anything at risk for payment, it only provides us all more understanding of what has or hasn't been done and peace of mind/protection as you and your subs do the work and we release the remaining funds necessary to finish our home. Again, RDG does not need to be concerned about funding for the home. We have already not been fully funded on a couple of occasions. We were not concerned early on in the project. However, we are now concerned.

Please let us know what a good time would be to discuss this today.

Thank you,
Scott

Sincerely,

Guy W. Burt



P.O. Box 1023

Sylva, NC 28779

PH# 828-293-2108

FX# 828-293-2105

Email: gburt@riverstonedevelopmentgroup.com

Web: www.riverstonedevelopmentgroup.com

From: Scott Arbet [mailto:arbetconsulting@gmail.com]

Sent: Monday, November 9, 2015 11:50 PM

To: guy Burt <gburt@riverstonedevelopmentgroup.com>; Courtney Macke
<cmacke@riverstonedevelopmentgroup.com>; Deanna Centofante <dcentonyc@msn.com>

Subject: Re: Updates

Guy and Courtney,

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Gym floor \$950 we are not doing. \$950 held

Painting/staining is not near complete. \$6,000 held

Exterior railings we will pay as work is started/almost completed. Deck has already been paid for 100%. \$1,500 held

Shutters - please provide specific drawings of what will be provided prior to request for payment. \$1,200 held

Fireplace stone request is for the interior main floor FP that has not been started so we will provide \$1,000 for materials but hold off on full payment until near completion. Exterior fireplace was already 100% paid in the change order. Note the FP was paid for full stone surround including stone at top of chimney/roof. We will need to work out credit. \$2,500 held

Please do NOT use the wet trim wood that was left outside for our doors/windows. Courtney mentioned when we were on site last week it would be replaced with dry wood as you indicated it was supposed to be put into garage but it was left out in rain for days. Some pieces have already been used. We paid \$6,000 for quality trim materials not water stained.

HVAC near complete and will hold off a bit until final working order/sign off etc. \$1,500 held

RDG fee. ... again with two months left to finish project, or roughly 20% to go we are currently at 80.63% paid in already which makes sense per project. Please submit next request as work is completed.

Please confirm what the \$200 for door hardware is.

Stairs and railings. Can we have a drawing of what this could look like in budget?

Side areas under the last window added above garage has "curved drywall": that dips down on both sides at the lowest point just before the opening at the window. Please correct.

For areas that got wet like the slider door on terrace level, what will be done so that the door looks good when stained and the water marks are removed?

Back large "board" area between the big windows on main level has big space between and doesn't look good. How will this be corrected.

Hydro seeding/spraying of hill side. When can this be done? The rain continues to wash away the exposed soil.

Several things have been 100% paid that are not completed including a lot of the change orders. We would like an updated timeline for when each description of work will be completed for main contract and also for the individual change orders. We would also like an updated accounting of what money is left in the Arbet RDG account for our home toward the unfinished projects that were already funded (for example the \$33,000 for above garage). Given that RDG earmarks specific dollars for each activity hopefully this should be easy to provide.

We will be closely reviewing the project and payment requests as we complete the home. We should have our weekly meetings that we've talked about and formally had a few times but not regularly. Let's plan on having one this Wednesday before I head out of town. We could do it after we meet with Alan for templating. We don't have any "issues" to discuss just want to keep communication open. This in no way puts anything at risk for payment, it only provides us all more understanding of what has or hasn't been done and piece of mind/protection as you and your subs do the work and we release the remaining funds necessary to finish our home. Again, RDG does not need to be concerned about funding for the home.

Thank you,
Scott

On Mon, Nov 9, 2015 at 12:05 PM, Guy Burt <gburt@riverstonedevelopmentgroup.com> wrote:

Thanks Scott...

Sincerely,

Guy W. Burt



P.O. Box 1023

Sylva, NC 28779

PH# 828-293-2108

FX# 828-293-2105

Email: gburt@riverstonedevelopmentgroup.com

Web: www.riverstonedevelopmentgroup.com

From: Scott Arbet [mailto:arbetconsulting@gmail.com]

Sent: Monday, November 9, 2015 10:59 AM

To: Guy Burt <gburt@riverstonedevelopmentgroup.com>

Cc: Courtney Macke <cmacke@riverstonedevelopmentgroup.com>; Deanna Centofante <dcentonyc@msn.com>

Subject: Re: Updates

Yes, I will follow up later today. I have a lot of conference calls today. Thank you.

On Mon, Nov 9, 2015 at 10:32 AM, Guy Burt <gburt@riverstonedevelopmentgroup.com> wrote:

Scott,

We will look at it today and get back to you. Any update on the last construction draw submitted on Friday?

Sincerely,

Guy W. Burt



P.O. Box 1023

Sylva, NC 28779

PH# 828-293-2108

FX# 828-293-2105

Email: gburt@riverstonedevelopmentgroup.com

Web: www.riverstonedevelopmentgroup.com

From: Scott Arbet [<mailto:arbetconsulting@gmail.com>]

Sent: Monday, November 9, 2015 9:59 AM

To: guy Burt <gburt@riverstonedevelopmentgroup.com>; Courtney Macke

<cmacke@riverstonedevelopmentgroup.com>; Deanna Centofante <dcentonyc@msn.com>

Subject: Updates

Good morning Guys,

Another wonderful rainy day !!! Anyway, a few questions/updates.

1) we would like to put the hickory wood in the master closet as well as on both sets of stairs going down to terrace level and up to the above garage. We weren't sure if this was already planned or not... also wanted to have the small area on the way down to the terrace level capped with bull nose front like the steps with the same wood.

2) the door to the electrical room is not correct. Please replace.

3) we wanted one tile replaced in the master bath and left a note on the tile with the tile we wanted it replaced with. You will see there are 3 dark tiles together right in the middle of the floor so we replaced one.

4) general comment on crews feeling it's ok to continue to nail boards into home/deck anywhere they like for support to do their work. While we understand for safety reasons they need to be supported. . . I'm sure if you guys put in a new deck and I came over and put boards down and nailed them right into your new deck... no less than 20 times. . .you would be like "what the heck are you doing?" . . . this holds true with other areas around the house as well. Scaffolding should be used rather than nailing new holes to stop ladders from slipping etc. They also lean ladders up against roofing and it bends and breaks the roofing material. The front few will need to be replaced. Thank you.

We will not be on-site today. We will be on-site tomorrow.

Thank you,

Scott

--

Scott E. Arbet PhD

President, Arbet Consulting Inc.

1074 Cliffs Vista Parkway

Six Mile, SC 29682

Email: arbetconsulting@gmail.com

Phone: [267-218-3703](tel:267-218-3703)

--

Scott E. Arbet PhD

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Change Order

PROJECT (Name and address): Arbet Residence - CKS Cliffs at Keowee Springs, Lot #57, SC	CHANGE ORDER NUMBER: 001 DATE: 4-9-15	OWNER: ☒ ARCHITECT: ☐ CONTRACTOR: ☒ FIELD: ☐ OTHER: ☐
TO CONTRACTOR (Name and address): Riverstone Development Group, Inc. P.O. Box 1023 Sylva, NC 28779	ARCHITECT'S PROJECT NUMBER: N/A CONTRACT DATE: 02-12-15 CONTRACT FOR: Arbet Residence	

THE CONTRACT IS CHANGED AS FOLLOWS:

(Include, where applicable, any undisputed amount attributable to previously executed Construction Change Directives)

1. Additional cost for owner final design changes as per Exhibit B dated 4-9-15 = \$123,399.00
(10% of this amount was paid as a deposit via a wire transfer on 4-17-15. The balance will be paid during the draw process)

2. Added cost for the builders risk insurance on behalf of the Arbet's. = \$1,938.00

The original Contract Sum was	\$ 750,000.00
The net change by previously authorized Change Orders	\$ 0.00
The Contract Sum prior to this Change Order was	\$ 750,000.00
The Contract Sum will be increased by this Change Order in the amount of	\$ 125,337.00
The new Contract Sum including this Change Order will be	\$ 875,337.00

The Contract Time will be increased by Zero (0) days.

The date of Substantial Completion as of the date of this Change Order therefore is n/a

NOTE: This Change Order does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

N/A	Riverstone Development Group, Inc.	Arbet Residence
ARCHITECT (Firm name)	CONTRACTOR (Firm name)	OWNER (Firm name)
	P.O Box 1023 Sylva NC 28779	2083 Welshvalley Road Phoenixville, PA 19460
ADDRESS	ADDRESS	ADDRESS
BY (Signature)	BY (Signature)	BY (Signature)
	Guy W. Burtt	Scott Arbet
(Typed name)	(Typed name)	(Typed name)
DATE	DATE	DATE
	4-9-15	4-9-15

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Change Order

PROJECT (Name and address): Arbet Residence - CKS Cliffs at Keowee Springs, Lot #57, SC	CHANGE ORDER NUMBER: 002 Revised 7-8-15 DATE: 6-25-15	OWNER: ☒
TO CONTRACTOR (Name and address): Riverstone Development Group, Inc. P.O Box 1023 Sylva NC 28779	ARCHITECT'S PROJECT NUMBER: N/A CONTRACT DATE: 02-12-15 CONTRACT FOR: Arbet Residence	ARCHITECT: ☐ CONTRACTOR: ☒ FIELD: ☐ OTHER: ☐

THE CONTRACT IS CHANGED AS FOLLOWS:

(Include, where applicable, any undisputed amount attributable to previously executed Construction Change Directives)

#1 Add 44" fireplace at the lower level game room (includes: Firebox/Flue, Stone, Gas drop, Framing & Mantle).	=	\$7,377
#2 Additional Cost to bump out upper rear deck, columns, roof trusses, T&G, framing material, roofing, staining	=	\$1,450
#3 Additional Columns, pad footers and framing in order to move the outdoor fire place back, as requested	=	\$400
#4 Rough cut in of a cart trail to the dock	=	\$250
#5 Framing changes to the lower level, bar area, bathroom, storage, gym, mechanical rooms, Materials and labor	=	\$1,989
#6 Add cost for the radius portion to the rear deck (Allow.) does not include handrails, have not been selected.	=	\$2,000

The original Contract Sum was	\$	750,000.00
The net change by previously authorized Change Orders	\$	125,337.00
The Contract Sum prior to this Change Order was	\$	875,337.00
The Contract Sum will be increased by this Change Order in the amount of	\$	13,466.00
The new Contract Sum including this Change Order will be	\$	888,803.00

The Contract Time will be increased by Zero (0) days.

The date of Substantial Completion as of the date of this Change Order therefore is N/A

NOTE: This Change Order does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

N/A	Riverstone Development Group, Inc	Arbet Residence
ARCHITECT (Firm name)	CONTRACTOR (Firm name)	OWNER (Firm name)
ADDRESS	P.O Box 1023 Sylva, NC 28779	CKS Lot #57
	ADDRESS	ADDRESS
BY (Signature)	BY (Signature)	BY (Signature)
	Guy W. Burt	Scott Arbet
(Typed name)	(Typed name)	(Typed name)
DATE	6-25-15	6-25-15
	DATE	DATE

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Change Order

PROJECT (Name and address):	CHANGE ORDER NUMBER: 003 Revised	OWNER: ☒
Arbet Residence - CKS	DATE: TBD	ARCHITECT: ☐
Cliffs at Keowee Springs, Lot #57, SC	ARCHITECT'S PROJECT NUMBER: N/A	CONTRACTOR: ☒
TO CONTRACTOR (Name and address):	CONTRACT DATE: 02-12-15	FIELD: ☐
Riverstone Development Group, Inc.	CONTRACT FOR: eEa	OTHER: ☐
P.O. Box 1023 Sylva, NC 28779		

THE CONTRACT IS CHANGED AS FOLLOWS:

(Include, where applicable, any undisputed amount attributable to previously executed Construction Change Directives)

- | | |
|---|----------|
| 1. Additional fill dirt for the front grade - 3 loads (dirt del & fee) | \$ Owner |
| 2. Add boulder, remove and reinstall at the front left of the home (Boulder move, gravel & fee) | \$2,712 |
| 3. Additional labor and stainless steel screws for the upper and lower outdoor decks (L,M &F) | \$1,921 |
| 4. Additional plumbing drops as requested (2 drops \$500/ea & Fee \$130) | \$1,130 |
| 5. Additional gravel and machine time at the crawl space to create storgae area (L,M &F) | \$1,074 |

The original Contract Sum was	\$ 750,000.00
The net change by previously authorized Change Orders	\$ 138,803.00
The Contract Sum prior to this Change Order was	\$ 888,803.00
The Contract Sum will be increased by this Change Order in the amount of	\$ 6,837.00
The new Contract Sum including this Change Order will be	\$ 895,640.00

The Contract Time will be increased by Zero (0) days.

The date of Substantial Completion as of the date of this Change Order therefore is N/A

NOTE: This Change Order does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

ARCHITECT (Firm name)	Riverstone Development Group, Inc	Scott Arbet
CONTRACTOR (Firm name)	P.O. Box 1023	OWNER (Firm name)
ADDRESS	ADDRESS	Lot #57 CKS
BY (Signature)	BY (Signature)	BY (Signature)
(Typed name)	(Typed name)	(Typed name)
DATE	8-18-15	8-18-15
	DATE	DATE

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Change Order

PROJECT (Name and address): Arbet Residence - CKS Cliffs at Keowee Springs, Lot #57, SC	CHANGE ORDER NUMBER: 004 DATE: 8-18-15	OWNER: ☒ ARCHITECT: ☐ CONTRACTOR: ☒ FIELD: ☐ OTHER: ☐
TO CONTRACTOR (Name and address): Riverstone Development Group, Inc. P.O. Box 1023 Sylva, NC 28779	ARCHITECT'S PROJECT NUMBER: N/A CONTRACT DATE: 02-12-15 CONTRACT FOR: CKS	

THE CONTRACT IS CHANGED AS FOLLOWS:

(Include, where applicable, any undisputed amount attributable to previously executed Construction Change Directives)

#1 Added boulders (hailed and installed) to the right side of the driveway	\$425.00
#2 Added windows to the crawl space (3 windows \$1450, framing M&L, caulk, zip tape, fee/ins). Interior unfinished	\$2,157.00
#3 Added additional window at the garage gable (Window \$505, Framing M&L, caulk, tape, Trim, fee/ins) interior unfinished	\$953.00
#4 Add 3 loads of fill dirt to the yard to perfect the current grade (M&L, fee/ins)	\$678.00

The original Contract Sum was	\$	750,000.00
The net change by previously authorized Change Orders	\$	145,640.00
The Contract Sum prior to this Change Order was	\$	895,640.00
The Contract Sum will be increased by this Change Order in the amount of	\$	4,213.00
The new Contract Sum including this Change Order will be	\$	899,853.00

The Contract Time will be increased by Zero (0) days.

The date of Substantial Completion as of the date of this Change Order therefore is

NOTE: This Change Order does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

ARCHITECT (Firm name)	Riverstone Development Group, Inc.	Scott Arbet
ADDRESS	P.O. Box 1023 Sylva, NC	CKS #57
BY (Signature)		
(Typed name)	Courtney E. Macke	
DATE	8-18-15	8-18-15

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Change Order

PROJECT (Name and address): Arbet Residence - CKS Cliffs at Keowee Springs, Lot #57, SC	CHANGE ORDER NUMBER: 005 DATE: 8-20-15	OWNER: ☒ ARCHITECT: ☐ CONTRACTOR: ☒ FIELD: ☐ OTHER: ☐
TO CONTRACTOR (Name and address): Riverstone Development Group, Inc. P.O. Box 1023 Sylva, NC 28779	ARCHITECT'S PROJECT NUMBER: N/A CONTRACT DATE: 02-12-15 CONTRACT FOR: CKS	

THE CONTRACT IS CHANGED AS FOLLOWS:

(Include, where applicable, any undisputed amount attributable to previously executed Construction Change Directives)

#1 Additional demolition and framing changes as of 8-11-15 to the lower level bathroom, new bed room, new vestibule, new closet, new mechanical chase, frame in at 2 exterior doors at vestibule and bedroom location. Also changed door openings at guest study closet and bath rooms. Includes, framing M&L, fee & ins. \$984.00

#2 Additional double doors at the closet and door hardware (credit applied for the orig bath doors) "no charge" \$0

#3 framing change at the lower Jack/Jill bath 3 from shower to tub framing \$108.00#4 Add water and electrical trenching to the dock: trenching, water line, power line \$1,855.00#5 Complete the room above the garage, as per the contract. \$33,000.00#6 Add a dock electrical package (disconnect fixtures & switches) \$2,000.00#7 Add irrigation pump and line for irrigation. STBD?

#8

The original Contract Sum was

The net change by previously authorized Change Orders

The Contract Sum prior to this Change Order was

The Contract Sum will be increased by this Change Order in the amount of

The new Contract Sum including this Change Order will be

The Contract Time will be increased by Zero (0) days.

The date of Substantial Completion as of the date of this Change Order therefore is

\$	750,000.00
\$	149,853.00
\$	899,853.00
\$	37,939.00
\$	937,792.00

37,939.00

+ 3 WEEKS MIN.

NOTE: This Change Order does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

ARCHITECT (Firm name)	Riverstone Development Group, Inc.	Scott Arbet
ADDRESS	P.O. Box 1023 Sylva, NC 28779	CKS Lot #57
BY (Signature)	<i>Courtney E. Macke</i>	<i>[Signature]</i>
(Typed name)	Courtney E. Macke	(Typed name)
DATE	8/20/15	8/28/15

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Change Order

PROJECT (Name and address): Arbet Residence - CKS Cliff's at Keowee Springs, Lot #57, SC	CHANGE ORDER NUMBER: 006 DATE: 9-8-15	OWNER: ☒
TO CONTRACTOR (Name and address): Riverstone Development Group P.O. Box 10	ARCHITECT'S PROJECT NUMBER: N/A CONTRACT DATE: 02-12-15 CONTRACT FOR:	ARCHITECT: ☐ CONTRACTOR: ☒ FIELD: ☐ OTHER: ☐

THE CONTRACT IS CHANGED AS FOLLOWS:

(Include, where applicable, any undisputed amount attributable to previously executed Construction Change Directives)

#1. H/O requested electrical changes at the walk through, for the added can lights and appliance circuits	\$419
#2 H/O requested additional gas drops for the front porch gas light	\$735
#3 H/O requested changes for the window and door allowance overage	\$5,973
#4 Additional gravel fill for the front porch that exceeded the budgeted allowance	\$807
#5 Owner added electrical changes for added appliances circuits, switches, tv outlets and master lights	\$904

The original Contract Sum was	\$ 750,000.00
The net change by previously authorized Change Orders	\$ 187,792.00
The Contract Sum prior to this Change Order was	\$ 937,792.00
The Contract Sum will be increased by this Change Order in the amount of	\$ 8838.00
The new Contract Sum including this Change Order will be	\$ 946,630.00

The Contract Time will be increased by Zero (0) days.

The date of Substantial Completion as of the date of this Change Order therefore is

NOTE: This Change Order does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

ARCHITECT (Firm name)	Riverstone Development Group	Scott Arbet
CONTRACTOR (Firm name)	P.O. Box 1023	CKS Lot #57
ADDRESS	ADDRESS	ADDRESS
BY (Signature)	BY (Signature)	BY (Signature)
(Typed name)	(Typed name)	(Typed name)
DATE	9-8-15	9-8-15
	DATE	DATE

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Change Order

PROJECT (Name and address):	CHANGE ORDER NUMBER: 007	OWNER: ☒
Arbet Residence - CKS	DATE: 9-30-15	ARCHITECT: ☐
Cliffs at Keowee Springs, Lot #57, SC		CONTRACTOR: ☒
TO CONTRACTOR (Name and address):	ARCHITECT'S PROJECT NUMBER: N/A	FIELD: ☐
Riverstone Development Group, Inc.	CONTRACT DATE: 02-12-15	OTHER: ☐
P.O. Box 1023 Sylva, NC 28779	CONTRACT FOR: General Construction	

THE CONTRACT IS CHANGED AS FOLLOWS:

(Include, where applicable, any undisputed amount attributable to previously executed Construction Change Directives)

1. Additional cost for the owner added selections on cabinets and upgrades to the original package

Original Budget	\$28,270
Added allowance for the garage suite	\$ 1,000
Previously adjusted cabinet allowance total	\$ 29,270
Final cabinet cost from Jennings proposal after the adds and upgrades	\$42,826.64
Total overage for the cabinet package to date (including RDG Fee & Insurance)	\$15,319

The original Contract Sum was	\$	750,000.00
The net change by previously authorized Change Orders	\$	196,630.00
The Contract Sum prior to this Change Order was	\$	946,630.00
The Contract Sum will be increased by this Change Order in the amount of	\$	15,319.00
The new Contract Sum including this Change Order will be	\$	961,949.00

The Contract Time will be increased by Zero (0) days.

The date of Substantial Completion as of the date of this Change Order therefore is

NOTE: This Change Order does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

_____ ARCHITECT (Firm name)	Riverstone Development Group, Inc. _____ CONTRACTOR (Firm name)	_____ OWNER (Firm name)
_____ ADDRESS	P.O. Box 1023 Sylva NC 28779 _____ ADDRESS	1074 Cliffs Vista Parkway _____ ADDRESS
_____ BY (Signature)	_____ BY (Signature)	_____ BY (Signature)
_____ (Typed name)	Guy W. Burt _____ (Typed name)	Scott Arbet _____ (Typed name)
_____ DATE	9-30-15 _____ DATE	9-30-15 _____ DATE

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User Notes:

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Change Order

PROJECT (Name and address): Arbet Residence - CKS	CHANGE ORDER NUMBER: 008 DATE: 11-2-15	OWNER: ☒ ARCHITECT: ☐
TO CONTRACTOR (Name and address): Riverstone Development Group, Inc. P.O. Box 1023 Sylva, NC 28779	ARCHITECT'S PROJECT NUMBER: N/A CONTRACT DATE: 02-12-15 CONTRACT FOR: General Construction	CONTRACTOR: ☒ FIELD: ☐ OTHER: ☐

THE CONTRACT IS CHANGED AS FOLLOWS:

(Include, where applicable, any undisputed amount attributable to previously executed Construction Change Directives)

1. Appliance allowance coverage and coordination

Orig. Allow \$10,500 - Final appliances \$24,706. Appliance coverage to be paid direct by owner \$14,206 to Jeff Lynch Appliance
RDG fee and insurance \$1,847 (Client refused to pay)

*NO AS PER EMAIL 11/6 *RDG FREE + CLIENT OF CORR. + WARRANTY*

- | | |
|---|--------------|
| 2. Added additional exterior wood beams and details | \$5,571 |
| 3. Additional dirt work at the front bank and enlarge driveway (applied the 3 loads charge from previous C/O) | \$ No Charge |
| 4. Stone arch at the bar area | \$4,746 |
| 5. Brick veneer at the bar area \$16/sf | \$ 867 |
| 6. Double full height crawl access door | \$1,635 |
| 7. Barn door at the office above the garage | \$1,325 |
| 8. Added reclaimed material and beams at the bar area only | \$2,090. |
| 9. Added reclaimed mantle and legs at lower fireplace (credited for orig. mantle) | \$ 678 |
| 10. Added reclaimed trim at the lower level window and doors at the game room and billiard rm only.
(credit accounted for original trim) | \$ 452 |

The original Contract Sum was	\$	750,000.00
The net change by previously authorized Change Orders	\$	211,949.00
The Contract Sum prior to this Change Order was	\$	961,949.00
The Contract Sum will be increased by this Change Order in the amount of	\$	17,364
The new Contract Sum including this Change Order will be	\$	979,313.00

The Contract Time will be increased by Zero (0) days.

The date of Substantial Completion as of the date of this Change Order therefore is

NOTE: This Change Order does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

_____ ARCHITECT (Firm name)	Riverstone Development Group, Inc. _____ CONTRACTOR (Firm name)	Scott Arbet _____ OWNER (Firm name)
_____ ADDRESS	P.O. Box 1023 Sylva NC 28779 _____ ADDRESS	1074 Cliffs Vista Parkway - CKS _____ ADDRESS
_____ BY (Signature)	_____ BY (Signature)	_____ BY (Signature)
_____ (Typed name)	_____ (Typed name)	_____ (Typed name)
_____ DATE	11-2-15 _____ DATE	11-2-15 _____ DATE

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Change Order

PROJECT (Name and address):	CHANGE ORDER NUMBER: 009	OWNER: ☒
Arbet Residence - CKS	DATE: 11-6-15	ARCHITECT: ☐
Cliffs at Keowee Springs, Lot #57, SC		CONTRACTOR: ☒
TO CONTRACTOR (Name and address):	ARCHITECT'S PROJECT NUMBER: N/A	FIELD: ☐
Riverstone Development Group, Inc	CONTRACT DATE: 02-12-15	OTHER: ☐
PO Box 1023 Sylva NC 28779	CONTRACT FOR: General Construction	

THE CONTRACT IS CHANGED AS FOLLOWS:

(Include, where applicable, any undisputed amount attributable to previously executed Construction Change Directives)

- | | |
|--|---------|
| 1. Additional tile labor for the decorative inlays at the master shower and Jack & Jill bath | \$316 |
| 2. Additional tile material costs in excess of the tile allowance (see the attached invoice from the supplier) | \$2,780 |
| 3. Additional painting cost for multiple custom colors | \$600 |
| 4. Moved elect.wiring after drywall due to appliance changes made by owner (labor and drywall repairs) | \$226 |

The original Contract Sum was	\$ 750,000.00
The net change by previously authorized Change Orders	\$ 229,313.00
The Contract Sum prior to this Change Order was	\$ 979,313.00
The Contract Sum will be increased by this Change Order in the amount of	\$ 3,922.00
The new Contract Sum including this Change Order will be	\$ 983,235.00

The Contract Time will be increased by Zero (0) days.

The date of Substantial Completion as of the date of this Change Order therefore is

NOTE: This Change Order does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

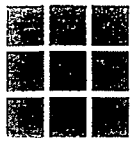
NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

ARCHITECT (Firm name)	Riverstone Development Group, Inc	Scott Arbet
	CONTRACTOR (Firm name)	OWNER (Firm name)
ADDRESS	PO Box 1023 Sylva, NC 28779	1074 Cliffs Vista Parkway
	ADDRESS	ADDRESS
BY (Signature)	BY (Signature)	BY (Signature)
	Guy W. Burnt	Scott Arbet
(Typed name)	(Typed name)	(Typed name)
DATE	11-6-15	11-6-15
	DATE	DATE

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User Notes:

1966566065



CLAYTON TILE

Greenville ♦ Spartanburg ♦ Anderson

INVOICE
No. A 57484

Mailing Address
PO Box 6151 Greenville, SC 29606

335 Woodruff Road
GREENVILLE, SC 29601
864-288-6290
Fax: 864-281-0325

7 Task Industrial Court
GREENVILLE, SC 29607
864-297-1496
Fax: 864-288-4831

530 S Blackstock Road
SPARTANBURG, SC 29301
864-587-9732
Fax: 864-587-0930

1718 Pearman Dairy Road
ANDERSON, SC 29625
864-225-0894
Fax: 864-375-9487

Owner

Address

Riverview Development

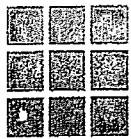
Number		Shipped Via		Date			
Blatt + Krumm - Arbit				11 / 15			
#	✓	Quantity	U/M	Description	Color	Unit Price	Amount
		56.34	s/f (14 in)	12 X 24 Vial Garden	mausk	3.66	205.03
		147.60	s/f	12 X 12	mausk	3.18	469.37
		16	s/f	1/4 inch square Porcelain	Sticker	12.80	204.80
		1	sq ft	Sheet - Ice Blue	Light Blue	53.95	53.95
		117	s/f	4 X 8 Old Dutch	Brick	6.32	739.44
		150.28	s/f	6 X 30 Speckle	Bonholl	4.81	722.95
		32	s/f	3 X 3 mosaic	Light Blue	6.04	193.28
		56	s/f	6 X 12 B/N	Speckle	10.90	610.40
		52	s/f	12 X 12	Blue	4.78	248.72
		22	s/f	3 X 12	Blue	6.58	144.76
		7	sq ft	3 X 3 mosaic	Dark Blue	22.38	67.14
		77.60	s/f	13 X 13 Medium	Light Walnut	2.80	217.28
		24	s/f	3 X 12	Light Walnut	4.25	102.00
		1	sq ft	Sheet - Ice Blue	Dark Blue	53.95	53.95
		1	sq ft	Sheet - Ice Blue	Dark Blue	53.95	53.95
		157.3	s/f	12 X 24	Blue	5.04	796.79
		23	s/f	3 X 3 mosaic	Blue	17.58	404.34
		138	s/f	12 X 12	Blue	4.78	652.61
		55.95	s/f	3 X 12	Blue	6.38	356.96
		46	s/f	3 X 12 B/N	Blue	5.70	262.20
		3	sq ft	Sheet - Ice Blue	Dark Blue	53.95	161.85
Tile Material Allowance - Home - 6375						Product Sub-Total	7,380.89
Bonus - 250						Add Freight	175.00
6625						Sub-Total	7,555.89
- 8085						Add Sales Tax	528.91
1460						Total Invoice	
						Less Deposit Paid	
						Balance Due	8,084.80

no rehhandling charge on stocked merchandise returned.

return on special orders.

adjustments made after installation. Do not install a product that is questionable.

Thank You!



CLAYTON TILE

Greenville ♦ Spartanburg ♦ Anderson

530 S. Backstock Rd.
SPARTANBURG, S.C. 29301
Telephone (864) 587-9732
Fax (864) 587-0930

535 Woodruff Rd. PO Box 6151
GREENVILLE, S.C. 29606
Telephone (864) 238-6290
Fax (864) 281-0326

WORK ORDER

1718 Pearman Dairy Rd.
ANDERSON, S.C. 29625
Telephone (864) 225-0824
Fax (864) 375-9487

Customer: Home Depot

Address: 1000 N. Main St.

PO NUMBER: 417-541-0711

Quantity: 1 Unit: sq ft ITEM NO / DESCRIPTION / COLOR Unit Price Amount

56 x 48 (400) 12 x 24 Red Medium Mosaic Tile 200.00

141602F (900) 12 x 18 Red Medium Mosaic Tile 469.37

16 x 16 (400) 13 x 12 Mosaic Tile 204.00

1 - 2516 12 x 12 Mosaic Tile 300.00

117 15 x 15 (400) 4 x 8 Red Medium Mosaic Tile 739.99

15 25 x 25 (400) 4 x 8 Red Medium Mosaic Tile 739.99

25 x 25 (400) 4 x 8 Red Medium Mosaic Tile 739.99

30 x 30 (400) 4 x 8 Red Medium Mosaic Tile 739.99

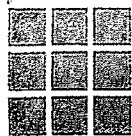
30 x 30 (400) 4 x 8 Red Medium Mosaic Tile 739.99

30 x 30 (400) 4 x 8 Red Medium Mosaic Tile 739.99

Worked Up By: APL

Location: Home Depot Received By: APL

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CLAYTON TILE

Greenville ♦ Spartanburg ♦ Anderson

500 S. Blackstock Rd.
SPARTANBURG S.C. 29301
Telephone (864) 587-9732
Fax (864) 537-0930

535 Woodruff Rd., P.O. Box 6151
GREENVILLE S.C. 29606
Telephone (864) 288-6290
Fax (864) 281-0326

WORK ORDER

1718 Pearman Dairy Rd.
ANDERSON S.C. 29625
Telephone (864) 224-0861
Fax (864) 374-6497

CUSTOMER

ADDRESS

P.O. NUMBER

Quantity U.M.

ITEM NO. / DESCRIPTION / COLOR

Unit Price Amount

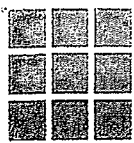
1	✓	20 2 1/2" x 12" (42)	TR	12 x 18 Large Green	5.00	50.00
2		20 2 1/2" x 12" (42)	TR	5 x 12 Green	6.32	140.92
3		20 2 1/2" x 12" (42)	TR	5 x 15 medium	7.25	145.00
4		20 2 1/2" x 12" (42)	TR	12 x 13 Medium Light	2.80	56.00
5		20 2 1/2" x 12" (42)	TR	5 x 13 Red	4.25	85.00
6		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
7		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
8		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
9		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
10		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
11		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
12		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
13		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
14		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
15		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
16		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
17		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
18		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
19		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
20		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
21		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
22		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
23		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
24		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
25		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
26		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
27		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
28		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
29		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
30		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
31		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
32		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
33		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
34		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
35		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
36		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
37		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
38		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
39		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
40		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
41		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
42		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
43		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
44		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
45		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
46		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
47		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
48		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
49		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00
50		20 2 1/2" x 12" (42)	TR	4 x 12 Green	1.50	60.00

Worked Up By

Customer

Received By

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CLAYTON TILE

Greenville ♦ Spartanburg ♦ Anderson

1530 S. Blackstock Rd
SPARTANBURG S.C. 29301
Telephone (864) 587-9732
Fax (864) 587-0930

535 Woodruff Rd. P.O. Box 5151
GREENVILLE S.C. 29606
Telephone (864) 288-6290
Fax (864) 281-0320

WORK ORDER

1714 Pearman Dairy Rd
ANDERSON S.C. 29625
Telephone (864) 220-0033
Fax (864) 473-0432

Customer: Greenville

Address: 1111 S. Main St

Job Number: 2/3/15

ITEM NO	DESCRIPTION / COLOR	Unit Price	Amount
1	12x24 Light Green	5.04	9.07
2	12x24 Dark Green	4.25	4.04
3	12x18	4.71	9.02
4	12x18	4.39	5.00
5	30x30	5.70	51.40
6	30x30	2.25	10.13
			<u>73.66</u>

Light Home 6375
Bonus 250
Total: 6625
Over by 714.

Received By: [Signature]

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Change Order

PROJECT (Name and address): Arbet Residence - CKS Cliffs at Keowee Springs, Lot #57, SC	CHANGE ORDER NUMBER: 010 Revised DATE: 12-4-15	OWNER: ☒ ARCHITECT: ☐ CONTRACTOR: ☒ FIELD: ☐ OTHER: ☐
TO CONTRACTOR (Name and address): Riverstone Development Group, Inc. P.O. Box 1023 Sylva, NC 28779	ARCHITECT'S PROJECT NUMBER: N/A CONTRACT DATE: 02-12-15 CONTRACT FOR: General Construction	

THE CONTRACT IS CHANGED AS FOLLOWS:

- (Include, where applicable, any undisputed amount attributable to previously executed Construction Change Directives)
1. Additional labor cost for the wine barrel install at the vestibule bath \$250
 2. Additional cost (L&M) for the added stone at the fireplace returns to the wall on both sides of the fireplaces at both the main level and at the terrace level units \$1,808
 3. Hardwood floor allowance overage \$3,413
 4. Deduct for the ceramic tile labor at the laundry (changed to hardwood) \$428 + OH&P <\$484>
 5. Additional cost to add receptacles at the kitchen for the additional appliances and under cabinet lighting and drywall repairs necessary after the retro. \$425
 6. Added costs (L&M) to build a set of stairs at the rear deck down to grade. Lower level deck, left, rear \$3,600
 7. Revised lower bar stone arch (add \$300), deduct stone sf at front and rear of the bar (deduct \$1160) add reclaimed wood to the front and rear of the bar knee wall below countertop (add \$800) <\$60>
 8. Current Plumbing Fixture Allowance overage \$1,629
 9. Deduct for the ceramic tile labor for the mechanical room, floor to be changed to hardwood flooring <\$622>
 10. Stucco allowance overage \$1,349

The original Contract Sum was	\$ 750,000.00
The net change by previously authorized Change Orders	\$ 233,235.00
The Contract Sum prior to this Change Order was	\$ 983,235.00
The Contract Sum will be increased by this Change Order in the amount of	\$ 11,308.00
The new Contract Sum including this Change Order will be	\$ 994,543.00

The Contract Time will be increased by Zero (0) days.

The date of Substantial Completion as of the date of this Change Order therefore is N/A

NOTE: This Change Order does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

ARCHITECT (Firm name) Riverstone Development Group, Inc.	CONTRACTOR (Firm name) Scott Arbet	OWNER (Firm name) 1074 Cliffs Vista Parkway Six Mile, SC
ADDRESS P.O. Box 1023 Sylva NC 28779	ADDRESS 1074 Cliffs Vista Parkway Six Mile, SC	ADDRESS 1074 Cliffs Vista Parkway Six Mile, SC
BY (Signature) (Typed name)	BY (Signature) (Typed name)	BY (Signature) (Typed name)
DATE Guy W. Burt	DATE Scott Arbet	DATE Scott Arbet

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Change Order

PROJECT (Name and address):	CHANGE ORDER NUMBER: 011	OWNER: ☒
Arbet Residence - CKS	DATE: 1-4-16	ARCHITECT: ☐
Cliffs at Keowee Springs. Lot #57. SC		CONTRACTOR: ☒
TO CONTRACTOR (Name and address):	ARCHITECT'S PROJECT NUMBER: N/A	FIELD: ☐
Riverstone Development Group, Inc.	CONTRACT DATE: 02-12-15	OTHER: ☐
P.O. Box 1023 Sylva. NC 28779	CONTRACT FOR: General Construction	

THE CONTRACT IS CHANGED AS FOLLOWS:

(Include, where applicable, any undisputed amount attributable to previously executed Construction Change Directives)

1. Additional costs for the overage to the stone allowance for additional stonework, as requested. Final Costs \$22,490 / Allowance \$15,000...total amount due = \$8,464.00
2. Additional cost for the trimout the changes to the vestibule wall cap and trim = \$ 282.00
3. Additional costs to custom trim out the mirror in the Jack and Jill bath with reclaim lumber = \$ 352.00
4. Counter top allowance overage, as requested. Original Allowance \$11,800 = \$ 768.00
5. Plumbing fixture allowance overage due to client selections and added items = \$1,483.00

The original Contract Sum was	\$ 750,000.00
The net change by previously authorized Change Orders	\$ 244,543.00
The Contract Sum prior to this Change Order was	\$ 994,543.00
The Contract Sum will be increased by this Change Order in the amount of	\$ 11,349.00
The new Contract Sum including this Change Order will be	\$ 1,005,892.00

The Contract Time will be increased by Zero (0) days.

The date of Substantial Completion as of the date of this Change Order therefore is TBD

NOTE: This Change Order does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

ARCHITECT (Firm name)	Riverstone Development Group, Inc.	Scott Arbet
ADDRESS	P.O. Box 1023 Sylva NC 28779	1074 Cliff Vista Parkway Six Mile, SC
BY (Signature)	Guy W. Burti	Scott Arbet
(Typed name)	(Typed name)	(Typed name)
DATE	1/4/16	1/4/16
	DATE	DATE



Document G701™ – 2001

Change Order

PROJECT (Name and address): Arbet Residence - CKS Cliffs at Keowee Springs, Lot #57, SC	CHANGE ORDER NUMBER: 012 DATE: 1-14-16	OWNER: ☒ ARCHITECT: ☐
TO CONTRACTOR (Name and address): Riverstone Development Group, Inc P.O.Box 1023 Sylva NC 28779	ARCHITECT'S PROJECT NUMBER: N/A CONTRACT DATE: 02-12-15 CONTRACT FOR: Arbet Residence	CONTRACTOR: ☒ FIELD: ☐ OTHER: ☐

THE CONTRACT IS CHANGED AS FOLLOWS:

(Include, where applicable, any undisputed amount attributable to previously executed Construction Change Directives)

1. Extended general conditions costs necessary for the month of January 2016.

As discussed, the original budget for the general conditions expired in November of 2015. Riverstone paid out of pocket for the month of December in hopes of completing the home in December. As of January 7th the Arbet residence is still missing parts to complete the home and achieve the C.O. (examples: missing, "owner coordinated items" would include but are not limited to: down draft oven, gas lamps at front porch, custom interior lighting, damaged/missing parts, etc.). As discussed, with the items still missing, selection delays, additional custom changes and the funding delays, it was not possible to complete the home in November or December 2015. As a recap from our discussion in September, these costs are a result of multiple H/O custom changes (on a noncustom budget) and the delays associated with the custom changes, H/O special order items and delays associated. H/O selection deadline delays, etc. (\$400/day original general conditions) \$8,000

As per paragraph #4 section E of the homeowner contract: If commencement of construction is delayed by Homeowner(s) for any reason or at any time, Contractor reserves the right to adjust the contract price for any price increase implemented after the date of this contract and for extended General Condition costs for the delay equal to the originally budgeted cost per day general condition amount.

The original Contract Sum was	\$ 750,000.00
The net change by previously authorized Change Orders	\$ 255,892.00
The Contract Sum prior to this Change Order was	\$ 1,005,892.00
The Contract Sum will be increased by this Change Order in the amount of	\$ 8,000.00
The new Contract Sum including this Change Order will be	\$ 1,013,892.00

The Contract Time will be increased by Zero (0) days.

The date of Substantial Completion as of the date of this Change Order therefore is TBD

NOTE: This Change Order does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

ARCHITECT (Firm name)	Riverstone Development Group, Inc.	OWNER (Firm name)	Scott Arbet
ADDRESS	P.O. Box 1023 Sylva NC 28779	ADDRESS	1074 Cliffs Vista Parkway, Six Mile, SC
BY (Signature)	BY (Signature)	BY (Signature)	
(Typed name)	Guy W. Burti	(Typed name)	Scott Arbet
DATE	1-14-16	DATE	1-14-16

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User Notes:

(1816807017)

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Courtney Macke

From: Courtney Macke <cmacke@riverstonedevelopmentgroup.com>
Sent: Thursday, January 21, 2016 6:30 PM
To: Scott Arbet
Cc: gburt@riverstonedevelopmentgroup.com; cmacke@riverstonedevelopmentgroup.com
Subject: RE: Arbet Installation
Attachments: Sylva. Western NC Winter Storm Warning 1.21.16.pdf

Scott: I copied and pasted your email into my last correspondence I sent to you on Monday as you were not responding to my previous email and the previous email correspondence is of paramount importance.

Your assumption that I have not been onsite is incorrect. I have been on site each day since everyone returned from the New Year's Holiday (with the exception of this Wednesday/Thursday due to snow conditions). If we do not see each other or our paths cross only briefly, does not mean that I've not been onsite or that we are not diligently working on your project.

The master bedroom reading lights installation required a drywall patch. I will follow up with our electrical contractor to see if the patch was for deleted or added switches for the lights that you provided. Originally the lights were to have been supplied with controls on the fixture itself and the final fixture you provided did not have controls. The pool table light was able to be moved without pulling an entirely new wire system so the only costs you will have for this change is the electrician to move the fixture and the drywall sub to patch the ceiling. Costs on this will be forwarded to you in the next change order.

Regarding the appliances and the downdraft issue. To refresh your memory, when the venting was installed at the time of rough mechanicals (August), you had not selected your appliances until October so the correct venting size could not be determined. However, RDG was still able to get this right and the correct venting is installed in the home. What is now required is for your appliance installer to install the downdraft vent so that the custom vent connection can be determined in order to connect it to the vent. As you will recall, your multiple changes in the appliances, the changed locations of the appliances and your insistence on purchasing the appliances yourself to avoid compensating Riverstone (as per our contract) have caused all of the current issues. Please feel free to coordinate the balance of the appliance installation including the vent connection as you suggested. Appliance installation always includes installation and connection of the appliances to the facilities at the home.

On the interior barn door, I misstated RDG's position that we included a door handle. Guy priced this change out with Scott in great detail and was instructed by Scott to keep the cost as low as possible for this door. Sorry for the confusion on this but a door handle is not included.

On the Shower glass door credit for the Jack N Jill shower, the first time you mentioned this credit request was at our meeting on Wednesday, 1/6/16 and has been the only time you requested the credit. In researching this issue, the bath #3 (Jack N Jill Shower) glass shower enclosure was removed from the VE budget on 4/9/15 when you requested the change from a shower to a tub plumbing fixture. The cost of this shower enclosure was credited at the time of the VE budget change and entered into our contract as Change Order #1. So this credit was realized previously.

The Guest Suite shower head slide bar was ordered from Moen by James of Ferguson Enterprises on Tuesday, upon your direction. Please coordinate the payment and delivery method to the jobsite with Ferguson. Once the fixture is onsite, we will have it installed.

Shower shelves have been an on again /off again selection for you guys. Please let us know a final decision and if you want the shelves installed, with a picture as you suggested of the final location you want it installed.

Regarding the gas line issue, here again either you inadvertently mislead them somehow or they misunderstood you on your gas fixtures, in either case, Riverstone is not involved in this. Scott, I spoke with the customer service rep who set up your account and she said that you stated you had gas heat, gas water heater and gas appliances and that is why they offered to run the gas line to your house originally at no cost. When the rep asked me for the fixtures that were gas and I told her fireplaces and the range, she stated that is not what they were told when the initial service request was set up and that she would have to change you to a casual user. I don't want to get in the middle of this because this is between you and the gas provider. This really has nothing to do with Riverstone so we would like to remain out of this issue. When we permitted your home, the gas company is not involved in the permitting process with the Pickens County Building Department. However, we have always had electric heat and water heaters planned for your home from the very beginning so there is no change here and should not be a surprise. Because you are not a licensed General Contractor and lack the full understanding of the entire issue, your accusation that Riverstone cost you money on the issue won't be taken as an insult. The mere costs of running four additional gas drops to the two hvac units and two water heater units would cost more than what the gas company is charging you to run the gas to your home. Not to mention the additional costs of venting the gas appliances and the added initial costs of gas appliances over electric. Historically, the costs to operate electric appliances over gas appliances, the electric utility usage is less expensive.

Scott, you are not withholding the balance of our current draw #11 and change order #12 for extended general conditions over the balance of a credit on a \$1,000 allowance item are you? The curved deck allowance did have funds expended against it due to the deck extension being a full size deck and not just a curved piece. Regarding the credits for the curved deck. I stated to you at our Wednesday, 1/6/16 meeting that we did have costs that went against the curved deck line item that was a part of a change order. Remember me telling you Scott that we had additional cost to make the deck in this area longer, we had double joists in this area, and added bands around the deck plus the additional labor. I also told you that this was a separate line item and we did track the costs separately there. We are still working on the allowances and the CREDITS/ADDs for the allowance log so that we can try to final out all of the allowances with you now that most of the pieces and parts have been purchased.

Scott, I have NEVER said the RDG feels entitled to the fee on the allowance items that we did not provide. To suggest such a thing is a pure fabrication. What our contractual agreement stated prior to starting the project and have never wavered from is that the fairest way for all parties involved is that the allowances increase and decrease (including our Fee) based upon the costs of the supplied materials. However, when you elected not to pay the additional fee based upon the overage for the appliances and the light fixtures (against RDG's request for the fees due to our coordination and risk for these items) you likewise give up your claim to have our fee reduced for the two items we are not supplying (closet shelving and the interior beams). As stated during our meeting on Wednesday 1/6/16 the fairest way for all parties is to adjust the fees (increase and decrease) on the cost of all allowances. Riverstone is willing to make this adjustment across ALL ALLOWANCES. To claim that we are committing Fraud on the allowances is yet another fabrication.

Scott, as stated during our meeting on Wednesday, 1/6/16 (this is the first time you raised this issue) we contracted to a lump sum contract that is based upon our schedule of values which clearly stated what our Fee dollar amount is. We do not spell out a certain percentage of our fee or a fixed fee within our homeowner contract and this simply is not open to interpretation. Riverstone is shocked that at the end of the project you are requesting to re-negotiate the fee. In addition, as stated previously we reduced your fee percentage to build this home from 15% to 12% because you stated you were not going to make any changes.

Regarding the driveway and the draw #11 that you cut the funding on by \$13,370, the draw was substantially cut which included the amount for the driveway paving. If it would make you feel better and you believe you will achieve a higher level of quality by coordinating this work yourself, we will not draw for the allowance amounts for the driveway, landscaping and stepping stones. You are more than welcome to coordinate these items after the C. of O. if you choose. We are working diligently to complete your home now that you finalized your railings and that we have completed your trim changes for the bar and other parts of the home. Our painters have remobilized and we will install

the railings once stained. We will complete your home and obtain the C. of O. as quickly as possible. The cooktop being installed and operational is a part of the C. of O. requirements as it is a mechanical system of your home that must be inspected by code. Light fixtures will be blank plated off and will become your responsibility as per your request.

Regarding meeting you last Friday, I had multiple contractors I was meeting with on your home (as you are aware) that I was discussing critical details for the completion of your home. I left from the home to go meet other contractors at the front gate of The Cliffs and when I returned to the home with the additional contractors, you were nowhere to be found. It was my understanding that if you wanted to meet with me, you would have stated to do so as you have done countless times in the past. As a reminder this was at 5:30 on Friday evening and I was still at the project until 7:00.

Regarding the siding issue, as discussed on multiple occasions with you Scott in person, we are awaiting the rep to look at the installation on your home. I have talked with the rep at length regarding the installation and it is currently installed as per industry standards. In addition, it is currently installed as per the manufacturers' technical installation manual. However, we still want to have the rep come out to the house to look at the installation and for them to review their own installation manual. I have not been able to reach him since after the new year's holiday after multiple attempts. I will continue to reach out to him to set up this meeting. Your assertion that I should drive to where the rep is located is absurd and shouts out your misunderstanding of the issue. The rep is located in Pennsylvania and travels throughout the southeast areas that he covers. In addition, he needs to see the installation on the home. We have stated before that your concern on this is of paramount importance to us and we are committed to resolving it. That same commitment stands today.

The issue still stands on the extended general conditions costs via Change Order #12 that is still pending and unpaid. Please make the payment on this change order to cover the extended general conditions costs for the month of January as per our contract. To date, we have not claimed for December and are only claiming for January's general conditions.

As for your request to meet in person on Friday, the weather conditions have plummeted to the point of unsafe travel for the rest of this week and weekend due to the snow and ice conditions (see attached winter storm warning). We should be able to meet with you on Monday weather permitting.

Thanks,

Courtney E. Macke
Principal



Riverstone Development Group, Inc.

PO Box 1023

Sylva, NC. 28779

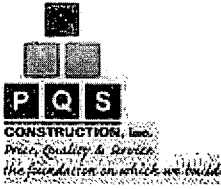
PH: 828-293-2108 / 828-586-1321

FX: 828-293-2105

Cell: 828-226-2393

Email: cmacke@riverstonedevelopmentgroup.com

Web: www.riverstonedevelopmentgroup.com



From: Scott Arbet [<mailto:arbetconsulting@gmail.com>]
Sent: Wednesday, January 20, 2016 10:54 AM
To: Courtney Macke; guy Burt; Deanna Centofante
Subject: Home Completion

Courtney and Guy,

I assume you have not been on site for a few days as some of this has already been done as we responded to specifics before.

Master BR reading lights are in correct place with boxes already set per our earlier response. Patches for wall is done as well. All that has to be done is capping.

Fireplace sconce lights for terrace level are installed as well so no cap needed

Looks like pool table light location has been corrected as well and patched but you will need to verify.

Per appliances: You were adamant that you must do the coordination regardless of who purchased the appliances as you are responsible for the home, the cabinets, floors, etc. and what subs are in there working those days so they don't get in each others way. This is just absurd but given where RDG is on our home today. ... we will coordinate. Please be sure to provide us with code to get in home at all times if changed. We were told the HVAC person usually will put in the dwondraft and attach the vent. We also are unclear as to why you didn't have the appropriate venting for the downdraft and how this could be our responsibility.

Per pull for door. . . Courtney told us clearly on 1/6 to pick out door handles and to let him know what we picked out and he would pick them up as they were in the budget. You even gave us web sites to look at that Deanna wrote down on her notes. Please check your notes as we have ours that clearly say exactly this. Again, if this is RDG's position please confirm.

Per curtain rods for the two showers. Clearly there is MORE than enough money for these as we did NOT opt for doing the already budgeted for frameless glass doors for the Jack and Jill bathroom as we paid for the change for framing, tub, and fixtures to put in a tub. We have asked Courtney several times for the credit for glass not being done as well as other credits but Courtney has not provided the information. The two curtain rods are nothing compared to the glass not done. If RDG does not want to do this we will do it ourselves after C/O. Please confirm refunds and if RDG will do the curtain rods or not. We will plan accordingly.

Per shower head, thank you for making corrections and re-doing the tile. Should we purchase the slide bar on our own or will James at Fergusons do this? Please advise and we will follow up immediately today. James said it will only take 2 days.

Per shower shelves, Deanna and I walked these with you Courtney and you even commented on how you liked the idea of placing the one for the vestibule in the "inside corner" to hide it from view. We were on site both Monday and Tuesday and will be again today and can show you again. If you are not on site again today we will mark both showers with blue tape and take a picture to document and send to you.

Per gas line. Fort Hill Gas said they discuss with all builders when you get the permit the need for having water heater or furnace plus other appliances connected "as gas" to qualify for free connection and rebates. RDG's convincing of us to go with two electric water heaters and electric furnace rather than a gas is costing us and additional \$1,250 to bring the line to the house. We would have thought RDG's experience in building would have been on top of this as the gas company pointed out to us. Instead, we as homeowners without all the years of building experience are responsible.

Per RDG's requests for money . . . We have been waiting for appropriate credits from Courtney for a long time (such as the money paid for radius deck that was never purchased or installed). Courtney said he has these in separate line items but we have not seen the credits.

We are also due to have RDG fees and insurance refunded for things that RDG did not actually outlay any money, provide any labor, or purchase insurance, or manage. Courtney has told us on several occasions that RDG feels "entitled" to this money because "we never should have let you buy lighting or appliances on your own". We did as you approved. To now claim such "entitled" monies is fraud and needs to be calculated and refunded as I said in person and in previous emails.

We also have requested on several occasions to correct and refund the 12% fee (included twice) that was in the initial contract. This is a big deal and clearly is not correct. We agreed to 12% and you have documented that several times in emails as well. The contract is NOT 12%.

These combined dollar amounts exceed RDG's requests for funds to complete our home including the paved driveway. We had asked for RDG to complete our home including the driveway weeks ago and asked for the same corrections/credits prior. If we owe RDG anything after the corrections we will pay for them. We can address this once these have been corrected.

Per the delays and C of O, the C of O is NOT contingent upon the cooktop being installed or a having a couple of lights not installed as confirmed by the inspector. It is however contingent upon having external railings installed.

If you would like to sit down and work through this we are happy to meet with both of you. The last time we were at the house when Courtney was there he only said hi and then left without talking to us.

Lastly, another very important issue. The siding installation problem has been dragging on. We have been more than patient. We understand RDG does not like what the rep has told all of us however we have talked with the reps on several occasions and each time they tell us the same thing which is the product as installed voids their warranty and they basically guarantee there will be issues down the road. The siding could have been replaced and repainted several times over by now. We want formal assurance that RDG will do the right thing for the siding as per the manufacturer's warranty on the product based on installation as well as the aesthetics that would be expected in a million dollar home. Playing phone tag and having such delays is not the way we would like such a big issue to be managed. Drive to meet with the rep if necessary. We would like a firm plan of corrective measures to be in place this week. We are not being at all unreasonable. As we said in the beginning, we have been more than patient. If this were your home we are confident you would expect the same.

Thank you,
Scott

--

Scott E. Arbet PhD
President, Arbet Consulting Inc.
1074 Cliffs Vista Parkway
Six Mile, SC 29682

Email: arbetconsulting@gmail.com
Phone: 267-218-3703

From: Courtney Macke [<mailto:cmacke@riverstonedevelopmentgroup.com>]
Sent: Tuesday, January 19, 2016 2:15 PM
To: Scott Arbet
Cc: gburtt@riverstonedevelopmentgroup.com; cmacke@riverstonedevelopmentgroup.com
Subject: RE: Arbet Installation

Scott: See responses to your email in RED below.

Thanks,

Courtney E. Macke
Principal



Riverstone Development Group, Inc.

PO Box 1023

Sylva, NC. 28779

PH: 828-293-2108 / 828-586-1321

FX: 828-293-2105

Cell: 828-226-2393

Email: cmacke@riverstonedevelopmentgroup.com

Web: www.riverstonedevelopmentgroup.com

Facebook: <http://www.facebook.com/pages/Riverstone-Development-and-Construction-Inc/217242844982696?sk=wall>



From: Scott Arbet [<mailto:arbetconsulting@gmail.com>]
Sent: Monday, January 18, 2016 6:51 PM
To: guy Burt; Courtney Macke; Deanna Centofante
Subject: Fwd: Arbet Installation

Courtney,

Please see several responses/updates. I did not have time to address everything and I will respond to those soon.

Per lighting, to our knowledge the items that are backordered or not provided are as follows: Powder room, two sconces for master, and two sconces for terrace level fireplace. You should have all other fixtures. Please note previous email from Deanna on the pool table light location. While these items should not hold up C/O please "cap" the wires off and put a plate over them in the correct place if not already done and we will install them ourselves or you guys can install when they come in if they happen to arrive while RDG is still on site. Does this seem like a reasonable plan to you?

Thanks for providing the light fixtures. We will have to blank plate off the light fixtures that are still not provided. We still need an answer on the master reading lights email that I sent to you on Monday morning, 1/18/16. We currently have holes in the wall for light fixtures that are not correct and need to know how to proceed? Regarding the pool table light location, we installed the light fixture in the correct location originally to be centered on the large window. In order to move this light fixture, the electrician will need to investigate if it can be moved with the current wiring or if new wires will have to be pulled to accommodate your new location of the fixture. Either way, to move this light will involve additional costs and multiple trades for patch work to accommodate this request. We are investigating this change and will let you know a price on this change when we determine exactly what will be required.

We contacted the gas company as you requested and they were to coordinate with you on connecting gas to our home. I did not see gas connected so wanted to follow up with you to see if something else needs to be done. I have a voicemail from them last week and will call them tomorrow to see if they need something from you or me. They said they normally schedule directly with the builder and I gave them your contact information. As per previous email sent today: Ft Hill Gas is needing to verify with you the gas appliances. I talked to them last week and verified what was installed in the house for gas fixtures. They stated that they needed to talk with you to finalize your agreement for the gas service and meter set.

With regards to the appliances, please see email below that you were copied on dated Jan. 6th. When you, Deanna and I met at the Turnhouse in the Springs on the 6th you requested we follow up with Terry. We did just that and Terry promptly sent this follow up email.

No one ever contacted me for the install of the downdraft cooktop and vent. Scott, you were coordinating the appliances including the install. We have been waiting on these appliances since the initial installation December 4, 2015 and the house has been open since this date for the appliance install.

We confirmed with both Terry and Jeff the installer that they were awaiting word from you on the plumbing related fixes were completed such as the ice maker drain moved etc. so they could deliver and install. Also to coordinate delivery of the downdraft so that the HVAC guys can install it and also coordinate Jeff the installer to install the cooktop. You had asked to coordinate so we have been out of the loop until now when you asked us to follow up again.

No one has contacted me regarding the install and we are continuing to be the primary follow up on this (Riverstone's email of Monday, 1/18/16 requesting the status update). The plumbing for the ice maker has been moved for 3 weeks now. The HVAC contractor has to measure for the vent hook up after the cooktop and downdraft are installed.

Terry said he will follow up with you and Jeff regarding the plug for disposal, ice maker with pump, mini fridge, cooktop (already at house), and downdraft and whatever details need to go on for delivery and

installation coordination. Please call Terry directly as we do not have any further information. Terry also said he will try and coordinate a call with all of us today or tomorrow so we are all on the same page.

Terry returned my call this morning from my voicemail message I left for him yesterday. Terry confirmed this morning from our call that the missing appliances were in. Jeff Lynch Appliance is scheduled to deliver the appliances tomorrow, 1/20/16. I do not have any confirmation from Jeff on the installation. Once the downdraft and gas cooktop are installed, I can have our HVAC contractor come out to the home to measure and design the custom vent connection to the downdraft vent. Once we receive the cost proposal for the custom vent connection, we will forward to you for consideration and payment before the work is completed.

Could you also let us know about the handles for the barn door per Deanna's email on the main floor level. We selected a handle but didn't know if the door would be adjusted so that a handle can be on both sides of the door to open from stair side as well as the hall side. We think this is necessary as it will be difficult to open from stair side if there is no handle. Currently the door slides to be flush so the inside door handle would hit.

We did not include a pull for the door as Scott instructed us to keep the costs for this door as low as possible at the time of the change order. You can install a pull on one side of the door but not sure if the stop on the door slide rail can be adjusted to prevent the door from opening all the way. If it can be adjusted to prevent the door from opening all the way, we will adjust the travel distance. If you put a door pull on both sides of the door, you would see the screws for the door handle on both sides of the door. Not sure if that is what you are looking for. Please advise.

Similarly, do you already have barn door handles for sub-terrace garage level? If not, please go ahead and supply them on your own. Thank you

Riverstone will provide an exterior rated door pull for the crawlspace barn door.

We think we all missed two shower curtain rods for above the garage and the jack and jill. For above the garage it's probably best to have straight bar. For jack and jill please provide a curved rod. Both should be Oil Rubbed Bronze finish matching the fixtures already installed such as Brantford etc.

Shower curtain rods for the two showers are typically furnished by the owner as often times the clients have their own design in mind for what they want to do here. Some people want to do glass doors so it is impossible to guess what is to be done here.

Per the shower head issue on the main level that was installed both too high as we all have noted and the bracket for the shower clearly does not allow for the shower to function as the water stream would go over one's head (as is noted on the reviews). This was ordered by Jennifer who is no longer at Fergusons. We also talked with James at Fergusons who believes this is the best way to correct the problems. We have spent countless hours addressing the issue. The final solution was arrived at today by talking with Moen directly. We shared the installation pictures. They in turn have provided correct install images and a corrective solution using slide bar. James agrees with both corrective installation and slide bar. James is talking with his manager for us and will get back to us tomorrow.

Scott, the current shower head that you selected and is installed will work correctly when installed at the correct height. We agree the current height of the shower head install is incorrect and we will change the height of the shower head and correct the tile installation at not costs so that the current shower head works correctly. Also, you can purchase the slide bar for the current handheld shower head to sit in and we will install it.

Moen A735WR Universal Wrought Iron 30" Handshower Slid...

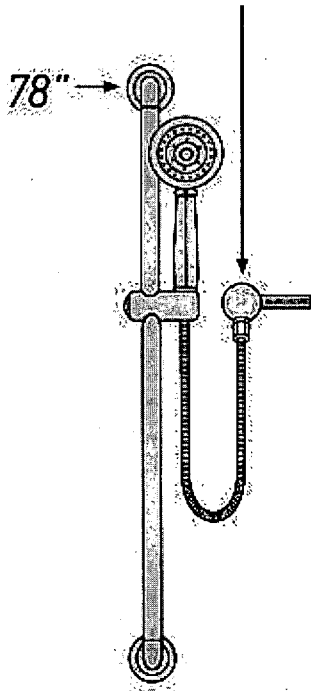
4.5 ★★★★★ 4 user reviews

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CORRECT INSTALLATION BUT WITH SLIDE FOR US ON THE RIGHT SIDE.



We are also still needing to know a date for CO so we can schedule multiple things such as our current renting situation, movers, washer dryer delivery, etc.

Riverstone cannot give a firm C. of O. date without having all of the parts in hand to finish for the appliances. We hope to obtain the C. of O. in February pending all of the appliance parts arriving and being correct.

Can you also please confirm when the exterior railings will be installed? If you have a schedule for completing the rest of the home that would be nice to have as well so we understand the process and timeline.

Exterior handrails are slated to be installed this week and next. The painter needs to stain the railing parts before they are installed and this is happening this week.

Shower corner shelves, we still need a decision on the location of these corner shelves so they can be installed. Please provide direction.

Riverstone is still to be paid the shorted draw #11 amount of \$5,370 to complete your payment for draw #11. Please make this payment to be current on the progress payment for Draw #11 originally sent on 1/5/16 and requested again on Friday, 1/15/16 and Monday, 1/18/16. Likewise, we are awaiting payment on Change Order #12 for the Extended General conditions. We will also need to be funded the driveway paving amount of \$6,550 prior to the asphalt subcontractor starting the driveway paving.

Please get back to us on this email today or tomorrow.

Thanks,

Much appreciated,
Scott

----- Forwarded message -----

From: <terry@jefflynch.com>

Date: Wed, Jan 6, 2016 at 1:29 PM

Subject: Re: Arbet Installation

To: Deanna Centofante <dcentonyc@msn.com>

Cc: Scott Arbet <arbetconsulting@gmail.com>, Courtney Macke

<cmacke@riverstonedevelopmentgroup.com>, Guy Burt <gburt@riverstonedevelopmentgroup.com>

Deanna,

Great news to report, the downdraft arrived today. I just forwarded that info to Jeff Fletcher, he'll be in touch with Courtney to complete that part of the install, to exchange the ice machine & to tweak the alignment of the two issues you emailed me about.

Let me know if you have other questions,

Terry

--
Scott E. Arbet PhD
President, Arbet Consulting Inc.
1074 Cliffs Vista Parkway
Six Mile, SC 29682

Email: arbetconsulting@gmail.com

Phone: [267-218-3703](tel:267-218-3703)

Courtney Macke

From: Scott Arbet <arbetconsulting@gmail.com>
Sent: Tuesday, January 26, 2016 5:14 PM
To: Guy Burt; Deanna Arbet; Courtney Macke
Subject: Payments

Follow Up Flag: Follow up
Flag Status: Flagged

Courtney,

We will make payments for work performed for mirrors, subs, etc. as requested by Thursday. I will review and confirm amounts with you tomorrow.

Thank you
Scott



Riverstone
Development Group

January 28, 2016

Scott Arbet
1074 Cliffs Vista Parkway
Six Mile, SC 29682-3539

**Re: Riverstone Development Group, Inc. / Scott Arbet Residential Construction Contract –
DEFAULT OF CONTRACT**

Scott:

As per our Residential Construction Contract dated 2/12/15 and signed on 2/13/15, you are being notified of your Default of Contract including but not limited to paragraph 9, subsection a, item 6, as listed below (your default includes but is not solely limited to this paragraph and subsection of the contract).

9. Remedies For Default

Default by Homeowner(s): Each of the following shall constitute an act of default by Homeowner(s): ...

6.) Failure to make progress payments in a timely manner as determined solely by the Contractor.

You have failed to fully pay for the completed work that was requested for payment based upon Riverstone's application for payment #11 submitted on 1/5/16 and Change Order # 12 submitted on 1/15/16. At this time, Riverstone Development Group is left no other alternative but to exercise its' right to stop the work until these overdue payments are made current as per our contract paragraph 3, subsection d,

3. Payments

d. Payments Due and Unpaid; Right To Stop Work: Payments due and unpaid under the Contract shall bear interest from the date payment is due at the highest rate allowable by law. Contractor shall have the right to stop work if payments are not made when due under this contract, within five (5) business days of submitting application for payment. If Contractor stops work, in addition to making overdue payments current, Homeowner(s) shall pay Contractor any costs associated with re-mobilization of Contractor's forces, prior to Contractor re-commencing work.

Sincerely,

Guy W. Burt

Guy W. Burt, Principal
Riverstone Development Group, Inc.

Courtney E. Macke

Courtney E. Macke, Principal
Riverstone Development Group, Inc.

Cc: David Moore, Earwood Moore Carpenter & Guy

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF PICKENS	)	THIRTEENTH JUDICIAL CIRCUIT
Scott E. Arbet,	)	C. A. No.: 2016-CP-39-00103
	)	
Plaintiff,	)	
	)	
v.	)	AFFIDAVIT OF
	)	SCOTT E. ARBET
Riverstone Development Group, Inc. and	)	
Yoder's Building Supply, Inc.,	)	
	)	
Defendants.	)	

PERSONALLY APPEARED before me, Scott E. Arbet, who being duly sworn, deposes and says as follows:

1. My name is Scott E. Arbet, and I am competent in all respects to testify regarding the matters set forth herein.
2. I am the named Plaintiff herein and I give this Affidavit voluntarily.
3. On February 13, 2015, I entered into an agreement (the "Contract") with Riverstone Development Group, Inc. ("Riverstone") wherein Riverstone agreed to be the general contractor for the construction of my residence (the "Project"). A true and correct copy of the Contract is attached hereto as "**Exhibit A**".
4. As of February 13, 2015, the Project's design plans and specifications had not been completed and were, accordingly, left to be determined "TBD" in the Contract. *See Exhibit A, Section 13.*
5. Since the Project's design plans and specifications were not finalized the "Contract Sum" was listed in the Contract as "Seven Hundred Fifty Thousand Dollars and Zero Cents (\$750,000.00) with final contract amount to be adjusted plus or minus 5% based upon

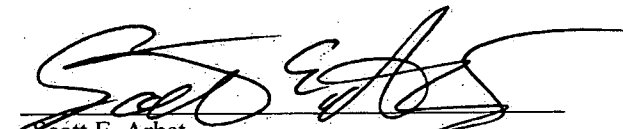
client's final selections and design changes to the Arbet Residence home plan to achieve this budget". *Id.*, Section 13.

6. By April 9, 2015, the Project's design plans and specifications had become firmer and the contract price had become Eight Hundred Seventy-Three Thousand, Three Hundred Ninety-Nine and 0/100ths Dollars (\$873,399.00). *Id.*, Exhibits B and C.

7. When Riverstone commenced construction of the Project in May 2015, the agreed upon Contract Sum was Eight Hundred Seventy-Three Thousand, Three Hundred Ninety-Nine and 0/100ths Dollars (\$873,399.00). True and correct copies of a draft of Change Order #1 and Change Order #1 as I executed are attached hereto as "Exhibit B".

8. At no time prior to this dispute arising with Riverstone did I know anything about the licensing classification Riverstone held, the parameters on a BD4 license classification or the limitations South Carolina law imposes upon licensing classifications.

FURTHER AFFIANT SAYETH NAUGHT.


Scott E. Arbet

Sworn to and subscribed before
me this 3 day of December, 2018
Tracy Ann Sabina
Notary Public, State of South Carolina
My Commission Expires: 1/30/27

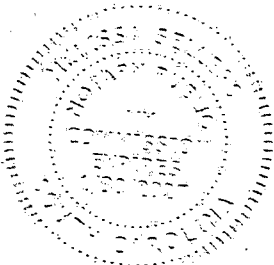


EXHIBIT A



Riverstone
Development Group

RESIDENTIAL CONSTRUCTION CONTRACT-

This Contract, made this 12 day of February, the year Two Thousand and Fifteen, by and between Riverstone Development Group, Inc. a North Carolina Corporation, whose Contractor's License Number is G114265 and whose mailing address is P.O. Box 1023, Sylva, NC 28779, herein referred to as the "Contractor" and:

Name: Scott Arbet

Home Phone: (267) 218-3703

Address: 2083 Welshvalley Road

Cell Phone: (267) 218-3703

Address: Phoenixville, PA 19460

Email: arbetconsulting@gmail.com

Soc. Security No. xxx-xx-3049

Name and Manner in which Title will be held: Scott Arbet

Herein referred to as "Homeowner(s)"

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The Homeowner(s) and Contractor agree as follows:

1. The Property

- a. The homeowner(s) owns the real property situated in Pickens County, SC, herein referred to as the "Lot" as follows:

Lot # 57 The Cliffs at Keowee Springs

2. The Contract Amount and Terms of Payment

Contract Sum: The Homeowner(s) 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 Fifty Thousand Dollars and Zero Cents (\$750,000.00) with final contract amount to be adjusted plus or minus 5% based upon client's final selections and design changes to the Arbet Residence home plan to achieve this budget.

3. Payments

- a. An initial amount Ten Percent (10%), constituting a Non-Refundable Deposit, shall be paid to Contractor upon the execution of this Agreement. The Initial Deposit balance due at contract execution must be by Check or by wire transfer of immediately available funds. All funds paid shall be in U.S. Dollars. Both Parties agree that any deposits forwarded Riverstone Development Group, Inc. may be used to begin and prepare for the construction process for items including but not limited to: pre-construction services, estimating services, site planning, surveying, tree identifications, septic engineering, structural engineering, truss plans, energy calculations, etc.... The Homeowner(s) agrees to the use of these funds and waive any right to have these funds placed in an interest bearing account.
- b. Progress Payments: Based on applications for payment submitted to the Homeowner(s) ~~Construction Lender~~, By the Contractor, The Homeowner(s) ~~construction lender~~, shall make monthly progress payments on account of the Contract sum to the Contractor according to industry standard American Institute of Architects (AIA) draw schedule. No variation from the AIA draw schedule is authorized without the prior written consent of the Contractor. The Contractor will provide a contractor's affidavit and Partial waivers of lien from itself, each subcontractor and material supplier who has served a Notice of Purchaser and all laborers who provide service for the project for which the Contractor is to report such services through IRS form 1099 and shall do so for the prior month's progress payment by the time of application for the current month's application for payment.

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Scott Arbet
Homeowner

CEM

Contractor

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- c. Final Payment: Final payment, constituting the entire unpaid balance of the Contract Sum (less 200% of the value of punch-out items if necessary), shall be made by the Homeowner(s) to the Contractor when the Contractor has delivered the Certificate of Occupancy to Homeowner(s). The issuance of a Certificate of Occupancy by the appropriate municipal authority shall be binding and conclusive upon the parties as to whether the dwelling has been substantially completed. The fact that certain surrounding areas may not be completed, or that the dwelling may require minor repairs, touch-ups or adjustments, shall not constitute a valid reason for delay in making Final Payment to Contractor. Homeowner(s) may not take possession and Occupancy of the home, or store any personal property in or about the Home, prior to Final Payment being made. Final payment shall not be withheld from the contractor based upon any "punch-out" work that is still to be completed at the time of final completion.
- d. Payments Due and Unpaid; Right To Stop Work: Payments due and unpaid under the Contract shall bear interest from the date payment is due at the highest rate allowable by law. Contractor shall have the right to stop work if payments are not made when due under this contract, within five (5) business days of submitting application for payment. If Contractor stops work, in addition to making overdue payments current, Homeowner(s) shall pay Contractor any costs associated with re-mobilization of Contractor's forces, prior to Contractor re-commencing work.

4. **The Home to be Built**

- a. Contractor will construct or have constructed the "Arbet Residence", substantially in accordance with the Plans and Specifications attached hereto as Exhibit "A" (the "Home"). The Contractor will build the home substantially in accordance with the construction plans, specifications, Exhibits, and amendments thereto, pertaining to such home, hereafter referred to as the "plans". The plans are on file with the Contractor and are available for inspection by the Homeowner(s) upon reasonable notice. The Contractor may substitute materials, fixtures, equipment and appliances of equal quality as those specified in the plans or plan specification attached. The Contractor may also make changes in construction as may be required by the Homeowner(s) mortgage lender, or any governmental authority having jurisdiction over the aforementioned property, or as may be otherwise required by material shortages, drainage considerations, work stoppages or emergencies. In the event of any increase in permit or impact fees or any change in the applicable building codes regulating construction of the home occurring after the execution of this Contract, it is agreed that Contractor may modify the plans and construction to conform to then current requirements and any cost increase resulting or increased fees shall be an additional cost and shall be paid for by Homeowner(s). In the event of a conflict between the plans and any model home inspected by the Homeowner(s), the plans will control. The Contractor's performance of its work will be governed by construction standards in Jackson County, NC. Defects which are not corrected prior to the issuance of a certificate of occupancy will not entitle Homeowner(s) to delay final payment of the purchase price, so long as the same do not prevent Homeowner(s) from living in the Home. Prior to the signing of this Agreement, the Contractor may have furnished to the Homeowner(s) a floor plan of the home. Such floor plans represent only a graphic approximation of the scale and dimensions designated therein; construction is controlled by the plans, which provide much greater detail and exactitude. The completed home may vary from the floor plan, the model, if any, and the plans as provided above and also to an extent consistent with normal trade, custom, practice and tolerance in the construction industry.
- b. Square Footage: Homeowner(s) and Contractor agree that any verbal or written representations concerning the amount of air-conditioned or non-air conditioned floor space contained in the Home (collectively the "Square Footage") are approximate in nature and are provided solely as a convenience to Homeowner(s). Homeowner(s) acknowledges that, in entering into this Contract, Homeowner(s) has not relied on any representations made by Contractor, any employee or agent

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Homeowner

Contractor

of Contractor or any other person with respect to the Square Footage. Homeowner(s) and Contractor agree that the Purchase Price of the Home is not based upon or in any way related to the Square Footage, and that neither party hereto shall be entitled to an increase nor reduction in the Purchase Price as a result of the actual square footage of the Home being greater or less than the estimated Square Footage as referenced verbally or in writing or on the working drawings as provided to Homeowner(s). The covenants contained in this Paragraph shall survive the Closing.

- c. Changes in the Work: Changes in the plans, specifications or other changes to the scope of the work contemplated in this agreement, and changes to the date of substantial completion shall be agreed upon in writing by Homeowner(s) and Contractor and summarized in a written Change Order. Contractor shall not be required to make any changes or to undertake any construction that is not provided for in the plans until Homeowner(s) and Contractor have, in writing, agreed to an adjustment in the price and time of performance. Any changes to the plans or scope of work shall be reflected in a separate written Change Order which shall be an Addendum to this agreement and shall be payable to Contractor in full at such time as each separate Change Order is submitted by Homeowner(s) (Either Before the work is completed or by the end of each application for payment period). ~~In addition to the payment for the requested change, Homeowner(s) expressly agrees to pay to Contractor an administrative fee in an amount of \$200.00 for each separate Change Order as consideration for Contractor's agreement to such Change Order.~~ Payment for such additional options, and the administrative fee(s) are non-refundable unless Contractor is unable to provide Homeowner(s) with either a selection or a substitute selection of similar quality. Due to cost and quality control considerations and construction operation scheduling requirements, no requests for Change Orders will be accepted by Contractor after drywall installation.
- d. Built-Ins: Homeowner(s) shall assume all liability for any audio, video, T.V., Surround Sound, or Stereo components that Homeowner(s) may request to be incorporated into built-in designs of the home. Homeowner(s) shall assume all additional costs associated with modifications to Built-ins required to accommodate Homeowner(s)'s audio, video, T.V., or stereo components.
- e. Selection of Materials and Appliances: Homeowner(s) shall endeavor to make all selections of colors, grades or other options prior to issuance of building permit. All exterior colors and materials selection shall be made prior to Architectural Review Board submittal. All final selections will need to be completed by the pre-drywall walkthrough. Selections shall be made and materials furnished by Riverstone Development Group, Inc. approved suppliers and Contractors only. Construction of the home will not commence until Homeowner(s) has signed preliminary drawings and completed selection form. If commencement of construction is delayed by Homeowner(s) for any reason or at any time, Contractor reserves the right to adjust the contract price for any price increase implemented after the date of this contract and for extended General Condition costs for the delay equal to the originally budgeted cost per day general condition amount. Failure of Homeowner(s) to make such selections shall entitle Contractor to make selections on behalf of Homeowner(s). Homeowner(s) acknowledges having been informed that there is a possibility, due to the material shortages and/or equipment shortages in the construction industry at any particular time that it may not be possible for Contractor to use exact materials and appliances specified or as shown in any models displayed by Contractor. Homeowner(s) agrees that Contractor may substitute materials and appliances so long as the same are of similar or better quality and of comparable appearance, finish and size. If Contractor upgrades materials or appliances in order to fulfill this obligation, there will be no added cost imposed upon Homeowner(s).
- f. Placement: The direction of the home shall be situated pursuant to the site survey with an optional side facing attached garage. ~~If the homeowner elects to add the optional detached~~

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Homeowner.

Contractor.

~~garage, additional monies are to be paid by Homeowner(s) at time of contract change order for building the optional detached garage.~~

- g. ~~Rock Removal:~~ ~~All rock removal or any~~ Any rock removal ~~required~~ requiring blasting / jack hammering shall be specifically excluded from this contract. Any costs required for the removal or jack hammering of rock to facilitate the installation of the home, utility lines, and septic/water shall be additional costs to be paid by Owner to Contractor for these services.

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5. Relationships of the Parties

- a. The Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Homeowner(s) to exercise the Contractor's skill and judgment in furthering the interests of the Project. The Homeowner(s) agrees to furnish and approve, in a timely manner, information required by the Contractor and to make payments to the Contractor in accordance with the requirements of the Contract Documents.
- b. 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.

6. The Contract Documents

- a. The Contract Documents consist of this Agreement, Plans, Specifications, Addenda, change orders, 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 negotiation, representations, or agreements, either written or oral. If anything in the other Contract Documents is inconsistent with this Agreement, this Agreement shall govern.

7. Closing and Closing Costs

~~The closing, including the issuance of title insurance, will take place at Coward, Hicks & Siler P.A., 705 West Main Street, Sylva, NC 28779. The closing date shall be specified in a written notice by Contractor to Homeowner(s) in the manner hereinafter provided for the giving of notice; provided such written notice shall be given not less than seven (7) days prior to the date specified in the notice as the closing date. The closing shall take place on the closing date at the place and at the time specified in the written notice herein provided for.~~

- a. ~~Closing shall take place no later than thirty (30) days of written notice from contractor. In the event Homeowner(s) fails to close this transaction in the time established for, reasons other than Contractor's default or delay, and Contractor agrees to extend the closing, Homeowner(s) shall be required to pay interest on the purchase price equal to the highest rate by law from the date on which the closing was originally scheduled, to and including the date on which the closing actually occurs.~~
- b. ~~The title which Contractor obligates itself to deliver to Homeowner(s) at the closing will be a marketable title subject to the following matters: (i) real estate taxes for the year in which the transaction is closed; (ii) the mortgage, if any, assumed or executed by Homeowner(s); (iii) restrictions, conditions, reservations, limitations and easements of record; (iv) zoning and building laws of the appropriate municipality; (v) covenants and easements created or to be created in favor of the municipalities, public and private utilities, and the Contractor or Homeowner(s), associations for the installation and maintenance of utilities, lines, mains, pipes, poles, wires, tunnels, basins, canals, etc. with right of access to service the same; (vi) the usual exceptions contained in an owner's policy of title insurance by title insurance companies in the County wherein the premises are located. Homeowner(s) agrees that the purchase and occupancy of the premises, and the obligations of Homeowner(s), will, at all times, be subject to the provisions of the HOMEOWNER(S) ASSOCIATION documents, copies of which has been delivered to Homeowner(s).~~

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Homeowner

Contractor

~~e. Costs to be paid by Homeowner(s). All costs and expenses in connection with the closing, unless otherwise indicated in this Agreement, will be paid by the Homeowner(s). Such costs shall include, but not be limited to: (1) Advance maintenance fees for the remainder of the quarter in which closing occurs. If closing occurs in the last month of a quarter, the Homeowner(s) shall pay maintenance fees for the remainder of the month in which closing occurs and for the following quarter; (2) An initial contribution to the Home Homeowner(s)s Association of \$200.00; (3) Homeowner(s)s share of any periodic assessments charged by the Homeowner(s)s Association from the date of closing to the end of the assessment period in which closing occurs and any capital contributions required by the association and provided for by the Homeowner(s)s Association Documents AND ALL MONTHLY HOME OWNERS ASSOCIATION DUES from closing of loan forward; (4) Cost of Owner's Title Policy, Search Fee, Title Exam Fee, Closing Fee, Documentary Stamps on Deed, Any Deposits, Installation Charges or Hookup Fees for Utilities, Homeowner(s)s own Hazard & Liability Insurance, Attorney's Fees for Homeowner(s)s Attorney (if any), Express Mail and Courier Charges, Default Interest (if any); (5) Cost of Mortgage Title Insurance including endorsements, additional closing fee, mortgage intangible tax, mortgage documentary stamp tax, recording lenders documents, application fee, appraisal fees, credit report fee, escrow for taxes and/or insurance, tax service fee, discount points, prepaid interest, flood insurance (if required), termite inspections, and any other charges imposed by Homeowner(s)s lender; (6) Property taxes and solid waste for the current year will be prorated as of the date of loan closing; (7) The expense of recording the deed, any mortgage and certificate of approval in the Public Records of the county where the Lot is located;~~

8. Date of Commencement and Date of Completion

- a. The date of commencement of the Work shall be the later of five (5) days from 1) receipt of all permits, and Architectural Review Board approval 2) date of execution of this agreement, and 3) Notice of Commencement filed and recorded by Homeowner(s); and 4) Contractor's receipt of a letter from the Homeowner(s) mortgage lender agreeing to the construction draw schedule and stating that there is money available to the Homeowner(s) for construction draws against this contract or, if Homeowner(s) is not securing a Construction Loan, written evidence to Contractor's reasonable satisfaction, evidencing Homeowner(s)s financial ability to pay the Contract Sum OR Escrowed funds to cover 100% of the contract costs 6) Home site excavated and foundation wall poured.
- b. The Contract Time shall be measured from the Date of Commencement. The Date of Commencement shall be established by the date the foundation wall of the home is poured. Time limits stated in the Contract Documents are of the essence of the Contract. If the Contractor is materially delayed at any time in progress of the Work by changes ordered in the Work by Homeowners, or by labor disputes, fire, unusual material delay in deliveries, unavoidable casualties or other causes beyond the Contractor's control, the Contract Time shall be extended by Change Order for such time.
- c. The Contractor shall achieve Substantial Completion not later than Ten (10) months after the Date of Commencement. Substantial Completion shall be achieved upon the issuance of the final Certificate of Occupancy or by a temporary Certificate of Occupancy, by the appropriate municipal authority. The Contractor shall request an extension to the date of Substantial Completion for each rain day(s) or day(s) lost due to Adverse Weather Conditions.
- d. Homeowner(s) shall not direct or interfere with workers. Homeowner shall be responsible for additional costs if directing workers onsite.
- e. The Homeowner(s) shall not store personal property in, take possession of, nor occupy the premises, in any manner, until (1) Contractor receives the Certificate of Occupancy. (2) final

payment is made to the Contractor, and (3) the Contractor completes Punch List items and the same are accepted in writing by Homeowner(s) as complete.

9. Remedies For Default

- a. Default by Homeowner(s): Each of the following shall constitute an act of default by Homeowner(s): 1) Failure to make all deposits as scheduled; or 2) Failure to timely execute and deliver all documents reasonably required by Contractor or the mortgage lender (if any) prior to or at closing; or 3) Failure to make selections of materials for the home in a timely manner as determined solely by the Contractor; or 4) Failure to comply with any other term or condition of this Agreement (including any amendments hereto); or 5) Recording this Agreement in the public records. 6.) Failure to make progress payments in a timely manner as determined solely by the Contractor. If this Agreement is not performed by the Homeowner(s) in accordance with its terms, it may be terminated by the Contractor and upon such termination the Contractor may retain all amounts paid by the Homeowner(s). Such damages are not a penalty, but represent actual damages that will be substantial but are not capable of precise determination. In such event, the Homeowner(s) will not file any action against the Contractor seeking the return of any portion of the payments made under this Agreement or any reduction in the amount of such liquidated damages. Contractor is also entitled to reimbursement for any actual expenses in addition to the non-refundable deposit received. In the event Homeowner(s) fails to close this transaction in the time established for reasons other than Contractor's default or delay, and Contractor agrees to extend the closing in accordance with this Paragraph 8.a., ~~Homeowner(s) shall be required to pay interest on the purchase price equal to the highest rate permissible by law from the date on which the closing was originally scheduled to, and including the date on which the closing actually occurs.~~
- b. Default by Contractor: If this Agreement is not performed by the Contractor in accordance with its terms, with the Contractor being in default and the Homeowner(s) not being in default hereunder, the Homeowner(s) may seek specific performance or terminate this Agreement by giving prompt seven (7) day written notice, with an additional seven (7) day period to cure such default, return receipt requested, thereof to the Contractor. No other damages, rights or remedies (whether or not the Homeowner(s) shall elect to terminate this Agreement) shall in any case be collectible, enforceable or available to the Homeowner(s), and the Homeowner(s) agrees to accept and take said payments as the Homeowner(s)' total damages and relief hereunder in such event. In connection with the payment of money hereunder to either the Contractor or the Homeowner(s), each party hereby directs any Realtor who is involved in the sale to pay whatever sums it holds under this Agreement to the party entitled to such sums.

10. Insurance

- a. The Contractor shall purchase and maintain the following insurance prior to commencement of work:
 Worker's compensation policy providing coverage for all employees of Contractor in amounts not less than minimum coverage required by law. b.) Standard comprehensive general liability policy protecting against liability for bodily injury or property damage with an aggregate limit of not less than \$1,000,000.00 for bodily injury and \$100,000.00 for property damage. Coverage shall include automobile, products/completed operation, and personal injury.
- b. The Homeowner shall purchase and maintain the following insurance prior to commencement of work:
 Standard Contractor's "Builder's Risk" policy in an amount not less than the Contract Sum minus the amount allocated to the Lot purchase, naming Homeowner(s) and Contractor as co-insured's and insuring against physical loss and damage to the property under construction. Coverage shall include, but not be limited to, protection against fire, lighting, windstorm, hail,

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Homeowner

Contractor

explosions, smoke, riots, vandalism, theft and malicious mischief, shall be obtained and paid for by Homeowner(s). In the event Homeowner(s) desires Flood Insurance, Homeowner(s) shall secure the same at Homeowner(s)'s own cost and expense. In the event of any Builder's Risk or Flood Insurance Claim, any deductibility will be the responsibility of the Homeowner(s) and not the Contractor.

11. Warranties

The making of final payment by the Homeowner(s) to the contractor of the purchase price shall constitute a waiver and complete release of all claims by the Homeowner(s) against the Contractor with respect to the aforementioned property and this agreement, except those of which the Contractor is notified in writing and are also expressly covered by the warranty. Contractor includes a One (1) year warranty on the home and specific warranties on the home mechanical systems by the individual subcontractors or manufacturers. Contractor has not made, and hereby expressly disclaims any and all implied warranties regarding the property as to its materials and workmanship, including warranties of merchantability, habitability, or suitability and quality or fitness for a particular purpose. Disputes, claims, or complaints against this warranty by the Contractor or Homeowner(s) must be referred to final and binding arbitration. Any and all expenses including, but not limited to, attorney and court costs, other than the direct fee for arbitration, will not be construed as an arbitration expense under this warranty and will be born by the party incurring such costs and expenses.

Contractor shall assign to Homeowner(s) all warranties applicable to the premises received from suppliers, subcontractors and materialmen, and any other warranties pertaining to the premises, appliances, fixtures and systems. All requests to obtain warranty work shall be made in writing and delivered to the Contractor at P.O. Box 1023, Sylva, NC 28779.

THE FOREGOING WARRANTIES AND GUARANTEES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED AND SUCH OTHER WARRANTIES ARE HEREBY DISCLAIMED, CONTRACTOR HEREBY EXPRESSLY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS OF PREMISES FOR USE FOR A PARTICULAR PURPOSE.

12. Miscellaneous Provisions

~~Financing contingency clause: Homeowner(s)'s is to obtain a mortgage commitment on the real property described in the attached contract in the amount of the Contract Sum of Seven Hundred Fifty Thousand Dollars and Zero Cents (\$750,000.00) with final contract amount to be adjusted plus or minus 10% based upon client's final selections and design changes to the Mickey Finn Cottage plan. Homeowner(s) shall, at Homeowner(s)'s expense, make application within forty-five (45) days in a good faith effort to obtain the said mortgage commitment. If Homeowner(s) fails to obtain this loan commitment on or before February 1, 2015, (the cancellation period shall be four (4) weeks from the Effective Date. Homeowner(s) shall notify Contractor in writing of his failure to obtain such commitment. Upon Homeowner(s)'s written timely notification to Contractor of his inability to obtain a mortgage loan, this contract shall stand terminated. Homeowner(s)'s failure to give written notification to Contractor before the expiration of the cancellation period shall constitute a waiver by Homeowner(s) of this mortgage commitment contingency clause.~~

- a. Broker Disclosure: Homeowner(s) and Contractor agree that none broker (other than those who are employed by Contractor) is involved in this transaction. Should the blank space not be completed in the foregoing sentence or should the word "NONE" be inserted in it the following sentence shall be deemed substituted for it: Homeowner(s) warrants and represents that NO Real Estate Broker or Salesman is involved in this purchase and sale (other than those who are employed by Contractor) and agrees to indemnify and save harmless Contractor against any

- claims of a Real Estate Broker or Salesman due to acts or omissions of the Homeowner(s) or Homeowner(s)'s representatives.
- b. The Homeowner(s) acknowledges that NO real estate agent may make any representations as to the design or construction of the home. (Statement of oral statements and written sales materials prior to this contract not deemed reliable.) Non-reliance by Homeowner(s) The Homeowner(s) hereby represents to Contractor that the Homeowner(s) has not relied on and not relying upon any warranties, promises, guarantees or representations made by the Contractor, any agent of the Contractor, or anyone else acting or claiming to act on behalf of the Contractor with respect to the purchase by the Homeowner(s) of the home or any other matters set forth herein unless specifically reduced to writing and made a part of this agreement.
 - c. **THE HOMEOWNER(S) REALIZES AND ACKNOWLEDGES THAT ENTRY UPON THE PROJECT OR THE PROPERTY DURING CONSTRUCTION CAN BE DANGEROUS AND THAT HAZARDS MAY EXIST WHICH ARE NOT OBSERVABLE. THE HOMEOWNER(S) ENTRY SHALL BE SOLELY AT HIS OWN RISK. THE HOMEOWNER(S) DOES HEREBY WAIVE ANY AND ALL CLAIMS AGAINST THE CONTRACTOR FOR INJURY OR LOSS TO PERSON OR PROPERTY ARISING OUT OF OR IN CONNECTION WITH SUCH ENTRY BY HOMEOWNER(S) OR ANY OTHER PERSON ACCOMPANYING HIM OR ENTERING AT HIS DIRECTION, AND THAT THE HOMEOWNER(S) SHALL DEFEND, INDEMNIFY AND HOLD THE CONTRACTOR HARMLESS FROM AND AGAINST ANY AND ALL INJURY, LOSS, DAMAGE OR EXPENSE TO PERSONS OR PROPERTY ARISING OUT OF OR IN CONNECTION TO ANY SUCH ENTRY. THE HOMEOWNER(S) MAY NOT ENTER THE PROPERTY WITHOUT THE CONTRACTOR'S PERMISSION.**
 - d. Signage: Homeowner(s) agrees to allow installation of Contractor's sign on Homeowner(s)'s lot consistent with signage for the area or subdivision and according to local code enforcement guidelines.
 - e. Riverstone Development Group, Inc. Financing: In the event, prior to execution of this agreement, the Homeowner(s) disclosed certain information, which induced the Contractor to accept the Homeowner(s) as a Homeowner(s). If, prior to commencement of construction the Contractor ascertains that any of the information set forth in the Homeowner(s) disclosure is inaccurate or untrue, then the Contractor shall have the right to cancel this Contract and retain all payments made by the Homeowner(s).
 - f. Inspection: The Homeowner(s) shall have the right to inspect the completed residence prior to final payment date, and to present to the Contractor "Punch List" of all uncompleted work or defective construction, which would be apparent upon reasonable inspection. The list shall be signed by the Homeowner(s) and presented a minimum of five (5) working days prior to the date of final payment. The Contractor shall make, within a reasonable time, appropriate corrections as to such "Punch List" items. **HOWEVER, NO SUCH ITEMS SHALL BE BASIS FOR DEFERRING PAYMENT OF FINAL PAYMENT (less 200% of the value of the punch-list items if necessary), UNLESS THE DEFECTS COMPLAINED OF, IN THE CONTRACTOR'S OPINION, RENDER THE RESIDENCE UNTENANTABLE.**
 - g. Entire contract/governing law: This contract, including any documents, referred to in this Contract, constitutes the entire agreement between the parties and supersedes any prior oral or written understandings, negotiations and representations, advertising, promotional activities, maps, artists' renderings, conceptual presentations or otherwise, made by Contractor or Contractor's agents shall in any way be binding on Contractor and will be of no force or effect unless expressly set forth in this Contract as to the Home, without limitation. This contract is entered into North Carolina and shall be governed by the law of North Carolina. Venue shall be in JACKSON COUNTY, NORTH CAROLINA. This contract may not be modified except in

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Homeowner

Contractor

writing, signed by all parties hereto. The failure of either party to require strict performance and compliance with this Contract shall not constitute a waiver or modification of any provision of this Contract or of any subsequent incident of noncompliance with the terms of this Contract.

Attorney Fees: The parties to this Contract agree that in the event that the Contractor has to retain an attorney or to file suit to enforce any portion of this agreement the Homeowner(s) shall be obligated to pay the attorney fees and costs of the Contractor in enforcing the contract.

- h. Legally Binding Contract: This is a legally binding Contract which binds the parties and their respective heirs, assigns, personal representatives and successors in interest. HOMEOWNER (S) ACKNOWLEDGES THAT HOMEOWNER(S) HAS READ THIS CONTRACT AND HAS HAD AMPLE OPPORTUNITY TO SEEK LEGAL COUNSEL CONCERNING THIS CONTRACT.

- i. Contract not Recordable; Persons Bound; and Notice. Neither this Contract nor any notice of it shall be recorded in any Public Records; to do so is a substantive breach of this Contract. Execution of this Contract shall not create any lien or lien right in favor of the Homeowner(s), the Homeowner(s) hereby expressly waiving and relinquishing any such lien or lien rights. This Contract shall bind and inure to the benefit of the parties hereto and their successors in interest, heirs and assigns. All notices required to be given under this Agreement shall be in writing and shall be sent by first class United States mail, postage prepaid, addressed to the party at the address as above stated, or at such other address notice of which said party may provide in writing from time to time. Notice given by or to the attorney for either party shall be as effective as if given by or to that party.

- j. Facsimile: A facsimile (FAX) signature will be deemed to be an original. Offer and acceptance by facsimile is binding.

- k. Joint and Several Obligation: If more than one person signs this Agreement as Homeowner(s), each such person shall be liable for full performance of all Homeowner(s)'s duties and obligations under it. In addition, either one of them is authorized to act as the agent for, with the right to bind, the other(s) in all matters of every kind or nature with respect to this Agreement. Contractor may enforce this Agreement against each of the Homeowner(s)'s as individuals or together. The Homeowner(s) representative for this project will be Scott Arbet.

- l. Access and Easement: The Homeowner(s) hereby grants to, and the Contractor hereby reserves, an easement for ingress and egress for itself, its employees, agents, subcontractors, designees, and assigns, over and upon the front, side and rear portions of the Lot and Home as may be required by Contractor in the construction, servicing and completion of the premises or any adjoining premises or adjacent improvements. These easements shall continue until sixty (60) days after the completion of the premises or adjoining premises or adjacent improvements, whichever occurs last and shall survive the closings. This agreement may be executed in multiple counterparts, any one of which shall be deemed to be an original, but all of which shall constitute one and the same instrument.

- m. Assignment: Neither this Agreement, nor the rights or obligations hereunder, may be assigned in whole or in part, and any attempt at assignment will be a nullity and will constitute the Homeowner(s) in default under this Agreement.

- n. Time is of the essence of this agreement: All of the parties covenant and agree that the courts of the state of North Carolina shall have personal jurisdiction over the parties to this Agreement for the sole and exclusive purpose of interpreting or construing its content. This agreement may be executed in multiple counterparts, any one of which shall be deemed to be an original, but all of which shall constitute one and the same instrument.

- o. Radon Gas: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed Federal and State guidelines have been found in buildings in

South Carolina. Additional information regarding Radon and Radon testing may be obtained from your County Public Health Unit. Contractor assumes no liability for the presence of Radon Gas in the home.

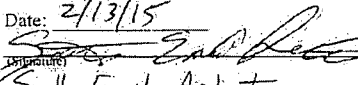
Utilities: Homeowner and Contractor both agree that sufficient utilities (water, sewer connection / septic availability and power) shall be provided at the homesite by the development without cost to the Contractor. Contractor shall pay for temporary utilities consumption costs only during the construction period. If the development does not have sufficient utilities (water, sewer connection / septic availability and power) then the Contractor will install or provide the required temporary utilities at an additional cost to the Homeowner via a Change Order to the contract for the associated costs to provide and maintain the temporary utilities during construction. Homeowner(s) agrees to transfer all utilities from Contractor's account to their own within 24 hours of the Certificate of Occupancy date. Homeowner(s) further agrees that if they fail to do so Homeowner(s) will pay to the Contractor all utility bills after the closing date plus a \$100 processing fee to the Contractor.

Flood Zone: Homeowner(s) acknowledges that this single-family lot within The Cliffs at Keowee Springs may be located in an area designated as a potential flood zone by the Federal Emergency Management Agency (FEMA). In the event that Homeowner(s) seeks financing through an institutional lender (i.e. bank, life insurance company, federal or state savings and loan association, mortgage investment trust, etc.), Homeowner(s) may be required to secure flood insurance at their sole cost.

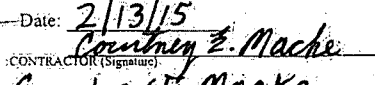
Mold: Mold is a type of fungus occurring naturally in the environment. Residential construction is not, and cannot be, designed to exclude mold spores. Whether or not Homeowner(s) as a Home Owner experiences mold growth depends largely on how Homeowner(s) manages and maintains the Home. Contractor's responsibility is limited to things that it can control, and Contractor will repair or replace defects in its construction only for the applicable periods designated in accordance with Contractors written warranty. Homeowner(s) agrees that the exclusive remedy for damages caused by mold or other fungi shall be limited to recovery in accordance with Contractors written warranty.

13. Addendums:

- Exhibit A: House Plan Identified As Modified Arbet Residence Contract Set, Dated TBD.
- Exhibit B: Finish Specifications TBD
- Exhibit C: Schedule of Values TBD
- Exhibit D: Allowance Log TBD
- Exhibit E: Financing Contingency
- Exhibit F: Mold Disclosure
- Exhibit G: Broker Disclosure
- Exhibit H: Homeowners Association Disclosure

Date: 2/13/15
 Signature: 
 Scott Emil Arbet
 (Printed name and title)

Signature: _____
 (Print name and title)

Date: 2/13/15
 Signature: 
 Courtney E. Macke
 (Printed name and title)

Page: 10 of 10

Created on 2/13/2015 12:27:00 PM 2/12/2015 11:44:00 AM

Homeowner

Contractor

Exhibit "B"

1053

Arbet Residence: JHK Residentail Designs



Riverstone
Development Group

anne

Item No.	ITEM	Main & Upper	FROM CHANGES	Total	% of Total	\$ PER GSF
1	mobilization and start up	\$ 10,000		\$ 10,000	2.29%	\$ 2.74
2	General Conditions	\$ 75,950		\$ 75,950	18.55%	\$ 20.98
3	Permit Fees Allowance	\$ 2,000		\$ 2,000	0.23%	\$ 0.56
4	Temporary Utilities & Utilities	\$ 10,510		\$ 10,510	0.40%	\$ 2.94
5	Pump Out	\$ 4,000		\$ 4,000	0.48%	\$ 1.09
6	Jobsite Storage	\$ 1,800		\$ 1,800	0.05%	\$ 0.05
7	Survey/Comp. & Electric Layout	\$ 2,100		\$ 2,100	0.21%	\$ 0.58
8	General Excavation	\$ 1,000		\$ 1,000	0.11%	\$ 0.28
9	Temporary Protection	\$ 500		\$ 500	0.06%	\$ 0.14
10	Paving	\$ 2,000		\$ 2,000	0.24%	\$ 0.54
11	Acoustic Engineering from other building	\$ 2,950		\$ 2,950	0.31%	\$ 0.81
12	Well Drilling	\$ 1,000		\$ 1,000	0.00%	\$ 0.28
13	Septic System	\$ 6,000		\$ 6,000	0.69%	\$ 1.62
14	Water Sewer Power Connection	\$ 1,500		\$ 1,500	0.07%	\$ 0.41
15	Drain Pipe / Sleeve at drive	\$ 500		\$ 500	0.00%	\$ 0.14
16	Electrical Service to Main House	\$ 15,000		\$ 15,000	1.72%	\$ 4.05
17	Haul Stone & M&L Gravel	\$ 2,500		\$ 2,500	0.29%	\$ 0.68
18	Rock Removal	\$ 1,000		\$ 1,000	0.00%	\$ 0.28
19	Irrigation	\$ 1,000		\$ 1,000	0.00%	\$ 0.28
20	Landscaping & Trees M&L Allowance	\$ 15,000		\$ 15,000	1.07%	\$ 4.09
21	Hardscape & Site Slope Stone Allowance	\$ 500		\$ 500	0.07%	\$ 0.08
22	Concrete Foundation	\$ 200		\$ 200	0.00%	\$ 0.08
23	Floor & Foundation Allowance	\$ 10,000		\$ 10,000	1.58%	\$ 5.39
24	Water Plumbing	\$ 1,500		\$ 1,500	0.42%	\$ 0.50
25	Floor Slab	\$ 2,200		\$ 2,200	0.25%	\$ 0.58
26	Garage Slab	\$ 5,200		\$ 5,200	0.60%	\$ 1.42
27	Gravel Drive & Driveway	\$ 1,000		\$ 1,000	0.04%	\$ 0.14
28	Masonry Material & Labor - Pavers at front porch	\$ 5,500		\$ 5,500	0.63%	\$ 0.75
29	Gravel Fill - Garage & Porch	\$ 2,000		\$ 2,000	0.28%	\$ 0.57
30	Stacked Stone M&L Tenn Stack Allowance	\$ 15,000		\$ 15,000	1.72%	\$ 4.09
31	Floor Joist & Trusses at level	\$ 7,650		\$ 7,650	0.88%	\$ 1.95
32	Open Web Steel Trusses (main)	\$ 7,870		\$ 7,870	0.84%	\$ 1.91
33	Roofing & Siding material	\$ 8,250		\$ 8,250	0.94%	\$ 2.18
34	Gable Siding Trusses	\$ 3,520		\$ 3,520	0.40%	\$ 0.93
35	Framing Material Package	\$ 20,000		\$ 20,000	1.58%	\$ 5.39
36	Framing Labor Package	\$ 11,900		\$ 11,900	1.38%	\$ 3.05
37	Goin Vault & Associated Framing	\$ 500		\$ 500	0.00%	\$ 0.14
38	Deck Material	\$ 3,000		\$ 3,000	0.92%	\$ 1.10
39	Deck Labor	\$ 4,000		\$ 4,000	0.45%	\$ 0.99
40	Exterior Siding System (M&L)	\$ 2,000		\$ 2,000	0.23%	\$ 0.56
41	Exterior Siding Scaffolding	\$ 15,000		\$ 15,000	1.72%	\$ 4.09
42	Exterior Siding and Scaffolding Material	\$ 16,000		\$ 16,000	2.08%	\$ 4.42
43	Exterior Siding Labor	\$ 5,000		\$ 5,000	0.58%	\$ 1.35
44	Exterior Siding Material	\$ 2,000		\$ 2,000	0.23%	\$ 0.57
45	Soffits Material incl. in cornice	\$ 1,000		\$ 1,000	0.00%	\$ 0.28
46	Flashing & Bb's	\$ 1,500		\$ 1,500	0.05%	\$ 0.41
47	Gutters	\$ 3,900		\$ 3,900	0.68%	\$ 0.91
48	Metal Roofing Material & Labor	\$ 1,000		\$ 1,000	0.00%	\$ 0.28
49	Siding & Roofing Material	\$ 13,000		\$ 13,000	0.78%	\$ 3.09
50	Roofing Labor	\$ 5,400		\$ 5,400	0.62%	\$ 1.42
51	Metal Roof Labor	\$ 500		\$ 500	0.00%	\$ 0.14
52	Structural steel Columns at rear porch Allowance	\$ 500		\$ 500	0.00%	\$ 0.14
53	Finish Floor Materials	\$ 1,000		\$ 1,000	0.69%	\$ 0.82
54	Interior Wood Beams and Interior Finish	\$ 16,000		\$ 16,000	0.94%	\$ 4.04
55	Exterior Wood Beam Package at level Allowance	\$ 16,650		\$ 16,650	1.91%	\$ 4.28
56	Interior Wood Beam @ main level Allowance	\$ 8,000		\$ 8,000	0.92%	\$ 1.91
57	Interior Wood Beams @ Lower M&L Allowance	\$ 700		\$ 700	0.00%	\$ 0.18
58	Interior Siding	\$ 2,700		\$ 2,700	0.31%	\$ 0.72
59	Interior Siding	\$ 2,000		\$ 2,000	0.23%	\$ 0.56
60	Interior Siding	\$ 15,000		\$ 15,000	0.94%	\$ 3.74
61	Fireplace Stone Surround	\$ 1,800		\$ 1,800	0.21%	\$ 0.52
62	Veneer	\$ 1,400		\$ 1,400	0.02%	\$ 0.05
63	Additional interior stone at kitchen bar	\$ 0		\$ 0	0.00%	\$ 0.00
64	Cabinets & Bulln's Allowance	\$ 28,270		\$ 28,270	3.24%	\$ 7.88
65	Granite Countertops Allowance	\$ 10,800		\$ 10,800	1.24%	\$ 3.48
66	Custom Range Hood Allowance	\$ 0		\$ 0	0.00%	\$ 0.00

ACSF	
Lower Level	1,616
Main Floor	2,115
Garage Suite	458
Total ACSF	4,189
Upper porch/deck	461 x
garage	756 x
mech at terrace	246 x
storage at Terrace	53 x
Lower Decks	1,250 x
Front Porch	335 x
Total GSF	7,290 x

CFM

no built ins & bar revision
less at lower bar

Page 1

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Arbet Residence: JHK Residential Designs



Riverstone
Development Group

anne

* 167	Bath #1 & 2 Granite Counter/Top	Allowance	\$ 1,500	\$ 1,500	100.00%	\$ 1,500
* 168	Rough/Final Clean		\$ 1,500	\$ 1,500	100.00%	\$ 1,500
* 169	Installation		\$ 1,000	\$ 1,000	100.00%	\$ 1,000
* 170	Front Door	Allowance	\$ 1,500	\$ 1,500	100.00%	\$ 1,500
* 171	Windows/Doors	Allowance	\$ 10,239	\$ 10,239	100.00%	\$ 10,239
* 172	Door Hardware & Bath Accessories		\$ 1,000	\$ 1,000	100.00%	\$ 1,000
* 173	Dry Wall		\$ 20,000	\$ 20,000	100.00%	\$ 20,000
* 174	Painting		\$ 18,000	\$ 18,000	100.00%	\$ 18,000
* 175	Wood Flooring (1550 Up & 1770 Down) Allowance		\$ 17,400	\$ 17,400	100.00%	\$ 17,400
* 176	Ceramic Tile Material	Allowance	\$ 6,375	\$ 6,375	100.00%	\$ 6,375
* 177	Installation Labor		\$ 12,000	\$ 12,000	100.00%	\$ 12,000
* 178	Carpeting	Allowance	\$ 2,000	\$ 2,000	100.00%	\$ 2,000
* 179	Stucco		\$ 3,000	\$ 3,000	100.00%	\$ 3,000
* 180	Gym flooring	Allowance	\$ 11,950	\$ 11,950	100.00%	\$ 11,950
* 181	Shutters & Crown Molding		\$ 1,200	\$ 1,200	100.00%	\$ 1,200
* 182	Mirrors		\$ 1,100	\$ 1,100	100.00%	\$ 1,100
* 183	Shower Enclosure		\$ 2,900	\$ 2,900	100.00%	\$ 2,900
* 184	Closet Shelving	Allowance	\$ 2,000	\$ 2,000	100.00%	\$ 2,000
* 185	Mail Box / Entry Columns		\$ 1,000	\$ 1,000	100.00%	\$ 1,000
* 186	Plumbing Labor		\$ 12,500	\$ 12,500	100.00%	\$ 12,500
* 187	Gas Line		\$ 1,500	\$ 1,500	100.00%	\$ 1,500
* 188	Plumbing Fixtures (Ferguson) Allowance		\$ 7,682	\$ 7,682	100.00%	\$ 7,682
* 189	HVAC		\$ 20,425	\$ 20,425	100.00%	\$ 20,425
* 190	Electrical		\$ 20,550	\$ 20,550	100.00%	\$ 20,550
* 191	Electrical Fixtures (Ferguson) Allowance		\$ 6,000	\$ 6,000	100.00%	\$ 6,000
* 192	Appliances (Ferguson) Allowance		\$ 10,500	\$ 10,500	100.00%	\$ 10,500
* 193	Home Security System Allowance		\$ 1,000	\$ 1,000	100.00%	\$ 1,000
* 194	Driveway/gravel	Allowance	\$ 8,000	\$ 8,000	100.00%	\$ 8,000
* 195	Screen Enclosure	Optional	\$ 1,000	\$ 1,000	100.00%	\$ 1,000
* 196	Brick lined walls at Billiards RM (L&M and Framing)		\$ 1,000	\$ 1,000	100.00%	\$ 1,000
* 197	Generator / Temp heat		\$ 1,000	\$ 1,000	100.00%	\$ 1,000
* 198	Builder's Risk Insurance BY OWNER		\$ 1,000	\$ 1,000	100.00%	\$ 1,000
* 199	Elevator		\$ 1,000	\$ 1,000	100.00%	\$ 1,000
* 200	Generac 20 KW Whole house Generator		\$ 1,000	\$ 1,000	100.00%	\$ 1,000
* 201	Interest Carry Post (3 Months)		\$ 1,000	\$ 1,000	100.00%	\$ 1,000
* 202	Garage door		\$ 6,700	\$ 6,700	100.00%	\$ 6,700
* 103	Liability Insurance		\$ 7,610	\$ 7,610	0.87%	\$ 1.04
* 104	RDG Construction Fee		\$ 104,765	\$ 104,765	12.00%	\$ 14.37
	Total		\$ 873,399	\$ 873,399	100.00%	\$ 119.81
						\$ 208.50

less bar window.

less bath #3 enclosure

added tub at bath 3.

* Items were changed as per Scott Arbet
VE changes 4/9/15.

BA
CEM

* Owner added changes included in main budget
Additional 800 SF of 2 bedrooms, 1 bath, exercise room,
billiards room, billiards exterior, lower bar space and kitchen,
exterior deck on both sides

3053

Arbet Residence: JHK Residential Designs



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Development Group

anne

x	Additional foundation at billiards	\$ 7,500	\$ 7,500	5.46%
x	Additional Framing at lower M&L	\$ 8,200	\$ 8,200	5.97%
x	Add deck M&L	\$ 5,000	\$ 5,000	3.64%
x	Add deck railing M&L	\$ 1,000	\$ 1,000	0.73%
x	Additional trim M&L	\$ 2,500	\$ 2,500	1.82%
x	Added interior doors	\$ 2,400	\$ 2,400	1.75%
x	Additional Granite and bowls at the lower level	\$ 2,230	\$ 2,230	1.62%
x	Additional Painting at the lower level	\$ 10,000	\$ 10,000	7.27%
x	Additional Tile Labor at bathrooms & mech. M&L	\$ 6,650	\$ 6,650	4.84%
x	Additional Cabinets and built-ins at Lower level	\$ 14,490	\$ 14,490	10.54%
x	Additional Elect. Fixtures	\$ 1,100	\$ 1,100	0.80%
x	Additional Electrical M&L	\$ 3,500	\$ 3,500	2.55%
x	Additional beams at game room & dining	\$ 3,000	\$ 3,000	2.18%
x	Screen enclosure Option	\$ 3,000	\$ 3,000	2.18%
x	Out door lower porch fireplace option w/ Stone & gas	\$ 9,500	\$ 9,500	6.91%
x	Lower gameroom fireplace option w/ Stone & gas	\$ 9,000	\$ 9,000	6.55%
x	Stairs from upper deck to the lower option	\$ 3,000	\$ 3,000	2.18%
x	Additional Insulation	\$ 2,500	\$ 2,500	1.82%
x	Door hardware and bath accessories	\$ 800	\$ 800	0.58%
x	Additional Gym Flooring at lower	\$ 950	\$ 950	0.69%
x	Additional hardwood flooring for billiard Rm. M&L	\$ 1,550	\$ 1,550	1.13%
x	Additional Carpeting in the bedrooms	\$ 1,600	\$ 1,600	1.16%
x	Additional Shelving	\$ 400	\$ 400	0.29%
x	Additional Shower Door	\$ 1,010	\$ 1,010	0.73%
x	Additional Plumbing fixtures M&L	\$ 3,000	\$ 3,000	2.18%
x	Additional HVAC M&L	\$ 3,900	\$ 3,900	2.84%
x	Additional Windows and a slider at the billiard room	\$ 5,500	\$ 5,500	4.00%
x	Additional Drywall	\$ 5,000	\$ 5,000	3.64%
x	Additional siding & Exterior paint - 2 walls / billiard	\$ 1,500	\$ 1,500	1.09%
x	Liability Insurance	\$ 1,198	\$ 1,198	0.87%
x	RDG Construction Fee	\$ 16,489	\$ 16,489	12.00%
	Sub Total of Added Items from Prelim Pricing	\$ 137,467	\$ 137,467	94.54%

4/9/15
As discussed,
These Items
Not included in
our base price.

x	Lower exterior painted walls & deck railing	\$ 74,100	\$ 74,100	80.29%
x	Additional items above the garage	\$ 33,000	\$ 33,000	28.65%

4/9/15
Optional Items to
Add to base price.

CEM

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EXHIBIT "C"**FINISH SPECIFICATIONS FOR ARBET RESIDENCE**

Scott and Deanna: As a recap to the pricing, the following specifications, allowances and assumptions were made based upon our previous conversations.

Exterior Specifications: Exterior Foundation wall engineering, Survey and subsurface compaction tests for footings, septic system as per permit and allowance, utility conduits, trenches and connections as per allowance, Poured concrete foundation wall at front of the home, rear wall and left/right side, partial wood framed sub-terrace level wall on top of poured wall at right/left side and rear wall as per the allowance, all framed exterior walls to be 2x6 wood walls with R-19 exterior wall insulation, exterior wall air sealing insulation, interior walls to be 2x4 wood framed walls except where indicated or required to be 2X6; walls against concrete foundation to full wood framed walls, exterior waterproofing to be a Tuff-N-Dry system or equal, Exterior wall skin to be zip wall sheeting, stucco at sub-terrace walls, Stucco finish to be a skip trowel finish, Exterior siding to be natural cedar shake shingle; Nichiha exterior cementitious siding, stain grade Pine or equal, Nichiha Board and Batten, stain grade Pine or equal, Miratec or Pine trim boards and soffits/fascia, exterior colors to be two colors of body with a trim color, exterior beams and brackets to be a stained finish, stack stone exterior per the allowance, exterior decorative beam package to be pressure treated material as per the allowance, Main level and lower level exterior deck to be framed with pressure treated 5/4" decking, exterior porch railings to be pressure treated 2x6 and 2x4 railings with wooden pickets, Front porch to be poured concrete with stone steps to grade, roofing to be Architectural dimension high definition asphalt shingles, Custom Front door to be selected as per allowance, Windows and exterior doors to be Quaker, Hurd or equal, exterior deck posts to be 8"x8" pressure treated with exterior decorative timbers package as per the allowance to match the main front entry design per the plans, custom shutters and hardware, 6" half-round bronze colored gutters and downspouts, driveway to be gravel subgrade with finished Nolen-chucky gravel as per the allowance, exterior crab orchard stepping stone pavers as per the hardscape allowance from driveway to the front porch, garage doors to be natural wood stain grade veneered insulated doors with square top glass and belt drive automatic openers and keypad.

Interior Specifications: Australian Cypress or equal random length, clear sealed hardwood flooring in foyer, lodge, kitchen, dining, guest, laundry, master, Lower game room, Lower Bar, Lower Billiards, bathrooms floors and master shower, bedroom 3 shower, lower level bath shower, and all bathroom floors to be tile, carpet all other bedrooms and master closet, gym flooring at workout room, Custom cabinet package with 42" upper cabinets, level I granite countertops throughout with under-mount bowls, 10' tall interior walls at main and lower level, R-11 sound insulation in the floor system, plumbing walls and master bedroom walls, and R-38 blown and batt insulation in the ceilings, fireplaces to be metal prefabricated boxes with metal flue liners concealed in chimney chase with metal exterior shrouds, Exterior chimney to have thin sliced veneer stone as part of the stacked stone allowance, fireplace sizes to be Lodge Room 42", Main level Covered Porch 36" stainless steel and stone façade at fireplace mantels to be natural thin stone veneered up to the custom hand-hewn mantel or had hewn existing tree mantel, 8'-0" solid wood interior doors with stained finish, painted 1X6 base and 1X4 casing trim, interior stairs to be wood stairs for riser and treads with wood top rail and metal pickets railing system, interior beam details to be as per the allowance and included in the Lodge room and entry as per the allowance, Emtek door hardware throughout, interior walls to be drywall with light skip trowel applied finish, walls to be painted with up to two wall colors and ceiling color, closet shelving as per allowance, mirrors to be standard plate glass mirrors wrapped with trim, shower enclosures to be heavy clear glass frameless in oil rubbed bronze finish at the master, guest bathroom and Lower level bath shower, appliances to be Whirlpool Gold as per the allowance, HVAC system to be two units by Trane or equal, gas lines to both fireplaces and kitchen range, plumbing fixtures as per the allowance, electrical to be code minimum with can lights as per the plans, electrical fixtures as per the allowance, Attached garage to have matching finishes to the home for both exterior and interior.

possibly (3) gas lanterns, 2 at front door
1 on post

CEM

EXHIBIT "C"**ALLOWANCES FOR ARBET RESIDENCE****Allowances:**

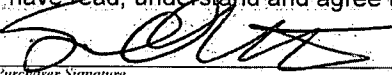
1. Permit Fees	\$ 2,030	As per Pickens County Permitting
2. Landscape & Trees	\$ 5,000	Landscape design & owner selections
3. Hardscapes: Site Stepping Stone	\$ 600	Stepping stones to front porch
4. Footings & Foundation	\$ 40,000	Quantity based upon in place concrete
5. Gravel Fill at Garage and front porch	\$ 2,000	Gravel at garage and front porch as per allowance.
6. Stacked Stone Material & Labor	\$ 15,000	Tennessee Stacked Stone as measured in place
7. Exterior Wood Beam Package	\$ 16,650	Doug Fir stain grade custom exterior front entry package
8. Interior Wood Beams at Main Level	\$ 8,000	Wood beams at Lodge Room and Foyer
9. Cabinets	\$ 28,270	Cabinets with no built ins
10. Granite Countertops	\$ 10,800	Granite countertops with under-mount bowls throughout
11. Front Door Allowance	\$ 1,500	Stain grade 8-0 front door and hardware per selection
12. Windows and Exterior Doors	\$ 40,239	Stain Grade windows with grids
13. Wood Flooring	\$ 17,400	Australian Cypress in clear sand and sealed in place
14. Ceramic Tile Materials	\$ 6,375	Tile materials & setting/bedding materials
15. Carpeting	\$ 2,000	Carpeting to be upgraded pad & premium carpet
16. Gym Flooring	\$ 950	Standard grey cushioned flooring
17. Stucco at Foundation	\$ 3,000	Stucco at sub terrace crawl wall
18. Closet Shelving	\$ 2,000	Standard vented shelving in all closets
19. Plumbing Fixtures	\$ 7,682	Kohler / Moen fixtures throughout
20. Electrical Fixtures	\$ 6,000	Lighting package as designed by Ferguson
21. Appliances	\$ 10,500	Whirlpool Gold appliances
22. Driveway Finish Gravel	\$ 8,000	Nolen-chuky finished gravel at drive & turnaround

Total Price for Home, Attached Garage, Sitework, and Allowances: Current Price as of 4/9/15 without client's final finishes decisions and pricing \$ 873,399.00 including client's VE list selections of items 7, 8, 9, 10, 11, 18 and removal of bar serving window.

Exclusions:

This pricing does not include the following: The Cliffs at Keowee Springs submission/approval fees or deposits, Builder's Risk Insurance, metal roofing, rock removal, any retaining walls (will stack and reuse existing boulders on site), elevator block out framing, screen enclosure at main level porch, fireplaces at lower level game room and lower level porch, stairs to upper level porch from lower level porch, finished guest suite excluded (wood framed walls to support roof only, wood floor system with insulation in the floor), security system, electric power line to dock, any electrical work at dock, waterline to dock, cart path to dock or fire pit area, guardrails at driveway, turnaround or cart path, rear lower level open terrace and lower level deck/porch.

I have read, understand and agree to the above:


Purchaser Signature

Date: _____

Purchaser Signature

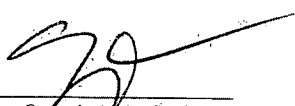
Date: _____

EXHIBIT "D"
ALLOWANCE LOG
ARBET Residence
Contract Allowance Adjustments
Through 4/15/2015

Job # CKS
15--001

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PCO.#	ALLOWANCE ITEM	ORIGINAL	VENDOR/	CURRENT	BALANCE
101	Permit Fees (Home/Well/Septic)	\$2,030			
		\$2,030	TOTAL	\$0	\$2,030
102	Landscape and Trees M&L	\$5,000			
		\$5,000	TOTAL	\$0	\$5,000
103	Hardscapes: Site Stepping Stone:	\$600			
	Materials and setting				
		\$600	TOTAL	\$0	\$600
104	Footings and Foundation M&L	\$40,000			
		\$40,000	TOTAL	\$0	\$40,000
105	Gravel Fill at Garage & Front Porch	\$2,000			
	Materials and placement				
		\$2,000	TOTAL	\$0	\$2,000
106	Stacked Stone Material and Labor:	\$15,000			
		\$15,000	TOTAL	\$0	\$15,000
107	Exterior Wood Beam Package M&L	\$16,650			
		\$16,650	TOTAL	\$0	\$16,650


Owner's Authorization


Date

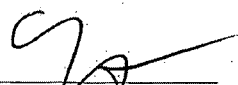
EXHIBIT "D"
ALLOWANCE LOG
ARBET Residence
Contract Allowance Adjustments
Through 4/15/2015

Job # CKS
15--001

ELECTRONICALLY FILED - 2018 Dec 05 9:10 AM - PICKENS - COMMON PLEAS - CASE#2016CP3900103

PCO #	ALLOWANCE ITEM	ORIGINAL	VENDOR/	CURRENT	BALANCE
		\$0	TOTAL	\$0	\$0
108	Interior Wood Beam Package at Main Level M&L	\$8,000			
		\$8,000	TOTAL	\$0	\$8,000
109	Cabinets M&L	\$28,270			
		\$28,270	TOTAL	\$0	\$28,270
110	Granite Countertops M&L	\$10,800			
		\$10,800	TOTAL	\$0	\$10,800
111	Front Door and Hardware Materials	\$1,500			
		\$1,500	TOTAL	\$0	\$1,500
112	Exterior Windows and Doors Mater.	\$40,239			
		\$40,239	TOTAL	\$0	\$40,239
113	Wood Flooring M&L	\$17,400			
		\$17,400	TOTAL	\$0	\$17,400

CEM


Owner's Authorization

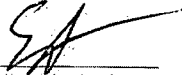
Date

EXHIBIT "D"
ALLOWANCE LOG
ARBET Residence
Contract Allowance Adjustments
Through 4/15/2015

Job # CKS
15-001

ELECTRONICALLY FILED - 2018 Dec 05 9:10 AM - PICKENS - COMMON PLEAS - CASE#2016CP3900103

PCO #	ALLOWANCE ITEM	ORIGINAL	VENDOR/	CURRENT	BALANCE
114	Ceramic Tile Materials & Set Mater	\$6,375			
		\$6,375	TOTAL	\$0	\$6,375
115	Carpeting M&L	\$2,000			
		\$2,000	TOTAL	\$0	\$2,000
116	Gym Flooring M&L	\$950			
		\$950	TOTAL	\$0	\$950
117	Stucco at Foundation M&L	\$3,000			
		\$3,000	TOTAL	\$0	\$3,000
118	Closet Shelving M&L	\$2,000			
		\$2,000	TOTAL	\$0	\$2,000
119	Plumbing Fixtures Materials	\$7,682			
		\$7,682	TOTAL	\$0	\$7,682
120	Electrical Fixtures Materials	\$6,000			


Owner's Authorization

Page 3 of 4

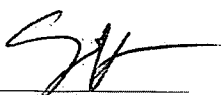

Date

EXHIBIT "D"
ALLOWANCE LOG
ARBET Residence
Contract Allowance Adjustments
Through 4/15/2015

Job # CKS
15--001

ELECTRONICALLY FILED - 2018 Dec 05 9:10 AM - PICKENS - COMMON PLEAS - CASE#2016CP3900103

PCO #	ALLOWANCE ITEM	ORIGINAL	VENDOR/	CURRENT	BALANCE
		\$6,000	TOTAL	\$0	\$6,000
121	Appliances M&L	\$10,500			
		\$10,500	TOTAL	\$0	\$10,500
122	Driveway Finish Gravel M&L	\$8,000			
		\$8,000	TOTAL	\$0	\$8,000
		\$0	TOTAL	\$0	\$0
		\$0	TOTAL	\$0	\$0
	TOTAL ALLOWANCES	\$233,996	TOTAL SPENT TO-DATE	\$0	\$233,996
	GRAND TOTAL	\$233,996		\$0	\$233,996
	TOTAL NET REFUND OR PAYMENT DUE				\$0


Owner's Authorization

Page 4 of 4

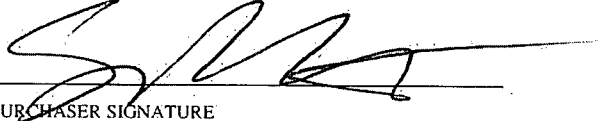

Date

EXHIBIT "E"

**FINANCING CONTINGENCY
FOR
ARBET Residence**

FINANCING CONTINGENCY CLAUSE: Non-Applicable. Owner to privately finance the project.

DATE



PURCHASER SIGNATURE

DATE

PURCHASER SIGNATURE

Riverstone Development Group, Inc.

BY:



8/28/15
DATE

EXHIBIT "F"

NOTICE TO PURCHASER ABOUT MOLD, MILDEW, FUNGUS, SPORES AND CHEMICALS IN CONSTRUCTION PRODUCTS

Every new home contains products that have water, powders, solids and industrial chemicals that are used in constructing the home. The water, powders, solids and industrial chemicals will and do contain mold, mildew, fungus, spores and chemicals which may cause allergic or other bodily reactions in certain individuals. You should consult your physician to determine the molds, mildews, fungus, spores or chemicals that may adversely affect you or members of your family.

THE HOME WHICH YOU ARE PURCHASING CONTAINS MATERIALS WHICH CONTAIN OR ARE AFFECTED BY MOLD, MILDEW, FUNGUS, SPORES AND CHEMICALS. THE CONSTRUCTION PRODUCTS USED IN BUILDING YOUR HOME CONTAIN, AMONG OTHERS, SOME OF THE FOLLOWING CHEMICALS IN MEASURABLE AMOUNTS:

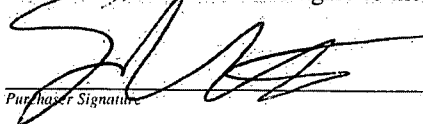
WATER (contains or allows growth of molds, mildew and fungus)
FORMALDEHYDE (e.g. in carpeting and pressed wood products)
ARSENIC (e.g. in treated wood products)
FIBERGLASS (e.g. in insulation products)
PETROLEUM AND PETROLEUM PRODUCTS (e.g. in vinyl and plastic products)
METHYLENE CHLORIDE (e.g. in paint thinners)

IF YOU ARE NOT COMFORTABLE WITH THE FACT THAT THESE CHEMICALS OR SUBSTANCES EXIST IN SOME AMOUNT IN THE HOME YOU ARE PURCHASING, YOU SHOULD NOT PURCHASE THE HOME.

LEAKS, WET FLOORING AND MOISTURE WILL CONTRIBUTE TO THE GROWTH OF MOLDS, MILDEW, FUNGUS OR SPORES. PURCHASER UNDERSTANDS AND AGREES THAT RIVERSTONE DEVELOPMENT GROUP, INC. IS NOT RESPONSIBLE, AND HEREBY DISCLAIMS ANY RESPONSIBILITY FOR ANY ILLNESS OR ALLERGIC REACTIONS WHICH PURCHASER MAY EXPERIENCE AS A RESULT OF MOLD, MILDEW, FUNGUS OR SPORES. IT IS PURCHASER'S RESPONSIBILITY TO KEEP THE HOUSE CLEAN, DRY, WELL-VENTILATED AND FREE OF CONTAMINATION.

Electronic air filters that may assist in effective air filtration are available at additional cost. If you do not understand this Notice you are encouraged to secure the advice of counsel.

I have read, understand and agree to the above:


Purchaser Signature

Date: _____

Purchaser Signature

Date: _____

CEM

Riverstone to
build a tight
structure, not
to allow for
leaks.

As per Riverstone's
Contract and warranty
timeframe. Regular
Maintenance required by
Homeowner.

EXHIBIT "G"

BROKER DISCLOSURE For THE CLIFFS AT KEOWEE SPRINGS

Broker Disclosure: Purchaser and Contractor agree that **NONE** is the sole Real Estate Broker (other than those who are employed by Contractor) involved in this transaction and that Broker will be entitled to receive a commission from Contractor. Commission is calculated on the base price of the home selected and is payable fifty percent (50%) at construction loan closing (advance payment) and fifty percent (50%) upon receipt of Slab Draw. Should the home not be completed for any reason, Broker agrees to refund the fifty percent (50%) advance payment back to Builder. Should the blank space not be completed in the foregoing sentence or should the word "NONE" be inserted in it, the following sentence shall be deemed substituted for it: Purchaser warrants and represents that no Real Estate Broker or Salesman is involved in this purchase and sale (other than those who are employed by Contractor) and agrees to indemnify and save harmless Contractor against any claims of a Real Estate Broker or Salesman due to acts or omissions of the Purchaser or Purchaser's representatives.

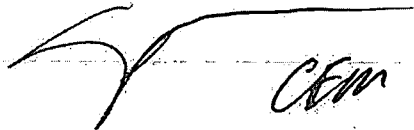
A handwritten signature in black ink, appearing to be 'CEM', is written over a horizontal line.

EXHIBIT "H"
HOMEOWNER'S ASSOCIATION
DISCLOSURE SUMMARY
FOR
THE CLIFFS AT KEOWEE SPRINGS

1. As a Purchaser of Property in this community, you will be obligated to be a member of a Homeowners' Association.
2. There have been or will be recorded restrictive covenants governing the use and occupancy of properties in this community.
3. You will be obligated to pay assessments to the Association, which assessments are subject to periodic change.
4. Your failure to pay these assessments could result in a lien on your property.
5. There MAY BE an obligation to pay rent or land use fees for recreational or other commonly used facilities as an obligation of membership in the Homeowner's Association.
6. The restrictive covenants can not be amended without the approval of the Association Membership.
7. The statements contained in this disclosure form are only summary in nature, and, as a prospective purchaser, you should refer to the covenants and the association governing documents.
8. These documents are matters of public record and can be obtained from the record office in the county where the property is located.

Date: _____

Purchaser: _____

Purchaser: _____

CEM

AIA Document G701™ - 2001
Change Order

PROJECT (Name and address):	CHANGE ORDER NUMBER: 001	OWNER: ☒
Arbet Residence - CKS	DATE: 4-9-15	ARCHITECT: ☐
Cliffs at Keowee Springs, Lot #57, SC		CONTRACTOR: ☒
TO CONTRACTOR (Name and address):	ARCHITECT'S PROJECT NUMBER: N/A	FIELD: ☐
Riverstone Development Group, Inc.	CONTRACT DATE: 02-12-15	OTHER: ☐
P.O. Box 1023 Sylva, NC 28779	CONTRACT FOR: Arbet Residence	

THE CONTRACT IS CHANGED AS FOLLOWS:

(Include, where applicable, any undisputed amount attributable to previously executed Construction Change Directives)

1. Additional cost for owner final design changes as per Exhibit B dated 4-9-15 = \$123,399.00
 (10% of this amount was paid as a deposit via a wire transfer on 4-17-15. The balance will be paid during the draw process)

2. Added cost for the builders risk insurance on behalf of the Arbet's = \$1,938.00

The original Contract Sum was	\$	750,000.00
The net change by previously authorized Change Orders	\$	0.00
The Contract Sum prior to this Change Order was	\$	750,000.00
The Contract Sum will be increased by this Change Order in the amount of	\$	125,337.00
The new Contract Sum including this Change Order will be	\$	875,337.00

The Contract Time will be increased by Zero (0) days.

The date of Substantial Completion as of the date of this Change Order therefore is n/a

NOTE: This Change Order does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

N/A	Riverstone Development Group, Inc.	Arbet Residence
ARCHITECT (Firm name)	CONTRACTOR (Firm name)	OWNER (Firm name)
	P.O. Box 1023 Sylva NC 28779	2083 Welshvalley Road Phoenixville, PA 19460
ADDRESS	ADDRESS	ADDRESS
BY (Signature)	BY (Signature)	BY (Signature)
(Typed name)	Guy W. Burt	Scott Arbet
	(Typed name)	(Typed name)
DATE	4-9-15	4-9-15
	DATE	DATE

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 User Notes: (342095166)

Riverstone000033

AIA Document G701 - 2001

Change Order

PROJECT NAME AND ADDRESS	CHANGE ORDER NUMBER	DATE
ARCHITECT F.A.S.	DATE	
10000 20th Street		
TO CONTRACTOR	DESCRIPTION OF PROJECT NUMBER	CONTRACTOR
10000 20th Street	CONTRACT DATE	
10000 20th Street	CONTRACT FOR	

THE CONTRACT IS CHANGED AS FOLLOWS:

1. Addition and deletion of work items as follows: **5000 20th Street**

1. Addition and deletion of work items as follows: **5000 20th Street**

2. Addition and deletion of work items as follows: **5000 20th Street**

The Change Order is:

1. Addition and deletion of work items as follows: **5000 20th Street**

2. Addition and deletion of work items as follows: **5000 20th Street**

3. Addition and deletion of work items as follows: **5000 20th Street**

4. Addition and deletion of work items as follows: **5000 20th Street**

5. Addition and deletion of work items as follows: **5000 20th Street**

6. Addition and deletion of work items as follows: **5000 20th Street**

NOTE: The Change Order is not valid until it is signed by the Architect, Contractor, and Owner.

Contractor's signature and date: **5000 20th Street**

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

ARCHITECT	CONTRACTOR	OWNER
DATE	DATE	DATE
ADDRESS	ADDRESS	ADDRESS
BY	BY	BY
DATE	DATE	DATE
ADDRESS	ADDRESS	ADDRESS
BY	BY	BY
DATE	DATE	DATE
ADDRESS	ADDRESS	ADDRESS
BY	BY	BY
DATE	DATE	DATE
ADDRESS	ADDRESS	ADDRESS

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Riverstone000034

STATE OF NORTH CAROLINA)

)

AFFIDAVIT OF COURTNEY MACKE

COUNTY OF JACKSON)

PERSONALLY APPEARED BEFORE ME COURTNEY MACKE, who, being duly sworn,
deposes and says:

1. My name is Courtney Macke. I am over the age of 21 and am competent to give this affidavit. The information contained in this Affidavit is within my personal knowledge.

2. I am Riverstone Development Group's ("Riverstone") Vice President and this information is provided to supplement my previous affidavit signed on November 27, 2018.

3. In late 2014 and early 2015, Scott Arbet ("Arbet") asked Riverstone to construct a residential home for Arbet (the "Construction"). Riverstone entered into the contract for \$750,000 which was within Riverstone's SC license limitations at the time the contract was signed by the parties.

4. At the time of the first change order requested by Arbet, Riverstone was already constructing Arbet's residence and Arbet's statement that the first change order was done in "preconstruction" is false and incorrect.

5. Riverstone has done everything in compliance with its license limitations and is not guilty of any misdemeanors or other criminal violations as stated by Arbet and his attorney.

6. In support of this position, Riverstone can show that Scott Arbet filed a Complaint against Riverstone with the SC Department of Labor, Licensing and Regulation Contractor's Licensing Board. This Complaint was filed after Arbet had failed to pay Riverstone for the work that Riverstone had performed and in response to Riverstone's demand for money from Arbet.

7. Riverstone provided the SC Department of Labor, Licensing and Regulation Contractor's Licensing Board with substantial information and documentation including all

licensing information and a detailed response as to how Riverstone had not violated any provisions of any of the statutes and laws related to the SC Department of Labor, Licensing and Regulations Contractor's Licensing Board.

8. After thoroughly reviewing and investigating this matter, the SC Department of Labor, Licensing and Regulation Contractor's Licensing Board dismissed Arbet's Complaint and sent Riverstone a letter on January 26, 2017 dismissing all of Arbet's licensing and other allegations. A copy of the SC Department of Labor, Licensing and Regulation Contractor's Licensing Board Letter of Dismissal is attached as Exhibit A.

LANA B PARTON
Notary Public
Haywood Co., North Carolina
My Commission Expires Nov. 14, 2022

FURTHER AFFIANT SAYETH NOT.

Courtney Macke
Courtney Macke

SWORN TO before me this 13
Day of December, 2018.

Lana B Parton
Notary Public for North Carolina
My Commission Expires: 11.14.2022



South Carolina
Department of Labor, Licensing and Regulation

Contractor's Licensing Board

Nikki R. Haley
Governor

Emily H. Farr
Interim Director



110 Centerview Drive
Post Office Box 11329
Columbia, SC 29211-1329
Office Phone: (803) 896-4686
FAX: (803) 896-4814
www.llronline.com/POL/Contractors

ELECTRONICALLY FILED - 2018 Dec 14 9:01 AM - PICKENS - COMMON PLEAS - CASE#2016CP3900103

January 26, 2017

CONFIDENTIAL

RIVERSTONE DEVELOPMENT GROUP INC
PO BOX 1023
SYLVA, NC 28779-1023

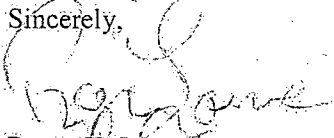
Re: 2016-27

Dear RIVERSTONE DEVELOPMENT GROUP INC:

Pursuant to South Carolina law, the Department of Labor, Licensing and Regulation investigated the initial complaint against you. On 01/19/2017, the Contractors Licensing Board ordered the initial complaint be dismissed.

Thank you for your cooperation in this matter. We wish you well in your future endeavors.

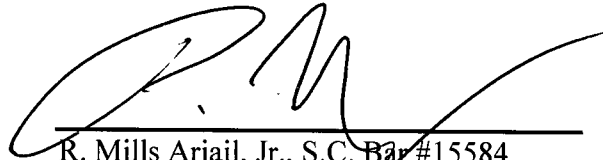
Sincerely,


Roger K. Lowe
Administrator

Certificate of Counsel

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

September 19, 2019



R. Mills Ariail, Jr., S.C. Bar #15584
Law Office of R. Mills Ariail, Jr.
11 North Irvine Street, Suite 11
Greenville, S.C. 29601
(864) 232-9390
mills@rmalawoffice.com
Attorney for Appellant

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OCT 09 2019
SC Court of Appeals