

**CONSTRUCTION AGREEMENT  
BETWEEN  
EPCON HUNTERSVILLE, LLC  
AND  
THE TOWN OF HUNTERSVILLE, NORTH CAROLINA**

This Agreement ("Agreement") is made and entered into as of the date of the final party to sign below ("Effective Date") by and among Epcon Huntersville, LLC ("Epcon") and the Town of Huntersville, North Carolina ("Town").

**W I T N E S S E T H:**

WHEREAS, Epcon intends to construct roadway improvements to access Epcon's residential condominium community the Courtyards of Huntersville Condominium ("Community") in accordance with the Community's approved plans;

WHEREAS, Town has requested, and Epcon has agreed, that Epcon shall facilitate at Town's expense the construction of additional roadway improvements beyond those roadway improvements required to be constructed by Epcon;

NOW THEREFORE, for and in consideration of the foregoing and the mutual covenants set forth below, the parties agree as follows:

1. Epcon has agreed to complete roadway improvements on Highway 73 southwest of the intersection of Highway 73 and Terry Lane to incorporate a left turn lane onto Terry Lane ("Roadway Improvements"). The Roadway Improvements are depicted in the drawing attached to this Agreement identified as *Exhibit A*.
2. The Roadway Improvements require a temporary construction easement ("Temporary Construction Easement") and the acquisition of right-of-way ("Right-Of-Way") from Mecklenburg County, North Carolina Parcel ID Number 00102363 currently owned by Henry Lee Pender and Dorothy Pender ("Property Owners"). Epcon will use its best efforts to negotiate and reach an understanding with Property Owner for the dedication of the requisite Right-Of-Way to allow for the Roadway Improvements. Town shall be responsible for all costs associated with the Temporary Construction Easement and acquisition of the Right-Of-Way, including any requisite conveyance fee, title search expenses, and any other closing costs, if any.
3. Town shall be responsible for reimbursing Epcon for all costs associated with the Roadway Improvements. An estimate of said costs is hereby attached as *Exhibit B* ("Estimate"). In the event the actual costs shall differ from the Estimate, Epcon shall provide notice to Town in writing of the increase or decrease in cost. Town shall provide Epcon its consent or notify Epcon it disagrees with said change in cost within five (5) business days of receipt of written notice from Epcon. Town's failure to properly and timely respond shall be treated as Town's consent to said change in cost. Epcon shall obtain consent from Town, which shall not be unreasonably withheld, prior to utilizing any portion of the 15% contingency funds identified on *Exhibit B*.

4. Epcon will enter into an agreement with a contractor who shall perform all Roadway Improvements in reasonably close conformity with the lines, grades, cross-sections, dimensions, and material requirements shown on the approved plans in accordance with all applicable North Carolina Department of Transportation (“NCDOT”) standards and specifications.
5. Epcon agrees that all materials and each part or detail of the Roadway Improvements shall be subject to inspection by NCDOT, Mecklenburg County, and the Town of Huntersville to assure the work is in full compliance with all applicable standards of construction. Upon reasonable notice, Epcon shall use its best efforts to allow reasonable access to all parts of the Roadway Improvements and to furnish such information as is reasonably necessary to inspect the Roadway Improvements.
6. Part of the Roadway Improvements may require removal and disposal of topsoil. Town will assist, if necessary, in the removal and disposal of said topsoil to the extent it can be done with Town’s facilities and crews.
7. Epcon shall submit written invoices documenting costs incurred resulting from the Temporary Construction Easement, Roadway Improvements, and acquisition of the Right-Of-Way. Town shall fully reimburse Epcon for said costs within fourteen (14) calendar days of receipt of each invoice.
8. Any notice or other communication required or permitted to be given to a party under this Agreement shall be in writing and shall be given by certified United States (U.S.) mail, ordinary U.S. mail, delivered in person or by courier, fax, email, or any other means for transmitting a written communication. Any such notice shall be deemed to have been given as follows: (i) when sent by certified US mail, as of the date of delivery shown on the receipt, or if not determinable, as of the second Business Day after it was mailed and (ii) when sent or delivered by any other means, upon receipt. The address of each party for notice initially is as follows:

Epcon:

Mike Davis  
Development & Engineering  
Coordinator – Carolinas  
8600 Sam Furr Road, Suite 180  
Huntersville, NC 28078  
[mdavis@epconcommunities.com](mailto:mdavis@epconcommunities.com)

Town:

MAX BUCHANAN  
DIRECTOR OF ENGINEERING & PW  
PO Box 664  
HUNTERSVILLE, NC 28070  
[mbuchanan@huntersville.org](mailto:mbuchanan@huntersville.org)

and

Christopher A. Buerkle  
Legal Counsel  
500 Stonehenge Parkway  
Dublin, Ohio 43017

cbuerkle@epconcommunities.com

9. This Agreement shall constitute the entire agreement between Epcon and Town. This Option may not be modified except in a writing signed by both parties.
10. This Agreement may be executed in counterparts and all such counterparts shall constitute one agreement binding on all the parties, notwithstanding that all the parties are not signatories to the same counterpart.
11. This Agreement shall be interpreted according to the laws of the State of North Carolina and the venue for the resolution of any dispute hereunder shall be a State or Federal court sitting in Mecklenburg County, North Carolina.

In Witness Whereof, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

Epcon Huntersville, LLC

By: [Signature]

Name: RICH HEARETH

Title: VP OPERATIONS

Date: 10/15/2015

Town of Huntersville, North Carolina

By: \_\_\_\_\_  
Town Manager

Attest:

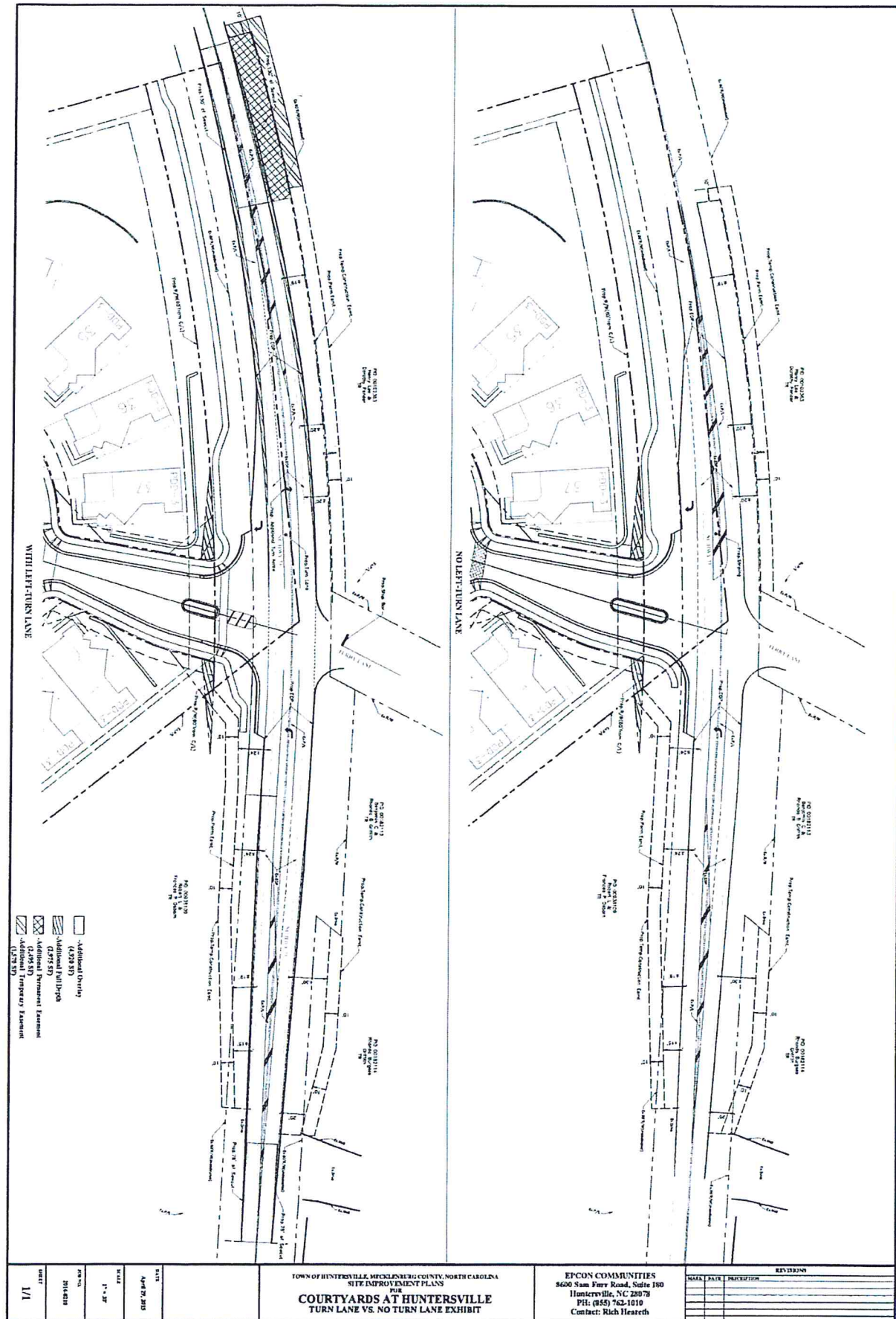
\_\_\_\_\_  
Town Clerk

(Corporate Seal)

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act

\_\_\_\_\_  
Finance Officer

Date: \_\_\_\_\_



TOWN OF HUNTERVILLE, WICKLENBURG COUNTY, NORTH CAROLINA  
 SITE LAYOUT PLANS  
**COURTYARDS AT HUNTERVILLE**  
 TURN LANE VS. NO TURN LANE EXHIBIT

EPCON COMMUNITIES  
 8600 San Ferry Road, Suite 100  
 Huntersville, NC 28078  
 PH: (855) 762-1010  
 Contact: Rich Heareth

REVISIONS		
NO.	DATE	DESCRIPTION

DATE: April 27, 2015  
 SCALE: 1" = 20'  
 SHEET: 2014-010  
 TOTAL: 1/1

EXHIBIT B



Evans, Mechwart, Hambleton & Tilton, Inc.  
Engineers, Surveyors, Planners, Scientists

**PROBABLE OPINION OF CONSTRUCTION BOND COST ESTIMATE  
COURTYARDS AT HUNTERSVILLE, HIGHWAY 73 WIDENING  
WITH LEFT TURN LANE ONTO TERRY LANE VS. WITHOUT LEFT TURN LANE  
6/24/2015**

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ITEM NO.	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE		TOTAL
<b>PAVEMENT</b>						
1	Full Depth Sawcut	260	LF	\$3.00	=	\$780.00
2	1 1/2" S9.5B Overlay	345	SY	\$8.80	=	\$3,036.00
3	Full Depth Widening	172	TON	\$110.00	=	\$18,920.00
4	Pavement Markings	1	LS	\$1,100.00	=	\$1,100.00
	Pavement Subtotal				=	\$23,836.00
<b>MISCELLANEOUS</b>						
1	Permanent Easement	2,495	SF	\$0.93	=	\$2,320.35
2	Temporary Easement	1,570	SF	\$0.93	=	\$1,460.10
3	Excavation Including Embankment	1	LS	\$10,000.00	=	\$10,000.00
4	Engineering Services	1	LS	\$15,000.00	=	\$15,000.00
	Miscellaneous Subtotal				=	\$28,780.45
				<b>SUBTOTAL</b>	=	<b>\$52,616.45</b>
				<b>CONTINGENCY (15%)</b>	=	<b>\$7,892.47</b>
				<b>TOTAL COST DIFFERENCE</b>	=	<b>\$60,508.92</b>

A legacy of experience. A reputation for excellence.

301 McCullough Drive, Suite 109, Charlotte, NC 28262 • Phone 704.548.0333 • Fax 704.548.0334

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