

SIXTH/SEVENTH ADDITIONS TO EMERALD VALLEY DEVELOPMENT AGREEMENT

THIS AGREEMENT, made by and between the **City of Appleton** by its City Council, a body politic and municipal corporation with a mailing address of 100 North Appleton Street, Appleton, WI 54911, (“City”) and, **Emerald Valley Estates, LLC**, a limited liability corporation with a business address of 1718 Van Zeeland Court, Little Chute, WI 54140, the owner and developer (“Developer”) of property lying within the City of Appleton:

WHEREAS, Section 17-3 of the Appleton Municipal Code provides for the installation of required improvements in new subdivisions; and

WHEREAS, the Developer has proposed to develop the Sixth and Seventh Additions to Emerald Valley, residential subdivisions on property within the corporate limits of the City (“Proposed Developments”), described in *Exhibits 1 & 2* (Legal Descriptions provided by Developer) attached hereto; and

WHEREAS, Final Plats of the Sixth and Seventh Additions to Emerald Valley Subdivision, shown in *Exhibits 3 & 4* (provided by Developer) attached hereto, have been conditionally approved by the City with conditions remaining to be satisfied; and

WHEREAS, a series of meetings and negotiations have taken place between the City and the Developer to determine various development and financial responsibilities as between the City and the Developer for on-site and off-site public improvements and fees in connection with the Proposed Developments; and

WHEREAS, the City and the Developer, for their mutual benefit, have mutually agreed as to development and financial responsibilities for public improvements and fees in connection with the Proposed Developments;

NOW THEREFORE, it is mutually agreed as follows:

1. The Developer shall be responsible for the installation of the following in each of the Proposed Developments, to the standards set forth by the City and pursuant to paragraph 4 below:
 - a. Sanitary sewer mains, manholes and laterals
 - b. Water mains, valves, hydrants, hydrant leads, fittings, and services
 - c. Storm sewer mains, manholes, catch basins, inlet leads, overland flow paths, yard drains and associated piping and laterals
 - d. Street excavation and graveling, terrace seeding, lot filling, grading and seeding and all associated construction site erosion control measures, with fill to consist of clay fill in the streets meeting the requirements of the City of Appleton’s Street Excavation and Graveling Specifications. Once the streets are accepted by the City, no additional repairs are required by the Developer to such streets after a three-month period.
 - e. Street Lights
 - f. All other infrastructure required for the developments not specifically set forth in this agreement

2. The Developer shall provide the City an estimate for items 1a – 1f prior to the installation of the items for each development.

3. The Developer shall provide a fully executed and signed *Waiver of Special Assessment Notices and Hearing* (shown in *Exhibit 5*) for each development, acknowledging consent to pay Special Assessments levied by the City for the following items to be furnished and/or installed by the City:

- a. Sanitary Sewer Area Assessment
- b. Televising of sanitary and storm sewer lines
- c. Street Name Signs
- d. Traffic Control Signs
- e. Concrete Pavement abutting lots owned by the Developer at the time of concrete paving
- f. Sidewalks installed on lots owned by the Developer at the time of concrete paving

Estimates of up-front City costs and associated special assessments to be paid by the Developer for items 3a – 3f for each development are attached hereto as *Exhibits 6 & 7*. The actual final costs for items 3a-3f will be used as the basis for the amount of the special assessments billed to the Developer.

4. The Developer shall provide the City with copies of all final costs, invoices, labor costs, the contract documents and specifications, design documentation, all contract administration supporting documentation, an itemized list of all expenses for the installation of sanitary sewer, storm sewer, water main, street excavation and graveling and street lights for each Proposed Development. Said information provided by Developer shall meet City's Infrastructure Adjustment Form requirements. The Developer's design engineer shall perform the construction staking and the City shall inspect the same.

5. The Developer's contractor shall perform the testing of the water main, sanitary sewer, storm sewer and compaction of fill material placed in future roadway areas in the Proposed Developments under the supervision of City of Appleton inspectors.

6. The Developer shall provide lien waivers to the City from prime contractor, subcontractors, suppliers and consultants within 60 days of the installation of the items in paragraph 1.

7. The Developer agrees to convey by deed or dedication to the City all the streets, roads, courts, avenues, drives, public ways, sanitary sewer, watermain and storm water facilities in the Proposed Developments. Developer further agrees to convey any public access ways by dedication or easement to the City. All public improvements contemplated in the final plats shall be constructed within areas to be dedicated to the City either by deed, dedication or easement as contemplated in the Proposed Developments and this agreement.

8. The Developer shall establish a level loop on the hydrant(s) in the Proposed Developments and a copy of all benchmarks shall be provided to the City.

9. The City agrees to accept the dedication of all the Public Improvements in the Proposed Developments, whether by deed, dedication or easement subject to the City's Acceptance of the Public Improvements in accordance with and subject to the terms of the City's Subdivision Ordinance.

10. The Developer shall repair or replace, as directed by the City and to the City's satisfaction, at its own cost, any damage caused to City property by the installation of the improvements in the Proposed Developments, which shall be completed within six (6) months notification by the City to the Developer of the need to repair or replace such damage.

11. The Developer shall pay the cost of all items listed under Paragraph 1 above. Concrete Paving and sidewalks will be assessed to the abutting property owners and the Developer will be assessed for only the cost of those lots owned by the Developer. Concrete streets shall be installed only after 75% of the lots in the Proposed Developments have been issued building permits or after a 7-year period from the date of official street opening, whichever comes first.

12. The schedule for the Proposed Developments shall be as follows:

- a. Infrastructure installation may commence in each development after City approval of the Final Plat, Drainage Plan, Established Grades, Storm Water Management Plan, Construction Plans, Construction Specifications and procurement of all necessary City and Regulatory Agency permits.
- b. Building permits may be issued upon City approval and acceptance of all infrastructure. Streets must be officially opened to the public by the City Engineer prior to the issuance of building permits.

13. The City agrees to waive any parkland fees pursuant to Chapter 17 of the Appleton Municipal Code, in exchange for parkland dedications and conveyances previously completed as part of the original Emerald Valley Development along with future planned phases of the Development, in accordance with Item 20 of the original Development Agreement for Emerald Valley Estates dated July 17, 2006. Park land will be dedicated as part of the Eighth Addition per the concept plan as depicted in Exhibit 8.

14. The City agrees to waive all Administrative Fees and all costs related to the installation of Temporary Asphalt Pavement for both developments.

15. The City represents that this Agreement and the terms and conditions contained herein are consistent with adopted ordinances and resolutions on the subject matter.

16. The Developer shall pay the entire cost associated with installation of underground gas, electric, telephone and cable TV utilities and street lights in the Proposed Developments. The City shall review the proposed locations and have approval authority over any utilities proposed within the public right-of-way, prior to installation. The City standard for street lights is wooden poles. The street lighting plan shall be designed by We Energies and approved by the City. The City shall pay We Energies the monthly electrical charge for street lighting. If the Developer desires decorative streetlights, then the Developer shall be responsible for all costs associated with the decorative streetlights. The Developer shall be responsible for requesting said decorative lights from WE Energies. The Developer must also sign a Waiver of Special Assessments document for the annual assessments associated with decorative lighting.

17. The City represents and warrants to Developer that it has the power, authority and legal right to enter into all of the transactions and to perform all of the covenants and obligations required to be entered into or performed by the City under this Agreement.

a. The City represents and warrants to Developer that it is empowered and authorized to execute and deliver this Agreement and other agreements and documents, if any, required hereunder to be executed and delivered by the City. This Agreement has been, and each such document at the time it is executed and delivered, will be duly executed and delivered on behalf of the City.

b. When executed and delivered to Developer, all such agreements shall constitute a legal, valid and binding obligation of the City, enforceable in accordance with its terms.

18. The Developer represents and warrants to the City that Developer is a Limited Liability Corporation, duly organized and existing under the laws of the State of Wisconsin, and that all proceedings of Developer necessary to authorize the negotiation and execution of this Agreement and the consummation of the transaction contemplated by this Agreement have been taken in accordance with applicable law.

a. The Developer represents and warrants to the City that the execution and delivery of this Agreement, the consummation of the transactions contemplated in this Agreement and the execution and delivery of the documents required to be executed, delivered or acknowledged by Developer at the closing will not violate any provision of Developer's limited liability corporation bylaws or agreements or any applicable statute, rule, regulation, judgment, order or decree of the State of Wisconsin or a court having jurisdiction over Developer or its properties.

19. The Agreement shall be effective as of the date of execution thereof and remain in effect until the earliest of: (a) the Developer notifies the City that either of the Proposed Developments has been terminated, (b) upon the mutual agreement of the Parties to terminate the Agreement, or (c) if one (1) year after the date of execution the Developer not take any further action on the Proposed Developments.

20. This Agreement, along with *Exhibits 1 through 8* sets forth the entire understanding of the parties relative to its subject matter and supersedes and merges any and all prior communications, negotiations and agreements, oral or written.

21. It is understood and agreed that the provisions of this Agreement shall be deemed severable and the invalidity or unenforceability of any one or more of the provisions contained herein shall not affect the validity and enforceability of the other provisions contained herein.

22. This Agreement may not be modified or amended, except when placed in writing, with the written consent of both the City and the Developer.

[SIGNATURE PAGE TO FOLLOW]

EMERALD VALLEY ESTATES, LLC

By: Robert A DeBruin

By: _____

Printed Name: Robert A DeBruin

Printed Name: _____

Title: Member

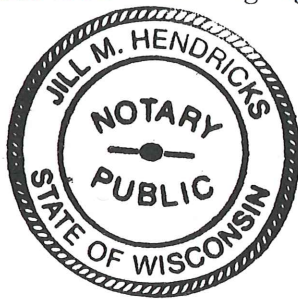
Title: _____

STATE OF WISCONSIN)

Outagamie COUNTY)

: ss.

Personally came before me on this 25 day of February, 2021, the above-named persons, Robert A DeBruin and _____, to me known to be the persons who executed the foregoing instrument and acknowledge the same.



Jill M Hendricks
Notary Public, State of Wisconsin
My commission is/expires: 12/19/23

CITY OF APPLETON

By: _____
Jacob A. Woodford, Mayor

By: _____
Kami Lynch, City Clerk

STATE OF WISCONSIN)
 : ss.
OUTAGAMIE COUNTY)

Personally came before me on this _____ day of _____, 2021, the above-named Jacob A. Woodford and Kami Lynch, to me known to be the persons who executed the foregoing instrument and acknowledge the same.

Notary Public, State of Wisconsin
My commission is/expires: _____

Provision has been made to pay the liability that will accrue under this contract.

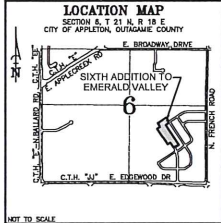
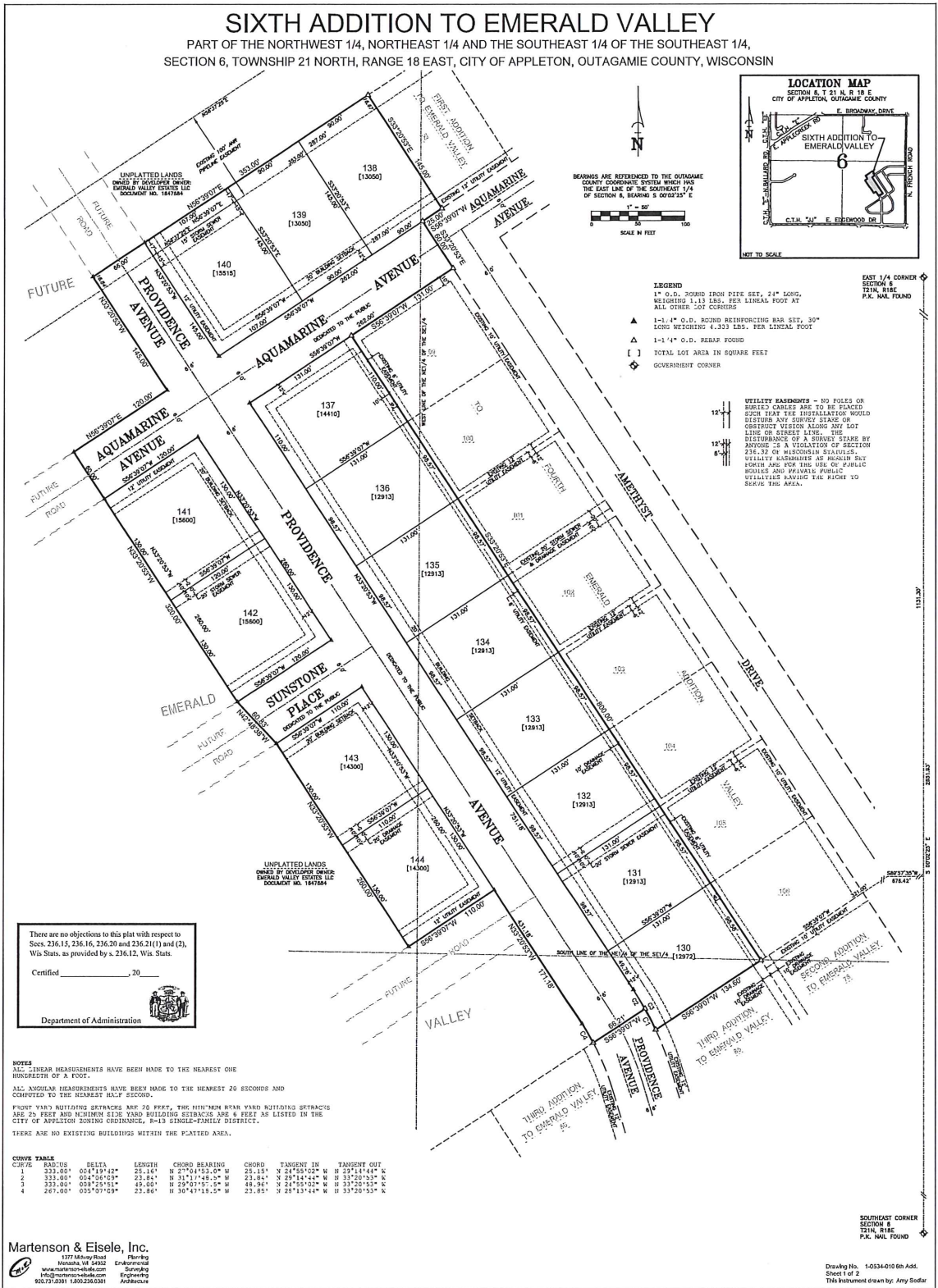
Approved as to Form:

Tony Saucerman, Director of Finance

Christopher R. Behrens, City Attorney

SIXTH ADDITION TO EMERALD VALLEY

PART OF THE NORTHWEST 1/4, NORTHEAST 1/4 AND THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4,
SECTION 6, TOWNSHIP 21 NORTH, RANGE 18 EAST, CITY OF APPLETON, OUTAGAMIE COUNTY, WISCONSIN



BEARINGS ARE REFERENCED TO THE OUTAGAMIE COUNTY COORDINATE SYSTEM WHICH HAS THE EAST LINE OF THE SOUTHWEST 1/4 OF SECTION 8, BEARING S 00°52'35" E

SCALE IN FEET
0 50 100

- LEGEND**
- 1" O.D. ROUND IRON PIPE SET, 2 1/2" LONG, WEIGHING 1.13 LBS. PER LINEAL FOOT AT ALL CURVES, NOT CORNERS
 - ▲ 1-1/4" O.D. ROUND REINFORCING BAR SET, 30" LONG WEIGHING 4.323 LBS. PER LINEAL FOOT
 - △ 1-1/4" O.D. REBAR FOUND
 - [] TOTAL LOT AREA IN SQUARE FEET
 - ⊞ GOVERNMENT CORNER

UTILITY EASEMENTS - NO POLES OR BURIED CABLES ARE TO BE PLACED SUCH THAT THE INSTALLATION WOULD DISTURB ANY SURVEY STAKE OR OBSTRUCT VISION ALONG ANY LOT LINE OR STREET LINE. THE DISTANCE OF A SURVEY STAKE BY ANYONE IS A VIOLATION OF SECTION 216.27 OF WISCONSIN STATUTES. UTILITY EASEMENTS AS SHOWN SET FORTH ARE FOR THE USE OF PUBLIC UTILITIES HAVING THE RIGHT TO SERVE THE AREA.

There are no objections to this plat with respect to Secs. 236.15, 236.16, 236.20 and 236.21 (1) and (2), Wis. Stats. as provided by s. 236.12, Wis. Stats.

Certified _____, 20____

Department of Administration

NOTES

ALL LINEAR MEASUREMENTS HAVE BEEN MADE TO THE NEAREST ONE HUNDRETH OF A FOOT.

ALL ANGULAR MEASUREMENTS HAVE BEEN MADE TO THE NEAREST 20 SECONDS AND CORRECTED TO THE NEAREST HALF SECOND.

FRONT YARD BUILDING SETBACKS ARE 20 FEET, THE REAR YARD BUILDING SETBACKS ARE 20 FEET AND REAR YARD BUILDING SETBACKS ARE 6 FEET AS LISTED IN THE CITY OF APPLETON ZONING ORDINANCE, R-13 SINGLE-FAMILY DISTRICT.

THERE ARE NO EXISTING BUILDINGS WITHIN THE PLATTED AREA.

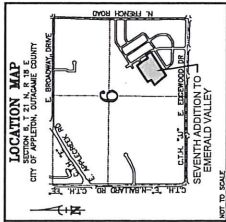
CURVE	RADIUS	DELTA	LENGTH	CHORD BEARING	CHORD	TANGENT IN	TANGENT OUT
1	333.00'	054°19'42"	25.16'	N 27°04'53.0" W	25.15'	N 24°55'02" W	N 29°14'41" E
2	333.00'	054°50'02"	23.84'	N 31°17'48.0" W	23.84'	N 29°14'44" W	N 37°20'53" E
3	333.00'	058°25'51"	49.00'	N 29°07'57.5" W	49.96'	N 24°55'02" W	N 37°20'53" E
4	267.00'	055°07'05"	23.86'	N 30°47'18.5" W	23.85'	N 29°13'44" W	N 33°20'53" E

Martenson & Eisele, Inc.
137 Edinboro Road, Appleton, WI 54912
www.martensoneisele.com
920.72.2091 1.800.236.0391

Drawing No. 1-0334-010 6th Add.
Sheet 1 of 2
THIS INSTRUMENT DRAWN BY: Amy Sioda

SEVENTH ADDITION TO EMERALD VALLEY

PART OF THE NORTHWEST 1/4, NORTHWEST 1/4 AND THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4, SECTION 6, TOWNSHIP 21 NORTH, RANGE 18 EAST, CITY OF APPLETON, OUTAGAMIE COUNTY, WISCONSIN



BOUNDARIES ARE INDICATED TO THE OUTWASH OF THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SECTION 6, RANGE 18 EAST, T21N R18E



- LEGEND**
- 1" O.D. ROUND IRON PIPE SET, 24" LONG
 - ALL OTHERS 1/2" COMPACT
 - 1-1/4" O.D. ROUND REINFORCING BAR SET, 33" LONG WEIGHING 4.39 LBS. PER LINEAL FOOT
 - 1" O.D. ROUND IRON PIPE FOUND
 - 1-1/4" O.D. IRON PIPE FOUND
 - TOTAL LOT AREA IN SQUARE FEET
 - GOVERNMENT CORNER

UTILITY ADJUSTMENTS - NO POLLS ON THIS PLAN
 THE UTILITIES SHOWN ON THIS PLAN ARE BASED ON THE RECORD DRAWINGS AND FIELD SURVEY. THE UTILITIES SHOWN ON THIS PLAN ARE NOT TO BE CONSIDERED AS A GUARANTEE OF THE LOCATION OR DEPTH OF ANY UTILITIES. THE UTILITIES SHOWN ON THIS PLAN ARE NOT TO BE CONSIDERED AS A GUARANTEE OF THE LOCATION OR DEPTH OF ANY UTILITIES.

There are no objections to this plat with respect to the accuracy of the measurements and the computation of the areas and boundaries as provided by s. 236.12, Wis. Stat.

Certified _____ 20____
 Department of Administration



THESE PLAT MEASUREMENTS HAVE BEEN MADE TO THE NEAREST ONE HUNDREDTH OF A FOOT.

THESE PLAT MEASUREMENTS HAVE BEEN MADE TO THE NEAREST 30 DECIMALS AND ACCORDING TO THE NEAREST 1/1000TH OF AN INCH.

FRONT YARD BUILDING SETBACKS ARE 20 FEET, THE BUILDING REAR YARD BUILDING SETBACKS ARE 10 FEET, AND THE BUILDING SIDE YARD BUILDING SETBACKS ARE 5 FEET.

THESE ARE NO EXCEPTING BUILDINGS WITHIN THE PLATTED AREA.

OWNER NAME	ACRES	CHORD BEARING	CHORD DISTANCE	TANGENT IN	TANGENT OUT
1	1.75	S 89° 51' 15" W	111.16	111.16	111.16
2	1.75	S 89° 51' 15" W	111.16	111.16	111.16
3	1.75	S 89° 51' 15" W	111.16	111.16	111.16
4	1.75	S 89° 51' 15" W	111.16	111.16	111.16
5	1.75	S 89° 51' 15" W	111.16	111.16	111.16
6	1.75	S 89° 51' 15" W	111.16	111.16	111.16
7	1.75	S 89° 51' 15" W	111.16	111.16	111.16

Martenson & Eisele, Inc.
 1377 Albany Road
 Appleton, WI 54912
 Phone: 920.833.1111
 Fax: 920.833.1112
 Website: www.martensoneisele.com
 Address: 1377 Albany Road, Appleton, WI 54912

Developed by: HDS&E/10/17/16
 This instrument drawn by: Amy Seider

Sixth Addition to Emerald Valley

Exhibit 6

Number of Lots: 15
 Lot Area: 206,275 Square Feet
 Total C/L Footage: 1552'
 Total Pavement Area (37', 33' wide streets): 6,126 SY

Developer: Emerald Valley Estates, LLC
 Project Engineer: Mark Kilheffer
 Work Order: 278625

January 15, 2021

DESCRIPTION	TOTAL PROJECT COSTS	DEVELOPER COSTS	CITY COSTS	Special Assessments (2021) (ESTIMATED)	Special Assessments (2026) (ESTIMATED)	Account to be Credited	NOTES / COMMENTS
City Administrative Fees (estimated cost)	\$11,640.00	\$0.00	\$11,640.00	\$0.00	\$0.00	Not Assessed per Development Agreement	(1,552 C/L Ft.) x (\$7.50 / C/L Ft.)
Temporary Asphalt (estimated cost)	\$91,890.00	\$0.00	\$91,890.00	\$0.00	\$0.00		(6,126 s.y.) x (\$15.00/s.y.)
Sanitary Sewer Area Assessment	\$5,668.44	\$0.00	\$5,668.44	\$5,668.44	\$0.00	5431	(\$27.48/1000 s.f.)*(206,275 s.f.)
Sewer Televising (estimated cost)	\$2,172.80	\$0.00	\$2,172.80	\$2,172.80	\$0.00	5427 5222	(3,104 Feet) x (\$0.70 / Ft.)
Street Name / Traffic Control Signs (estimated cost)	\$3,104.00	\$0.00	\$3,104.00	\$3,104.00	\$0.00	4010	(1552 C/L Ft.) x (\$2.00 / C/L Ft.)
Concrete Pavement (estimated cost)	\$271,600.00	\$0.00	\$271,600.00	\$0.00	\$271,600.00	4010	(1,552 LF) x (\$175.00/LF)
Sidewalks - with Concrete Pavement (estimated cost)	\$15,520.00	\$0.00	\$15,520.00	\$0.00	\$15,520.00	4010	(3,880 s.f.) x (\$4.00/s.f.)
Sanitary Sewer	\$51,761.50	\$51,761.50	\$0.00			5431	Private Contractor hired by Developer
Storm Sewer / Erosion Control	\$122,026.85	\$122,026.85	\$0.00			5230	Private Contractor hired by Developer
Water Main	\$65,206.00	\$65,206.00	\$0.00			5371	Private Contractor hired by Developer
Sanitary Laterals	\$7,055.00	\$7,055.00	\$0.00			-	Private Contractor hired by Developer
Storm Laterals	\$6,405.00	\$6,405.00	\$0.00			-	Private Contractor hired by Developer
Water Services	\$11,880.00	\$11,880.00	\$0.00			-	Private Contractor hired by Developer
Grading & Graveling	\$77,816.87	\$77,816.87	\$0.00			4010	Private Contractor hired by Developer
Street Lights	\$14,000.00	\$14,000.00	\$0.00			4010	Private Contractor hired by Developer
TOTALS	\$757,746.46	\$356,151.22	\$401,595.24	\$10,945.24	\$287,120.00		

Seventh Addition to Emerald Valley

Exhibit 7

January 15, 2021

Developer: Emerald Valley Estates, LLC
 Project Engineer: Mark Kilheffer
 Work Order: 278626

Number of Lots: 35
 Lot Area: 443,467 Square Feet
 Total C/L Footage: 1,877'
 Total Pavement Area (33' wide streets): 6,882 SY

DESCRIPTION	TOTAL PROJECT COSTS	Developer Financed Construction (Private Contracts)	Up-Front City Costs	Special Assessments (2021) (ESTIMATED)	Special Assessments (2025) (ESTIMATED)	Account to be Credited	NOTES / COMMENTS
City Administrative Fees (estimated cost)	\$14,077.50	\$0.00	\$14,077.50	\$0.00	\$0.00	Not Assessed per Development Agreement	(1,877 C/L Ft.) x (\$7.50 / C/L. Ft.)
Temporary Asphalt (estimated cost)	\$103,230.00	\$0.00	\$103,230.00	\$0.00	\$0.00		(6,882 s.y.) x (\$15.00/s.y.)
Sanitary Sewer Area Assessment	\$12,186.47	\$0.00	\$12,186.47	\$12,186.47	\$0.00	5431	(\$27.48/1000 s.f.)*(443,467 s.f.)
Sewer Televising (estimated cost)	\$2,627.80	\$0.00	\$2,627.80	\$2,627.80	\$0.00	5427 5222	(3,754 Lin Ft.) x (\$0.70 / Lin. Ft.)
Street Name / Traffic Control Signs (estimated cost)	\$3,754.00	\$0.00	\$3,754.00	\$3,754.00	\$0.00	4010	(1,877 C/L Ft.) x (\$2.00 / C/L. Ft.)
Concrete Pavement (estimated cost)	\$328,475.00	\$0.00	\$328,475.00	\$0.00	\$328,475.00	4010	(1,877 LF) x (\$175.00/LF)
Sidewalks - with Concrete Pavement (estimated cost)	\$18,770.00	\$0.00	\$18,770.00	\$0.00	\$18,770.00	4010	(3,000 s.f.) x (\$4.00/s.f.)
Sanitary Sewer	\$109,188.85	\$109,188.85	\$0.00	n/a	n/a	5431	Private Contractor hired by Developer
Storm Sewer / Erosion Control	\$257,463.10	\$257,463.10	\$0.00	n/a	n/a	5230	Private Contractor hired by Developer
Water Main	\$106,540.00	\$106,540.00	\$0.00	n/a	n/a	5371	Private Contractor hired by Developer
Sanitary Laterals	\$38,600.00	\$38,600.00	\$0.00	n/a	n/a	-	Private Contractor hired by Developer
Storm Laterals	\$42,200.00	\$42,200.00	\$0.00	n/a	n/a	-	Private Contractor hired by Developer
Water Services	\$50,560.00	\$50,560.00	\$0.00	n/a	n/a	-	Private Contractor hired by Developer
Grading & Graveling	\$209,929.96	\$209,929.96	\$0.00	n/a	n/a	4010	Private Contractor hired by Developer
Street Lights	\$19,600.00	\$19,600.00	\$0.00	n/a	n/a	4010	Private Contractor hired by Developer
TOTALS	\$1,317,202.68	\$634,081.91	\$483,120.77	\$18,568.27	\$347,245.00		

PROVIDENCE

OUTLOT 5
DEDICATED FOR
FUTURE PARK

FUTURE LOT

FUTURE LOT

FUTURE LOT

FUTURE LOT

OCEANPEARL COURT

PLANNY PLACE

AQUAMARINE AVENUE

SEVENTH ADDITION

SUNSTONE ROAD

EMERALD VALLEY

BLUETON

APPROXIMATE CENTER OF GRAVITY OF CURVE POINT FROM POINT OF BEGINNING OF CURVE
DATE: MARCH 23, 2015