



DATE: December 7, 2021  
**CONSENT**

**AGENDA ITEM:** Approve City Utility Oversize Cost Reimbursements for Hammes Estates 1st and 3rd Additions.

**SUBMITTED BY:** Jack Griffin, City Engineer

**REVIEWED BY:** Kristina Handt, City Administrator  
Marty Powers, Public Works Director  
Sam Magureanu, Finance Director  
Chad Isakson, Assistant City Engineer

---

**ISSUE BEFORE COUNCIL:** Should the City Council approve the City utility oversize cost reimbursements for the Hammes Estates 1st and 3rd Additions?

**PROPOSAL DETAILS/ANALYSIS:** Staff has received and processed a request to process City utility oversize cost reimbursements for the Hammes Estates 1st and 3rd Additions. This request has been reviewed and is being recommended for approval in accordance with the approved Development Agreements, and contingent on the developer being current with all other payments and obligations in accordance with the Development Agreements, including a positive escrow balance as required by the City:

Utility oversize cost reimbursements are due in the amount of \$25,573 for trunk watermain oversize costs in the Hammes Estates 1st Addition; in the amount of \$40,055 for trunk watermain oversize costs in the Hammes Estates 3rd Addition; and in the amount of \$90,180 for water system pressure reduction valve oversize costs in the Hammes Estates 3rd Addition.

**FISCAL IMPACT:** It is the City's goal to retain at all times during the subdivision improvements a security amount that is adequate to ensure completion of all elements of the improvements as protection to the City tax payers against the potential of developer default.

**RECOMMENDATION:** Staff is recommending that the City Council, *as part of the Consent Agenda*, approve City utility oversize cost reimbursements for the Hammes Estates 1st and 3rd Additions, contingent on the developer being current with all other payments and obligations in accordance with the Development Agreement, including a positive escrow balance as required by the City. If removed from the consent agenda, the recommended motion for the action is as follows:

***“Move to approve City utility oversize cost reimbursements as presented on the attached Payment Voucher for the Hammes Estates 1st and 3rd Additions, contingent on the developer being current with all other payments and obligations in accordance with the Development Agreement, including a positive escrow balance as required by the City”.***

**ATTACHMENTS:**

1. Payment Voucher for Utility Oversize Cost Reimbursement – Hammes 1st and 3rd Additions.

# City of Lake Elmo Payment Voucher

**Vendor No:** \_\_\_\_\_ (Finance use only)

**Vendor: Rachel Development, Inc. Attn: David Stratman**

**Payment Total: \$ 155,808.00**

(calculates from below)

**Invoice:** \_\_\_\_\_

**Invoice Date:** 12/07/21

**Address:** 4125 Napier Ct NE

**St. Michael, MN 55376**

Fund	Function	Dept	Account	Description	Amount
601	494	9400	45300	Trunk Watermain Oversize - Hammes 1st Addition	\$ 25,573.00
601	494	9400	45300	Trunk Watermain Oversize - Hammes 3rd Addition	\$ 40,055.00
601	494	9400	45300	Water System PRV Oversize - Hammes 3rd Addition	\$ 90,180.00
Total:					\$ 155,808.00

## Notes

Payment per Section 29 - City Payments: Hammes Estates 1st Addition Development Agreement (09/29/2016).

Payment per Section 28 - City Payments: Hammes Estates 3rd Addition Amended Development Agreement.

3rd Addition Development Agreement, amended April 2, 2019.

**Department Director**

J Griffin

**City Administrator or Finance Director**

(required if not budgeted or over \$100,000)

D. The Developer shall reimburse the City for costs incurred in the enforcement of this Contract, including reasonable engineering and attorneys' fees.

E. The Developer shall pay, or cause to be paid when due, and in any event before any penalty is attached, all outstanding special assessments prior to recording the final plat.

F. The Developer shall pay in full all bills submitted to it by the City for obligations incurred under this Contract within thirty (30) days after receipt. Bills not paid within thirty (30) days shall be assessed a late fee per the City of Lake Elmo adopted Fee Schedule. Upon request, the City will provide copies of detailed invoices of the work performed.

**29. CITY PAYMENTS.** Within thirty (30) days of the City's final acceptance of the Improvements, pursuant to Section 19 of the Contract, the City shall reimburse the Developer for the actual costs incurred by the Developer to oversize the water main, in an amount not to exceed \$25,573.00. The actual amount of the City's reimbursement shall be based on actual construction costs which must be verified by the Developer to the City in the Plans submitted to the City as required in Section 18. This payment by the City shall be the City's only responsibility with regard to construction of the Improvements and in no case shall act as a waiver of any other right of the City under this Contract or under applicable laws, ordinances or rules. In order to receive reimbursement, the Developer must not be in default of any of the terms of this Contract.

**30. SPECIAL PROVISIONS.** The following special provisions shall apply to plat development:

A. Implementation of the recommendations listed in the September 18, 2014, Engineering memorandum.

B. Upon the recording of the final plat, the Developer shall convey Outlots A and C to the City by warranty deed, free and clear of any and all encumbrances. The Developer shall be responsible for paying the cost of a title policy that insures the City's interest in these properties.

C. The Developer shall install a temporary turnaround on the end of June Avenue North and Juniper Avenue North until the streets are extended to in the second phase of the

F. The City and the Developer have agreed to amend the Development Agreement so that the Developer is also reimbursed by the City for the additional oversize costs for the 12-inch pressure releasing valve; and

NOW, THEREFORE, in consideration of the above recitals, which are expressly incorporated herein, and for other good and valuable consideration, the receipt and sufficiency which is hereby acknowledged, the City and the Developer agree to amend the Development Agreement as follows:

1. Section 28 of the Development Agreement shall be changed to read as follows:

**28. CITY PAYMENTS.** The City shall reimburse the Developer in the amount of \$40,055 for oversizing costs associated with the installation of a 12-inch water main and reimburse the Developer in the amount of \$90,180 for oversizing costs associated with the installation of a 12 inch pressure reducing valve (PRV) as identified on the Plans. City payments shall be made within 30 days of the City's final acceptance of the Improvements, but only if the Developer is not in default with respect to any terms of this Agreement. This payment by the City shall be the City's only responsibility with regard to construction of the Improvements and in no case shall act as a waiver of any other right of the City under this Agreement or under applicable laws, ordinances, or rules.

2. All other terms and conditions of the Development Agreement shall remain in full force and effect.