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Date ..... February 27, 2012 .....

**APPROVING AND AUTHORIZING THE EXECUTION  
OF A TAKEOVER AGREEMENT BY AND BETWEEN THE CITY OF DES MOINES  
AND MERCHANTS BONDING COMPANY (MUTUAL), PROVIDING FOR THE  
COMPLETION OF THE LOWER UNION PARK SEWER SEPARATION PROJECT  
WHICH PURSUANT TO A VOLUNTARY DEFAULT BY THE CITY'S  
CONTRACTOR, VAN HAUEN & ASSOCIATES, INC.**

WHEREAS, Van Hauen & Associates, Inc., Brian Tancos, President, 1205 SW 37th Street, Grimes, IA, 50111, was the low bidder on the Lower Union Park Sewer Separation Project, Activity ID 08-2010-008, and was awarded a contract to construct said Project pursuant to Council action under Roll Call No. 10-1163, adopted on July 7, 2010; and

WHEREAS, Van Hauen & Associates, Inc. is unable to continue and complete the work under the Contract during the contract period which has 82 working days remaining and has notified its Surety, Merchants Bonding Company (Mutual) of its voluntary default and requested surety arrange for completion of the Project; and

WHEREAS, as required by the contract documents for said Project, Van Hauen & Associates, Inc., provided a performance, payment, and maintenance bond on said contract, issued by Merchants Bonding Company (Mutual); and

WHEREAS, Van Hauen & Associates, Inc./surety on said contract, Merchants Bonding Company (Mutual), has proposed to discharge Van Hauen & Associates, Inc. obligations under the contract, and its obligations under the performance, payment and maintenance bond by agreeing to hire Cramer and Associates, Inc., Robert Cramer, President/CAO, 3100 S.W. Brookside Drive, Grimes, Iowa, 50111, to complete said contract, pursuant to the terms of the Takeover Agreement appended hereto and by this reference made a part hereof; and

WHEREAS, this City Council has been advised and does believe that it would be in the best interest of the City of Des Moines to enter into said Takeover Agreement with Merchants Bonding Company (Mutual).

NOW THEREFORE, BE AND IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF DES MOINES, IOWA:

1. That the Takeover Agreement, by and between the City of Des Moines and Merchants Bonding Company (Mutual), a copy of the form of which is now on file in the office of the City Clerk, be and the same is hereby approved as to form and content.

★ **Roll Call Number**

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2. That the Mayor and City Clerk be and are hereby authorized and directed to execute and attest, respectively, said Takeover Agreement for and on behalf of the City of Des Moines, subject to receipt of the executed Takeover Agreement from Merchants Bonding Company (Mutual) in substantially the form on file in the office of the City Clerk, and its approval by the Engineering and Legal Departments.

Moved by \_\_\_\_\_ to adopt.

FORM APPROVED: *Kathleen Vanderpool*  
 Kathleen Vanderpool  
 Deputy City Attorney

*DEB*

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				

MOTION CARRIED

APPROVED

\_\_\_\_\_  
 Mayor

**CERTIFICATE**

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

\_\_\_\_\_  
 City Clerk