

9D

DATE January 7, 2008

ACCEPTING COMPLETED CONSTRUCTION AND APPROVING FINAL PAYMENT FOR UPPER UNION PARK SEWER SEPARATION PHASE II, ROGNES CORPORATION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DES MOINES, IOWA: That the attached report of the Jurisdictional Engineer, showing the cost of the construction of the Upper Union Park Sewer Separation Phase II, 08-2003-002, in accordance with the contract approved between Rognes Corporation, Warren Rognes, President, 2005 S. Ankeny Blvd., Suite 400, Ankeny, IA 50021, under Roll Call No. 04-1275, of June 21, 2004, and the City of Des Moines, and recommending the acceptance thereof, be and the same is hereby approved, and accepted, and

BE IT FURTHER RESOLVED: That \$4,462,886.21 is the total cost, of which \$4,231,829.18 has been paid to Rognes Corporation, the Contractor, and \$7,912.72 is now due and is hereby approved as final partial payment for the above project which shall be made payable to United Fire & Casualty Company and shall be released after thirty days with the Chapter 573 retainage (Attention: Mr. David A. Lange, Secretary Fidelity and Surety, United Fire & Casualty Company, 118 Second Avenue SE, PO Box 73909, Cedar Rapids, Iowa, 52407-3909) or as directed by the Legal Department, the remaining balance of \$223,144.31 is to be paid to United Fire & Casualty Company at the end of thirty days, provided no claims or liens have been filed against said contract. The City of Des Moines shall make payment to United Fire & Casualty Company not to exceed \$231,057.03 only upon documentation acceptable to the Des Moines Legal Department that United Fire & Casualty Company has paid Chapter 573 claims filed against the project with the City of Des Moines that equal or exceed the remaining balance of \$231,057.03. In the event that at the end of said thirty (30) day period, claims are on file as herein provided, the City of Des Moines shall continue to retain from said unpaid funds, a sum not less than double the total amount of all claims on file, or the full Chapter 573 Code of Iowa retainage amount, whichever is lesser.

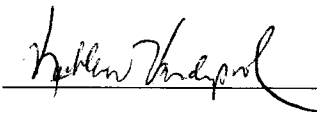
BE IT FURTHER RESOLVED: That the Engineering Department be and is hereby authorized and directed to notify all persons and firms with outstanding Chapter 573 claims against said project, that the project has been given final acceptance as completed by this City Council, that they have 60 days from such acceptance within which to initiate suit to collect on their claims, and that if suit is not commenced within that time, the City of Des Moines will be required to release the retainage which it is now holding.

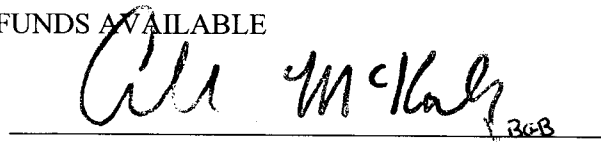
BE IT FURTHER RESOLVED: That the Des Moines Finance Director be and is hereby authorized to release said retainage if suit is not filed as above provided.

Moved by _____ to adopt.

FORM APPROVED:


FUNDS AVAILABLE





Kathleen Vanderpool
Deputy City Attorney

Allen McKinley
Des Moines Finance Director

 Funding Source: Upper Union Park Sewer Separation Phase II, SAE086, Various Funding, Being: \$4,430,619 in State Revolving Loan Funds and \$32,267.21 in Sanitary Sewer Funds

★ Roll Call Number

Agenda Item Number

9D

Date January 7, 2008

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				

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.

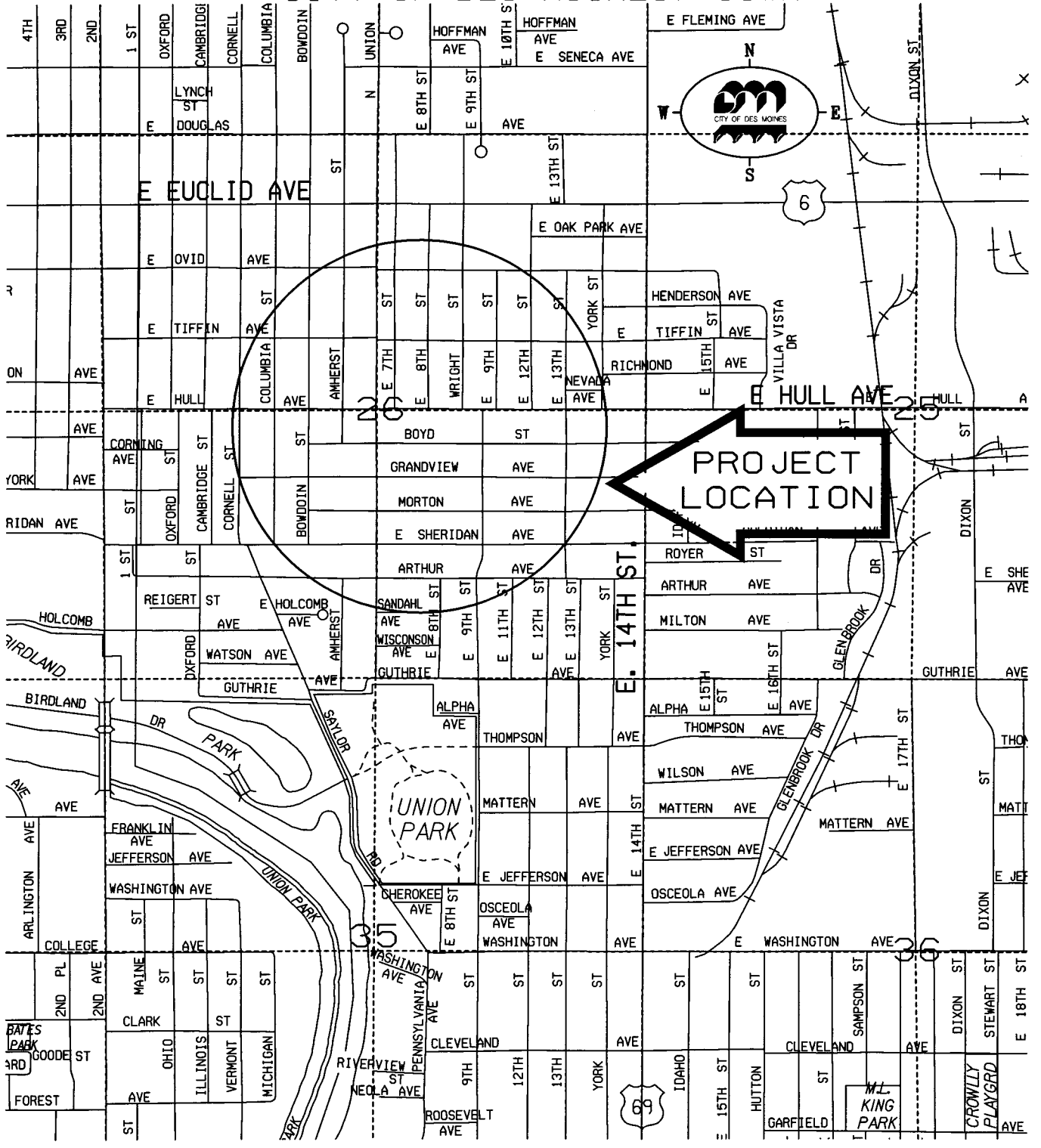
MOTION CARRIED APPROVED

Mayor

City Clerk

PROJECT LOCATION MAP
 DEPARTMENT OF ENGINEERING
 CITY OF DES MOINES, IOWA

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PROJECT NAME

UPPER UNION PARK SEWER
 SEPARATION PHASE II

ACTIVITY ID

08-2003-002

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PROJECT SUMMARY

Upper Union Park Phase 2

Activity ID 08-2003-002

On June 21, 2004, under Roll Call No. 04-1275, the City Council awarded the contract for the above improvement to Rognes Corp., in the amount of \$4,547,750.20 to construct approximately 10,000 LF of 15" to 66" reinforced concrete storm sewer pipe, intakes and manholes; 1,700 LF of 10" to 18" sanitary sewer and manholes; approximately 24,000 square yards of PCC pavement; 3,400 SY of HMA pavement overlay; PCC driveways; PCC sidewalks; and other related items.

Tabulated below is a history of project change orders.

<u>Change Order No.</u>	<u>Description</u>	<u>Initiated By</u>	<u>Amount</u>
1	8/18/2004 Add Contract Provisions at the request of the Iowa Department of Natural Resources	Regulator	\$0.00
2	8/23/2004 Repair a 90-year old 24" diameter in East 9th St at Morton Ave	Engineering	\$18,335.00
3	10/25/2004 Implement complete pavement replacement on one block of E. 9th Street from Morton Avenue to Grandview Avenue in-lieu-of partial replacement as was originally planned.	User	\$29,345.50
4	12/9/2004 The City requested that the tree removal subcontractor stop work for one week to allow additional time to notify residents of pending work.	Contractor	\$3,000.00
5	12/9/2004 Railway track ties from an old trolley system were discovered beneath the pavement of E 9th Street and required removal and disposal.	Contractor	\$7,436.36
6	6/27/2006 Add the removal of the existing HMA overlay by milling of the surface of the north half of Hull Avenue from N. Union to Bowdoin Street.	Consultant	\$5,928.48

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<u>Change Order No.</u>	<u>Description</u>	<u>Initiated By</u>	<u>Amount</u>
7	6/21/2006 The Des Moines Water Works has requested that shallow water main on North Union Street be replaced at proper depth. The cost for materials and labor, not exceed \$45,000.00, will be reimbursed to the City of Des Moines by Des Moines Water Works.	User	\$45,000.00
8	10/16/2006 Add treated timber retaining walls at several locations to accommodate severe slope conditions where lot lines match sidewalks	Engineering	\$9,750.00
9	4/6/2007 The City of Des Moines requested the Contractor to mill (scarify) approximately 1100 SY of HMA overlay on Hull Avenue to provide a uniform driving surface.	Engineering	\$2,700.00
10	Adjust contract quantities to match as-constructed quantities for project final-out.	Engineering	(\$206,359.33)
Original Contract Amount			\$4,547,750.20
Total Change Orders			(\$84,863.99)
Percent of Change Orders to Original Contract			-1.87%
Final Contract Amount			\$4,462,886.21

January 7, 2008

CERTIFICATION OF COMPLETION

AGENDA HEADING:

Accepting completed construction and approving final payment for the Upper Union Park Sewer Separation Phase II, Rognes Corporation.

SYNOPSIS:

Approve the Jurisdictional Engineer's Certification of Completion, accept construction of said improvement, and authorize final payment to the contractor.

FISCAL IMPACT:

Amount: \$4,462,886.21 As-Built Contract Cost

Funding Source: Upper Union Park Sewer Separation Phase II, SAE086, Various Funding, Being:
\$4,430,619 in State Revolving Loan Funds and \$32,267.21 in Sanitary Sewer Funds

CERTIFICATION OF COMPLETION:

On June 21, 2004, under Roll Call No. 04-1275, the City Council awarded a contract to Rognes Corporation, Warren Rognes, President, 2005 S. Ankeny Blvd., Suite 400, Ankeny, IA 50021 for the construction of the following improvement:

Upper Union Park Sewer Separation Phase II, 08-2003-002

The improvement includes construction of a storm sewer system including approximately 10,000 lineal feet of 15"-66" reinforced concrete pipe, manholes, intakes, 1,700 lineal feet of 18-inch sanitary sewer pipe, 24,000 square yards of PCC pavement, 3,400 square yards of 2-inch HMA overlay, 1,200 square yards of PCC driveway, 1,500 square yards of PCC sidewalk, 8-inch water main replacement, tree plantings and other related items; all in accordance with the contract documents including Plan File Nos. 424-112/163, located in the Union Park and Highland Park neighborhood areas along and in the vicinity of East 9th Street from Arthur Avenue to Grandview Avenue, and along and in the vicinity of North Union Street from Grandview Avenue to Ovid Avenue, Des Moines, Iowa

I hereby certify that the construction of said Upper Union Park Sewer Separation Phase II, Activity ID 08-2003-002, has been completed in substantial compliance with the terms of said contract, and I hereby recommend that the work be accepted. The work commenced on July 16, 2004, and was completed on December 17, 2007.



ENGINEERING DEPARTMENT
CITY HALL
400 ROBERT D. RAY DRIVE
DES MOINES, IOWA 50309-1891
(515) 283-4920
FAX (515) 283-4112

ALL-AMERICA CITY
1949, 1976, 1981
2003

On September 27, 2007 United States Bankruptcy Judge, Lee M. Jackwig, issued a Consent Order Regarding Partial Relief from Stay (Bankruptcy No. 07-02557-lmj11) regarding Rognes Corporation, which stated that Ames Community Bank, the Debtor for Rognes Corporation, and United Fire & Casualty Company, the Surety for Rognes Corporation on the Upper Union Park Sewer Separation Phase 2, stipulate that any and all retainages due from the City of Des Moines for said project may be paid by the City directly to the subcontractors, materialmen and other claimants with valid claims due on said project, or to United Fire & Casualty Company to the full extent that any such claim amounts are paid by United Fire & Casualty Company. City Legal Staff has worked with the attorney for United Fire & Casualty Company, and received notice that United Fire & Casualty Company has negotiated settlements with the eight companies that have filed Chapter 573 claims and that payment is being made. In accordance with said Consent Order, the City of Des Moines is directed to make payment of the retainages on the contract to United Fire & Casualty Company.

I further certify that \$4,462,886.21 is the total cost of said improvement, of which \$4,231,829.18 has been paid to Rognes Corporation and \$7,912.72 is now due and is hereby approved as final partial payment for the above project which shall be made payable to United Fire & Casualty Company and shall be released after thirty days with the Chapter 573 retainage (Attention: Mr. David A. Lange, Secretary Fidelity and Surety, United Fire & Casualty Company, 118 Second Avenue SE, PO Box 73909, Cedar Rapids, Iowa, 52407-3909) or as directed by the Legal Department, the remaining balance of \$223,144.31 is to be paid to United Fire & Casualty Company at the end of thirty days, provided no claims or liens have been filed against said contract. The City of Des Moines shall make payment to United Fire & Casualty Company not to exceed \$231,057.03 only upon documentation acceptable to the Des Moines Legal Department that United Fire & Casualty Company has paid Chapter 573 claims filed against the project with the City of Des Moines that equal or exceed the remaining balance of \$231,057.03. In the event that at the end of said thirty (30) day period, claims are on file as herein provided, the City of Des Moines shall continue to retain from said unpaid funds, a sum not less than double the total amount of all claims on file, or the full Chapter 573 Code of Iowa retainage amount, whichever is lesser. The amount of completed work is shown on the attached Estimate of Construction Completed.



Jeb E. Brewer, P.E.

Des Moines City Engineer