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Date March 24, 2014
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SERIES RESOLUTION AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND SECURING THE PAYMENT OF \$16,240,000 SEWER REVENUE CAPITAL LOAN NOTES, SERIES 2014B, OF THE CITY OF DES MOINES, IOWA, UNDER THE PROVISIONS OF THE CITY CODE OF IOWA, AND PROVIDING FOR A METHOD OF PAYMENT OF SAID NOTES

WHEREAS, the City Council of the City of Des Moines, Iowa, sometimes hereinafter referred to as the "Issuer", has heretofore established charges, rates and rentals for services which are and will continue to be collected as system revenues of the municipal sewer system, sometimes hereinafter referred to as the "System"; and

WHEREAS, this City Council has, by Roll Call Number 04-2450 approved on November 8, 2004 (the "Master Resolution"), authorized the issuance of Sewer Revenue Refunding Bonds, Series 2004H; and

WHEREAS, said Master Resolution authorizes the issuance of additional sewer revenue obligations under the terms of a Series Resolution which incorporates certain of the terms of the Master Resolution by reference and makes the same applicable to the obligations being issued under the Series Resolution; and

WHEREAS, Issuer proposes to issue the Series 2014B Notes hereinafter described to pay costs of refunding and refinancing of the Series 2004G and 2004H Sewer Revenue Bonds, each dated as of November 17, 2004, and the construction of sanitary trunk and lateral sewer lining improvements, Lower Oak Park and Highland Park Sewer Separation improvements, and the Hamilton and Birdland Pump Station improvements; and

WHEREAS, the notice of intention of Issuer to take action for the issuance of not to exceed \$18,000,000 Sewer Revenue Capital Loan Notes for such purposes has heretofore been duly published and no objections to such proposed action have been filed; and

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WHEREAS, pursuant to the provisions of Chapter 75 of the Code of Iowa, the above mentioned Notes were heretofore sold at public sale and action should now be taken to issue said Notes conforming to the terms and conditions of the best bid received at the advertised public sale.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DES MOINES, IN THE COUNTY OF POLK, STATE OF IOWA:

Section 1. Definitions. All terms defined in the Master Resolution shall be given the same meaning whenever used in this Series Resolution. In addition, for purposes of this Series Resolution, the following terms shall have the following meanings in this Series Resolution unless the text expressly or by necessary implication requires otherwise:

◆ "Continuing Disclosure Certificate" shall mean that certain Continuing Disclosure Certificate executed by the Issuer and dated the date of issuance and delivery of the Series 2014B Notes, as originally executed and as it may be amended from time to time in accordance with the terms thereof.

◆ "Loan Agreement shall mean the Loan Agreement between the Issuer and the Original Purchaser relating to the purchase of the Series 2014B Notes.

◆ "Master Resolution" shall mean the Roll Call of the Issuer approved on November 8, 2004, authorizing the issuance of the Sewer Revenue Refunding Bonds, Series 2004H, and providing for the issuance of additional sewer revenue obligations by the Issuer under the terms thereof.

◆ "Original Purchaser" shall mean the purchaser of the Series 2014B Notes from the Issuer at the time of their original issuance.

◆ "Paying Agent" shall be the City Treasurer, or such successor as may be approved by Issuer as provided herein and who shall carry out the duties prescribed herein as Issuer's Agent to provide for the payment of principal of and interest on the Series 2014B Notes as the same shall become due.

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- ◆ "Refunded Bonds" shall mean the Series 2004G and Series 2004H Sewer Revenue Bonds of the Issuer, each dated as of November 7, 2004.
- ◆ "Registrar" shall be the City Treasurer, or such successor as may be approved by Issuer as provided herein and who shall carry out the duties prescribed herein with respect to maintaining a register of the owners of the Series 2014B Notes. Unless otherwise specified, the Registrar shall also act as Transfer Agent for the Series 2014B Notes.
- ◆ "Series 2014B Notes" shall mean the Sewer Revenue Capital Loan Notes, Series 2014B, authorized to be issued by this Series Resolution.
- ◆ "Series 2014B Projects" shall mean the construction of sanitary trunk and lateral sewer lining improvements, Lower Oak Park and Highland Park Sewer Separation improvements, and the Hamilton and Birdland Pump Station improvements.
- ◆ "Tax Exemption Certificate" shall mean the Tax Exemption Certificate executed by the Treasurer and delivered at the time of issuance and delivery of the Series 2014B Notes.
- ◆ "Treasurer" shall mean the City Treasurer or such other officer as shall succeed to the same duties and responsibilities with respect to the recording and payment of the Series 2014B Notes issued hereunder.
- ◆ "Yield Restricted" shall mean required to be invested at a yield that is not materially higher than the yield on the Series 2014B Notes under Section 148(a) of the Internal Revenue Code or regulations issued thereunder.

Section 2. Authority. The Series 2014B Notes authorized by this Series Resolution shall be issued pursuant to Sections 384.24A and 384.82 of the City Code of Iowa, and in compliance with the Master Resolution and all applicable provisions of the Constitution and laws of the State of Iowa.

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Section 3. Status as Series Resolution and Senior Notes. This Series Resolution shall constitute and be treated as a Series Resolution within the meaning of the Master Resolution. The terms of the Master Resolution are hereby ratified, confirmed and approved and all of the provisions thereof are hereby made applicable to the Series 2014B Notes as if fully set forth herein, except as the same may otherwise be modified in this Series Resolution. The Series 2014B Notes shall be delivered to the Original Purchaser as described herein on the date of issuance of the Series 2014B Notes. The Series 2014B Notes shall constitute and be treated for all purposes as Senior Bonds under the Master Resolution.

Section 4. Authorization and Purpose; Loan Agreement. There are hereby authorized to be issued, negotiable, serial, fully registered revenue notes of the City of Des Moines, in the County of Polk, State of Iowa, for the purpose of paying costs of refunding and refinancing of the Series 2004G and 2004H Sewer Revenue Bonds, each dated as of November 17, 2004, and the construction of sanitary trunk and lateral sewer lining improvements, Lower Oak Park and Highland Park Sewer Separation improvements, and the Hamilton and Birdland Pump Station improvements. The City Council, pursuant to Sections 384.24A and 384.82 of the City Code of Iowa, hereby finds and determines that it is necessary and advisable to issue said Series 2014B Notes authorized by this Series Resolution. The Loan Agreement is hereby approved and is authorized to be executed by the Mayor and attested by the City Clerk and delivered to the Original Purchaser.

Section 5. Source of Payment. The Series 2014B Notes herein authorized and the interest thereon shall be payable solely and only out of the net earnings of the System and shall be a first lien on the future Net Revenues of the System. The Series 2014B Notes shall not be general obligations of the Issuer nor shall they be payable in any manner by taxation and the Issuer shall be in no manner liable by reason of the failure of the said Net Revenues to be sufficient for the payment of the Series 2014B Notes.

Section 6. Note Details. Sewer Revenue Capital Loan Notes, Series 2014B, of the City in the amount of \$16,240,000 shall be issued pursuant to the provisions of Section 384.83 of the City Code of Iowa for the aforesaid purpose. The Notes shall be designated "SEWER REVENUE CAPITAL LOAN NOTES, SERIES 2014B", be dated the date of delivery, and bear interest from the date thereof, until payment thereof, at the office of the

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Paying Agent, said interest payable on December 1, 2014 and semiannually thereafter on the 1st day of June and December in each year until maturity at the rates hereinafter provided.

The Series 2014B Notes and the Registrar's Certificate of Authentication shall be in substantially the form set forth in Exhibit A attached hereto.

The Series 2014B Notes shall be executed by the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of the City Clerk, and impressed or printed with the seal of the City and shall be fully registered as to both principal and interest as provided in this Series Resolution; principal, interest and premium, if any shall be payable at the office of the Paying Agent by mailing of a check, wire transfer or automated clearinghouse system transfer to the registered owner of the Series 2014B Notes. The Series 2014B Notes shall be in the denomination of \$5,000 or multiples thereof, and shall mature and bear interest as follows:

<u>Interest Rate</u>	<u>Principal Amount</u>	<u>Maturity June 1st</u>
3.000%	\$2,355,000	2015
4.000%	\$1,910,000	2016
4.000%	\$2,580,000	2017
5.000%	\$2,685,000	2018
2.000%	\$2,245,000	2019
5.000%	\$1,065,000	2020
5.000%	\$1,095,000	2021
5.000%	\$1,130,000	2022
2.500%	\$1,175,000	2023

Section 7. Redemption. The Series 2014B Notes maturing after June 1, 2022 may be called for redemption by the Issuer and paid before maturity on said date or any date thereafter, from any funds regardless of source, in whole or from time to time in part, in any order of maturity and within an annual maturity by lot. The terms of redemption shall be par, plus accrued interest to date of call. Notice of redemption shall be given as provided in the Master Resolution.

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Section 8. Registration of Series 2014B Notes; Appointment of Registrar. The ownership of Series 2014B Notes may be transferred only by the making of an entry upon the books kept for the registration and transfer of ownership of the Series 2014B Notes, and in no other way. The Treasurer is hereby appointed as Note Registrar under the terms of this Series Resolution. Registrar shall maintain the books of the Issuer for the registration of ownership of the Series 2014B Notes for the payment of principal of and interest on the Series 2014B Notes as provided in this Series Resolution. All Series 2014B Notes shall be negotiable as provided in Article 8 of the Uniform Commercial Code and shall be subject to the provisions for registration and transfer contained in the Series 2014B Notes and in the Master Resolution.

Section 9. Execution, Authentication and Delivery of the Series 2014B Notes. Upon the adoption of this Series Resolution, the Mayor and City Clerk shall execute and deliver the Series 2014B Notes to the Registrar, who shall authenticate the Series 2014B Notes and deliver the same to or upon order of the Original Purchaser. No Note shall be valid or obligatory for any purpose or shall be entitled to any right or benefit hereunder unless the Registrar shall duly endorse and execute on such Note a Certificate of Authentication substantially in the form of the Certificate herein set forth. Such Certificate upon any Note executed on behalf of the Issuer shall be conclusive evidence that the Note so authenticated has been duly issued under this Series Resolution and that the holder thereof is entitled to the benefits of this Series Resolution.

Section 10. Application of Series 2014B Notes Proceeds. The proceeds of the Series 2014B Notes shall be applied as follows:

- (i) An amount sufficient to pay Costs of Issuance of the Series 2014B Notes shall be deposited into the Series 2014B Cost of Issuance Account.
- (ii) An amount sufficient to meet the Debt Service Reserve Requirement for the Series 2014B Notes shall be deposited in the Debt Service Reserve Fund.
- (iii) An amount sufficient to pay the Refunded Bonds called for redemption on June 1, 2014 shall be held in escrow for such purpose, and applied to the payment of the Refunded Bonds on the date of redemption.

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- (iv) The balance of the proceeds shall be deposited in the Project Fund and applied to pay Project Costs of the Series 2014B Projects.

Section 11. Disposition of Proceeds; Arbitrage Not Permitted. The Issuer reasonably expects and covenants that no use will be made of the proceeds from the issuance and sale of the Series 2014B Notes issued hereunder which will cause any of the Series 2014B Notes to be classified as arbitrage bonds within the meaning of Section 148(a) and (b) of the Internal Revenue Code of the United States, and that throughout the term of said Series 2014B Notes it will comply with the requirements of said statute and regulations issued thereunder.

To the best knowledge and belief of the Issuer, there are no facts or circumstances that would materially change the foregoing statements or the conclusion that it is not expected that the proceeds of the Series 2014B Notes will be used in a manner that would cause the Series 2014B Notes to be arbitrage bonds. Without limiting the generality of the foregoing, the Issuer hereby agrees to comply with the provisions of the Tax Exemption Certificate and the provisions of the Tax Exemption Certificate are hereby incorporated by reference as part of this Series Resolution. The Treasurer is hereby directed to make and insert all calculations and determinations necessary to complete the Tax Exemption Certificate in all respects and to execute and deliver the Tax Exemption Certificate at issuance of the Series 2014B Notes to certify as to the reasonable expectations and covenants of the Issuer at that date.

The Issuer covenants that it will treat as Yield Restricted any proceeds of the Series 2014B Notes remaining unexpended after three years from the issuance and any other funds required by the Tax Exemption Certificate to be so treated. If any investments are held with respect to the Series 2014B Notes and other obligations, the Issuer shall treat the same for the purpose of restricted yield as held in proportion to the original principal amounts of each issue.

The Issuer covenants that it will exceed any investment yield restriction provided in this Series Resolution only in the event that it shall first obtain an opinion of recognized bond counsel that the proposed investment action will not cause the Series 2014B Notes to be classified as arbitrage bonds under Section 148(a) and (b) the Internal Revenue Code or regulations issued thereunder.

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The Issuer covenants that it will proceed with due diligence to spend the proceeds of the Series 2014B Notes for the purpose set forth in this Series Resolution. The Issuer further covenants that it will make no change in the use of the proceeds available for the construction of facilities or change in the use of any portion of the facilities constructed therefrom by persons other than the Issuer or the general public unless it has obtained an opinion of bond counsel or a revenue ruling that the proposed project or use will not be of such character as to cause interest on any of the Series 2014B Notes not to be exempt from federal income taxes in the hands of holders other than substantial users of the project, under the provisions of Section 142(a) of the Internal Revenue Code of the United States, related statutes and regulations.

Section 12. Additional Covenants, Representations and Warranties of the Issuer. The Issuer certifies and covenants with the purchasers and holders of the Series 2014B Notes from time to time outstanding that the Issuer through its officers, (a) will make such further specific covenants, representations and assurances as may be necessary or advisable; (b) comply with all representations, covenants and assurances contained in the Tax Exemption Certificate, which Tax Exemption Certificate shall constitute a part of the contract between the Issuer and the owners of the Series 2014B Notes; (c) consult with bond counsel (as defined in the Tax Exemption Certificate); (d) pay to the United States, as necessary, such sums of money representing required rebates of excess arbitrage profits relating to the Series 2014B Notes; (e) file such forms, statements and supporting documents as may be required and in a timely manner; and (f) if deemed necessary or advisable by its officers, to employ and pay fiscal agents, financial advisors, attorneys and other persons to assist the Issuer in such compliance.

Section 13. Continuing Disclosure Certificate. The Issuer hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate, and the provisions of the Continuing Disclosure Certificate are hereby approved and incorporated by reference as part of this Resolution and made a part hereof and the Mayor and City Clerk are hereby authorized to execute and deliver the same at issuance of the Notes. Notwithstanding any other provision of this Resolution, failure of the Issuer to comply with the Continuing Disclosure Certificate shall not be considered an event of default under this Resolution; however, any holder of the Notes or Beneficial Owner may take such actions as may be necessary and appropriate, including seeking specific performance by court order, to cause the Issuer to comply with its

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obligations under the Continuing Disclosure Certificate. For purposes of this Section, "Beneficial Owner" means any person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Notes (including persons holding Notes through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Notes for federal income tax purposes.

Section 14. Severability. If any section, paragraph, or provision of this Series Resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions.

Section 15. Repeal of Conflicting Ordinances or Resolutions and Effective Date. All other ordinances, resolutions and orders, or parts thereof, in conflict with the provisions of this Series Resolution are, to the extent of such conflict, hereby repealed; and this Series Resolution shall be in effect from and after its adoption.

Section 16. Rule of Construction. This Series Resolution and the terms and conditions of the Series 2014B Notes authorized hereby shall be construed whenever possible so as not to conflict with the terms and conditions of the Master Resolution. In the event such construction is not possible, or in the event of any conflict or inconsistency between the terms hereof and that of the Master Resolution, the Master Resolution shall prevail and be given effect to the extent necessary to resolve any such conflict or inconsistency.



Roll Call Number

Agenda Item Number

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Date March 24, 2014

Moved by: _____ to adopt.

Form approved: _____
Deputy City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRAY				
HENSLEY				
MAHAFFEY				
GATTO				
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.

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_____ City Clerk