

Date May 19, 2014

**RESOLUTION APPROVING AGREEMENT BETWEEN THE IOWA DEPARTMENT OF NATURAL RESOURCES AND THE CITY OF DES MOINES, IOWA REGARDING THE PROPERTY AT 1422 SCOTT AVENUE**

**WHEREAS**, property at 1422 Scott Avenue (hereinafter the “Property”) within the City of Des Moines (City) is the site of a former mixed construction and demolition recycling facility; and

**WHEREAS**, the Iowa Department of Natural Resources (DNR) issued a permit for the operation of a sanitary disposal project at the Property pursuant to Iowa Code Section 455B.305 of the Iowa Code; and

**WHEREAS**, prior to approval of a permit by DNR, a “financial assurance instrument” was required of the owner/operator to cover all costs “to properly dispose of any materials that may remain at the facility due to the owner’s or operator’s failure to properly close the site within 30 days of permit suspension, termination, revocation, or expiration,” including costs for a third party to clean and decontaminate the facility and the labor, transportation and tonnage fees for waste disposal from the site; and

**WHEREAS**, the owner/operator stopped operating and closed the recycling facility without properly disposing of materials remaining on the Property; and

**WHEREAS**, the facility suffered extensive fire damage beginning on August 29, 2013; and

**WHEREAS**, the DNR and the City both desire that the facility be demolished through the removal of concrete and metals for recycling and the removal of other materials for disposal; and

**WHEREAS**, the financial assurance instrument in the amount of \$100,000 which was seized by the DNR from the surety of the owner/operator pursuant to Iowa law is insufficient to cover all costs for demolition of the structures and removal of debris; and

**WHEREAS**, the DNR and the City have negotiated an Agreement relating to the funding of the removal of debris, demolition of the structures and removal of structure rubble, recovery of scrap metal and concrete for recycling from the Property as a pilot project and are entering into an agreement to serve as a demonstration project for the recovery of recyclables from fire damaged sites in the state, to facilitate recovery of scrap metal and concrete for recycling in an effort to minimize materials sent to the landfill to the extent determined feasible by the City, and to provide funding to the City for the described activities; and

★ **Roll Call Number**

**Agenda Item Number**

44A

Date May 19, 2014

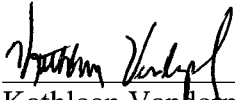
**WHEREAS**, the Agreement was approved by the Environmental Protection Commission on March 18, 2014.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Des Moines, Iowa, as follows:

That the Agreement between the Iowa Department of Natural Resources and the City of Des Moines, Iowa Regarding Property at 1422 Scott Avenue is accepted and approved and the Mayor is hereby authorized and directed to sign said Agreement on behalf of the City and the City Clerk is directed to attest the Mayor's signature.

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

APPROVED AS TO FORM:

  
 \_\_\_\_\_  
 Kathleen Vanderpool  
 Deputy City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MAHAFFEY				
MOORE				
<b>TOTAL</b>				
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