

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date	February 23, 2009
	Agenda Item No. 21 Roll Call No. <u>09-</u> Communication No. <u>09-107</u> Submitted by: William G. Stowe, Assistant City Manager-Public Works Director, and Jeb E. Brewer, P.E., City Engineer	

AGENDA HEADING:

Approving and authorizing the execution of an agreement between the City of Des Moines and Trelen J. Wilson and Linda L. Bender regarding the property at 1235 Davis Avenue in Des Moines, and authorization to acquire necessary property interests by gift, negotiation, or condemnation.

SYNOPSIS:

Recommend approval of the agreement between the City of Des Moines and the owners of the property at 1235 Davis Avenue, Trelen J. Wilson and Linda L. Bender, and authorization to acquire necessary property interests by gift, negotiation or condemnation, regarding construction of improvements to mitigate severe soil erosion and landslides that occurred near 1235 Davis Avenue during and subsequent to the heavy rains and flooding in June 2008. The property is adjacent to a natural creek, and was determined by the United States Department of Agriculture (USDA) to qualify for financial assistance from the USDA Natural Resources Conservation Service (NRCS) Emergency Watershed Protection Program (EWP), which provides for soil erosion prevention and repair projects. The City’s role is to act as the governmental sponsor, as required by the EWP, and coordinate the 25% local match for design and construction costs.

FISCAL IMPACT:

Amount: \$172,400 Total Estimated Project Cost

Funding Source: \$117,800 being 75% of estimated project cost (maximum \$117,800) in Federal USDA-NRCS EWP funds; additional 25% local match paid per agreement with the property owners.

ADDITIONAL INFORMATION:

The USDA-NRCS operates the EWP program with the stated purpose of undertaking “emergency measures for soil erosion prevention to safeguard lives and property from floods, drought, and the products of erosion on any watershed whenever fire, flood, or any other natural occurrence is causing or has caused a sudden impairment of the watershed.”

During and subsequent to the heavy rains and flooding in June 2008, severe soil erosion and landslides occurred near 1235 Davis Avenue, which threatened the house and the City’s storm sewer utility outlet located near the residence. On October 14, 2008, the City submitted an application to the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) Emergency Watershed Protection Program (EWP) for assistance at 1235 Davis Avenue, including repairs to the

property slope and also to the City's storm water utility outlet. The City's role in the EWP program is to act as the governmental sponsor for prevention and repair projects. The EWP program will fund 75% of the project cost with a 25% local share paid per agreement with the property owners.

City staff has met with the NRCS representatives at the property site to assess the damage and estimate the repair costs. A Damage Survey Report (DSR) prepared by the NRCS includes the construction of a retaining wall and City storm water utility drainage way improvements on the property with an estimate for construction only at \$117,800. The project cost including design, construction administration, and easement costs is estimated at \$172,400. Actual project costs of construction will be determined after the project is completed, and payment arrangements for reimbursement of the City's cost-share associated with the project have been negotiated by City staff and the property owners. The property owners also agree to provide a temporary easement for construction and construction related activities, an easement for operation and maintenance of retaining wall, and if required, a storm water flowage easement and/or storm sewer and storm water flowage easement to the City at no cost.

In addition, a permanent storm sewer and surface water flowage easement and a temporary construction easement are needed on the property located west of 1235 Davis Avenue. This property is owned by Frank and Melba Scaglione, 3663 Grand Avenue, Unit 907, Des Moines, Iowa 50312-4369. The easements are needed for construction access and for the stabilization and protection of the City's storm sewer utility outlet channel. Relocation assistance will not be required for this project.

PREVIOUS COUNCIL ACTION(S):

Date: September 22, 2008

Roll Call Number: 08-1662

Action: Authorization to submit grant application to U.S. Department of Agriculture Emergency Watershed Protection Program for soil erosion prevention and repair projects related to 2008 heavy rains and flooding. (Council Communication No. 8-577) Moved by Hensley to adopt. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S): NONE

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

The EWP grant agreement and an operation and maintenance agreement and plan with the USDA to construct the improvements, operate, and maintain the improvements will be presented to Council for consideration. Further Council action may also be required for property acquisition purposes for the project.

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