



Council Communication

Office of the City Manager

Date

August 10, 2009

Agenda Item No. 8
Roll Call No. 09-
Communication No. 09-581
Submitted by: **Jeb E. Brewer, P.E.**
City Engineer

AGENDA HEADING:

Approving and authorizing the execution of revised United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) Project Agreement for the Emergency Watershed Protection (EWP) Program and Operation and Maintenance Agreement for 1235 Davis Avenue Soil Stabilization (Trelen J. Wilson and Linda L. Bender, property owners).

SYNOPSIS:

Recommend approval of the revised agreement between the City of Des Moines and the USDA-NRCS for the EWP Program and Operation and Maintenance Agreement for 1235 Davis Avenue Soil Stabilization, subject to Council approval of an Amendment to the Agreement with the property owners Trelen J. Wilson and Linda L. Bender by August 24, 2009. The City Council approved the EWP Agreement originally provided by the USDA-NRCS on June 8, 2009. Following Council approval, the USDA-NRCS would not execute or approve the agreement due to a recent change in funding for the EWP Program in Iowa. The USDA-NRCS EWP Program funding calculation has been revised from the previous agreement and is now figured on the estimated installation cost (\$117,800) rather than the estimated project cost (\$157,067) that included matching funds.

FISCAL IMPACT:

Amount: \$157,067 total estimated project cost

Funding Source:

2009-2010 CIP, Page Storm-4, City-wide Storm Water Utility Projects, STE057, various funding being:

- \$87,055.50 in Federal funds from the USDA-NRCS EWP Program Funds for 75% of construction contract costs, not to exceed \$88,350, per Agreement No. 69-6114-9-49.
- \$9,285.92 in Federal funds from the USDA-NRCS EWP Program Funds for 8% of construction contract costs, not to exceed \$9,424, per Agreement No. 69-6114-9-49.
- \$25,000 in private contributions from the adjacent property owner, as per existing agreement with property owners Trelen Wilson and Linda Bender. Staff is negotiating an Amended Agreement with the property owners for additional contribution to project cost.
- \$35,725.58 in Storm Water Utility funds from STE057, less any additional contribution from 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. On October 14, 2008, the City submitted an application to the USDA-NRCS EWP for assistance at 1235 Davis Avenue. The City’s role in the EWP program is to act as the governmental sponsor for prevention and repair projects.

The City Council approved this EWP Agreement with the USDA-NRCS on June 8, 2009. The original EWP Agreement was to fund 75% of the project cost with 25% local share paid per an agreement with the property owners. The USDA-NRCS did not execute the agreement due to a recent audit of the EWP Program in Iowa. The revised EWP Agreement funding calculation has changed from the previous EWP Agreement to being figured on the estimated construction cost (\$117,800) rather than the estimated project cost (\$157,067) that included matching funds. The revised EWP Agreement has created a shortfall of funding from the USDA-NRCS for this project.

Pursuant to the revised agreement, the USDA-NRCS will provide funding for 75% of the construction estimate cost, up to a maximum of \$88,350. The USDA will also provide reimbursement for design cost for 8% of the construction estimate cost, up to \$9,424.

The City is in the process of negotiating an amendment to the agreement with the property owners to represent their obligation and financial share to cover a portion of the shortfall of funding created by the revised EWP Agreement. The amendment to the agreement between the City and the property owners will be subject to approval by City Council.

PREVIOUS COUNCIL ACTION(S):

Date: June 8, 2009

Roll Call Number: 09-1005

Action: Authorizing the execution of the United States Department of Agriculture (USDA) Natural Resources Conservation Services (NRCS) Project Agreement for the Emergency Watershed Protection Program and Operation and Maintenance Agreement for 1235 Davis Avenue (Trelen J. Wilson and Linda L. Bender, owners) Wall Construction. (Council Communication No. 09-359). Moved by Vlassis to adopt. Motion Carried 7-0.

Date: February 23, 2009

Roll Call Number: 09-280

Action: Approving and authorizing the execution of an agreement with Trelen J. Wilson and Linda L. Bender regarding 1235 Davis Avenue and to acquire necessary property interests. (Council Communication No. 09-107) Moved by Hensley to adopt. Motion carried 7-0.

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. 08-577) Moved by Hensley to adopt. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S): NONE

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

The Engineering Department will prepare a contract to receive bids to construct the soil stabilization. For more information on this and other agenda items, please call the City Clerk's Office at 515-283-4209 or visit the Clerk's Office on the second floor of City Hall, 400 Robert D. Ray Drive. Council agendas are available to the public at the City Clerk's Office on Thursday afternoon preceding Monday's Council meeting. Citizens can also request to receive meeting notices and agendas by email by calling the Clerk's Office or sending their request via email to cityclerk@dmgov.org.