

 <p style="text-align: center;"><b>Council</b> <b>Communication</b> Office of the City Manager</p>	<b>Date</b>	August 24, 2009
	<b>Agenda Item No.</b> <b>11</b> <b>Roll Call No.</b> <b><u>09-</u></b> <b>Communication No.</b> <b><u>09-601</u></b> <b>Submitted by:</b> <b>Jeb E. Brewer, P.E.</b> <span style="padding-left: 150px;"><b>City Engineer</b></span>	

**AGENDA HEADING:**

Approving and authorizing the execution of an amendment to the 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.

**SYNOPSIS:**

Recommend Council approval of the amendment to 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, 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 revised United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) Project Agreement for the Emergency Watershed Protection Program (EWP) has created a shortfall of funding for this project. The amendment to the agreement between the City of Des Moines and the property owners will increase the property owners' financial share to cover a portion of the shortfall.

**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 for design and inspection costs from the USDA-NRCS EWP Program Funds (maximum 8% of construction contract costs, not to exceed \$9,424) per Agreement No. 69-6114-9-49.
  - \$25,000 in Jump Start Funds from the adjacent property owner, as per existing agreement with property owners Trelen Wilson and Linda Bender.
  - \$25,000 in private contributions from the adjacent property owner, as per this agreement with the property owners.
  - \$10,725.58 in Storm Water Utility funds from STE057, plus any change orders or overages

**ADDITIONAL INFORMATION:**

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 USDA-NRCS EWP Program funding calculation has been revised and is now figured on the estimated construction cost (\$117,800.00) rather than the estimated project cost (\$157,067.00) that included matching funds. This revision was made by USDA-NRCS after initially offering the City an agreement that would have covered the entire construction cost of \$117,800.00, which agreement was approved by the City Council on June 8, 2009 (Roll Call No. 09-1005), but thereafter deemed void by the USDA-NRCS. The revised EWP Agreement now covers \$88,350.00 of construction cost and \$9,424.00 of design and administrative costs for the project, and thus has created a shortfall of funding from the USDA-NRCS for this project. A revised USDA-NRCS Agreement was approved by the City Council on August 10, 2009, subject to the approval of this Amendment to the Agreement with the property owners at 1235 Davis Avenue. On August 10, 2009, the City Council also authorized bids for the 1235 Davis Avenue Soil Stabilization project. No contract will be awarded until the USDA-NRCS Agreement and this Amendment to the Property Owner Agreement are approved and executed by all parties.

The amendment to the agreement between the City of Des Moines and Trelen J. Wilson and Linda L. Bender regarding the property at 1235 Davis Avenue addresses the property owners' responsibility to provide additional funding for completion of the project due to the revision of project funding by the USDA-NRCS. The amendment will increase the property owners' financial share to cover a portion of the shortfall of funding created by the revised EWP Agreement.

#### **PREVIOUS COUNCIL ACTION(S):**

Date: August 10, 2009

Roll Call Number: 09-1415

Action: Approving execution of revised United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) Project Agreement for the Emergency Watershed Protection Program and Operation and Maintenance Agreement for 1235 Davis Avenue Soil Stabilization. (Council Communication No. 09-581

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

Date: August 10, 2009

Roll Call Number: 09-1416

Action: (A) Ordering construction of 1235 Davis Avenue Soil Stabilization: Receiving of bids, (9-1-09), and Setting date of hearing, (9-14-09), Engineer's Estimate, (\$116,074). (Council Communication No. 09-570) Moved by Hensley to adopt. Motion Carried 7-0.

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 Steven C. Wallace and Alyce A. Wallace regarding 1706 Pennsylvania Avenue and to acquire necessary property interests. (Council Communication No. 09-108) 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](mailto:cityclerk@dmgov.org).