

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date	September 14, 2009
	Agenda Item No. 70 Roll Call No. <u>09-</u> Communication No. <u>09-661</u> Submitted by: Jeb E. Brewer, P.E. City Engineer	

AGENDA HEADING:

Hearing on 1235 Davis Avenue Soil Stabilization: Resolution approving plans, specifications, form of contract documents, engineer’s estimate, receive and file bids, and designating lowest responsible bidder as Hardscape Solutions of Iowa, Inc., Curtis Richey, President, 3125 Munier Road, Suite D, Marion, Iowa, 52302, \$137,519.35.

SYNOPSIS:

This is a public hearing to allow for public input on the 1235 Davis Avenue Soil Stabilization and take the necessary actions as required by Iowa Code to authorize a contract for construction of the proposed project. This project provides for construction of a mechanically-stabilized earth wall and drainage way improvements adjacent to 1235 Davis Avenue in accordance with an agreement between the City of Des Moines and the United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS), approved by the City Council on August 10, 2009, and between the City of Des Moines and the owners of the property at 1235 Davis Avenue, Trelen J. Wilson and Linda L. Bender, approved by the City Council on February 23, 2009, and amended August 24, 2009, 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 USDA to qualify for financial assistance from the USDA 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 local match design and construction costs.

FISCAL IMPACT:

Amount: \$137,519.35 Construction Contract (\$116,074 City Engineer's Estimate)

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

- \$88,350 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.
- \$32,939.35 in private contributions from the adjacent property owners, Trelen Wilson and Linda Bender, per agreement with the property owners.
- \$16,230 in Storm Water Utility funds from STE057, plus costs for any change orders or overages.

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 outlet located near the residence. On October 14, 2008, the City submitted an application to the USDA NRCS EWP Program for assistance at 1235 Davis Avenue, including repairs to the property slope and also to the City’s storm sewer 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 construction cost with the local share to be 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 storm water drainage way improvements on the property. 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 sewer and/or storm water flowage easement to the City at no cost.

On August 10, 2009, staff recommended that the Council proceed with setting the dates for the receiving of bids and public hearing on this project; however, the Council should not award a contract for this project until after the following have occurred:

1. The revised USDA NRCS agreement, approved by the City Council on August 10, 2009, Roll Call No. 09-1415, is signed by the USDA. The USDA NRCS signed the agreement on September 3, 2009, thus completing the first requirement.
2. An amended agreement is approved by the City Council between the City of Des Moines and the owners of the property at 1235 Davis Avenue, Trelen J. Wilson and Linda L. Bender, increasing the property owners’ financial share of the project to cover a portion of the shortfall resulting from the revisions to the USDA NRCS agreement. This was approved on August 24, 2009, under Roll Call No. 09-1534, this completing the second requirement. In accordance with the agreement, staff has worked with Trelen J. Wilson and Linda L. Bender, who have agreed to pay additional funding participation since the bids received on September 1, 2009 were higher than the estimated construction costs in the agreement with the property owners.

On August 10, 2009, under Roll Call No. 09-1416, the City Council received and filed plans, specifications, form of contract documents, and City Engineer's estimate for the construction of the 1235 Davis Avenue Soil Stabilization. Before the City Council can enter into a contract, it must hold a public hearing and approve the proposed plans, specifications, and form of contract documents and engineer's estimate for the construction of the 1235 Davis Avenue Soil Stabilization, 04-2009-017. The improvement includes construction of a mechanically stabilized earth wall and drainage way

improvements, together with the necessary appurtenances and restoration; in accordance with the contract documents including Plan File Nos. 507 - 127/134 at 1235 Davis Avenue, Des Moines, Iowa.

Sealed bids for said improvement were submitted by the following bidders:

Hardscape Solutions of Iowa, Inc., Marion, IA
Elder Corporation, Des Moines, IA

The bids were received and opened at a public meeting presided over by the City Engineer in the City Council Chambers, 2nd Floor, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa at 11:00 a.m. on September 1, 2009.

The City Engineer has determined that the lowest responsive, responsible bid for the construction of said improvement was submitted by Hardscape Solutions of Iowa, Inc., Curtis Richey, President, 3125 Munier Road, Suite D, Marion, IA, 52302, in the amount of \$137,519.35, and said bid should be accepted. The Finance Director has determined that funds are available for said improvement as stated above.

PREVIOUS COUNCIL ACTION(S):

Date: August 24, 2009

Roll Call Number: 09-1534

Action: Approving amendment to agreement with Trelen J. Wilson and Linda L. Bender regarding property at 1235 Davis Avenue. (Council Communication No. 09-601) Moved by Kiernan to adopt. Motion Carried 7-0.

Date: August 10, 2009

Roll Call Number: 09-1416

Action: 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: 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: 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.

BOARD/COMMISSION ACTION(S): NONE

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

Partial payments to the contractor and final acceptance of work.

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