

★ Roll Call Number  
09-1415

Agenda Item Number  
8

Date August 10, 2009

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF DES MOINES, IOWA:  
That the Revised Cooperative Project Agreement (Locally Led Contracting) between the City of Des Moines and the USDA-NRCS for the EWP Program and the Operation and Maintenance Agreement and Plan for 1235 Davis Avenue Soil Stabilization be hereby approved subject to approval by the USDA-NRCS; and also subject to City Council approval of an amended agreement 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; and the Mayor is authorized and directed to sign such agreements, and the Chief Deputy City Clerk is directed to attest to the Mayor's signature and return two original copies of the agreements to the Engineering Department for transmittal to the USDA-NRCS and administration of the agreement.

(Council Communication No. 09-581  
Activity ID 04-2009-017

Moved by Hensley to adopt.

APPROVED AS TO FORM:

Glenna K. Frank  
Glenna K. Frank  
Assistant City Attorney

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 United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS), Emergency Watershed Program (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 \$9,424.00 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.

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
HENSLEY	✓			
KIERNAN	✓			
MAHAFFEY	✓			
MEYER	✓			
VLASSIS	✓			
TOTAL	7			

MOTION CARRIED

APPROVED

T. M. Franklin 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.

Diane Rauh  
City Clerk

★ **Roll Call Number**  
..... 09-1415 .....

**Agenda Item Number**  
..... 8 .....

**Date** ..... August 10, 2009 .....

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 PROGRAM AND  
OPERATION AND MAINTENANCE AGREEMENT FOR  
1235 DAVIS AVENUE SOIL STABILIZATION  
(TRELEN J. WILSON AND LINDA L. BENDER, PROPERTY OWNERS)

WHEREAS, on September 22, 2008 by Roll Call No. 08-1662, Council authorized and directed the City Manager to make application with the United States Department of Agriculture (USDA) for assistance under its Emergency Watershed Protection (EWP) Program for certain property owners in the City of Des Moines who experienced issues with land sliding on their property resulting from the flooding and rain conditions of 2008; and

WHEREAS, said application was made and funding pursuant to the USDA's EWP Program is available for construction of slope stabilization on the property located at 1235 Davis Avenue, Des Moines, Iowa owned by Trelen J. Wilson and Linda L. Bender; and

WHEREAS, on February 23, 2008, by Roll Call No. 09-280, Council authorized and directed the Mayor to execute the agreement between the City and Trelen J. Wilson and Linda L. Bender regarding the City's sponsorship to obtain financial assistance through the EWP Program with the USDA Natural Resource Conservation Service for the property; and

WHEREAS, on June 8, 2009, by Roll Call No. 09-1005, Council authorized and directed the Mayor to execute the USDA-NRCS Project Agreement for the EWP Program and Operation and Maintenance Agreement for 1235 Davis Avenue (Trelen J. Wilson and Linda L. Bender, Owners) Soil Stabilization; and

WHEREAS, 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, and instead forwarded a revised Cooperative Project Agreement (Locally Led Contracting) and attachments thereof, and Operation and Maintenance Agreement and Plan, both agreements being on file in the Office of the City Clerk, for 1235 Davis Avenue Project to the City for approval prior to funding the project.