

MEMORANDUM

To: CSWD Board Members

From: Daniel E. Keen, Secretary

Date: May 28, 2020

Re: Award of Contract for Sewer Line Replacement from the end of Hansen Circle west to South Caspar Drive

This item has been placed on today's agenda to consider awarding a contract for the replacement of the sewer line from the end of Hansen Circle west to South Caspar Drive.

Step one: Select two board members by random process to participate, due to financial conflicts of interest and Rule of Necessity

Three members of the Board (Clouse, Keen and McCormack) own property within 500 feet of the boundaries of the project, and therefore have a "Material Financial Interest in Real Property" pursuant to §18702.2 of Fair Political Practices Commission Regulations.¹ Under normal circumstances, any member with a conflict of interest must abstain from participation in the consideration of an agenda item. However, due to the fact that the Board currently consists of four members, and a quorum of three members is necessary to take action on an agenda item, this item could not be legally considered without the participation of two of the conflicted members. In accordance with the Rule of Necessity (Government Code §87101 and 2 CCR §18708)², before consideration of this item, two of the conflicted members will need to be selected by a random process to participate on this item.

The random process to be used to select two members will be as follows:

1. Each of the three conflicted members (participating from home via teleconference due to the Covid-19 pandemic) will shuffle a regular deck of cards (i.e., 52 cards of four suits, ranked from Ace to King, with an Ace equivalent to the value 1 and a King equivalent to a value 13).

¹ "The reasonably foreseeable financial effect of a governmental decision on a parcel of real property in which an official has a financial interest, other than a leasehold interest, is material whenever the governmental decision: ... (7) Involves property located 500 feet or less from the property line of the parcel unless there is clear and convincing evidence that the decision will not have any measurable impact on the official's property..."

² "Section 87100 does not prevent any public official from making or participating in the making of a governmental decision to the extent his participation is legally required for the action or decision to be made."

2. Member Wasserman, who does not have a conflict of interest on this item, will announce a number from 1 to 52.
3. The three conflicted members will count off Wasserman's number of cards from the top of their decks, and display the card corresponding to Wasserman's number to the participants in the meeting via their teleconference camera.
4. The two conflicted members holding the highest cards by rank will be the members who participate in the consideration of this item. In the event of a tie in rank between two members, those members will shuffle their cards again and the process will be repeated until a tie in rank no longer exists.

Step Two: Consider award of contract for sewer line replacement from end of Hansen Circle west to South Caspar Drive

Two bids for the work to replace the sewer line from the end of Hansen Circle west to South Caspar Drive were obtained, one from Akeff Construction Services, Inc. in the amount of \$25,990, and one from Paulson Excavating, Inc. for \$51,000. Those bids are attached to this memorandum.

Recommended Action: Award a contract to one of the two firms.