

AMENDED 01/11/2011

Pursuant to Governor Newsom's Executive Order N-29-20, members of the PROS Commission and staff will participate in this meeting via a teleconference. Members of the public can submit written comments to the Board Secretary at boardcomment@cambridgesd.org.



Parks, Recreation and Open Space Commission (PROS)

SPECIAL MEETING
Tuesday, January 12, 2021 - 3:00 PM

AGENDA

Please click the link below to join the webinar:

<https://zoom.us/j/98666655411?pwd=L3RENm1MOWg1TkRkaExDcm5LZ1pqZz09>

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1. OPENING

- A. CALL TO ORDER
- B. ESTABLISH QUORUM
- C. CHAIR REPORT

2. PUBLIC COMMENT NOT ON THE AGENDA

Members of the public may now address the Commission on any item of interest within the jurisdiction of the Commission but not on its agenda today. Future agenda items can be suggested at this time. In compliance with the Brown Act, the Commission cannot discuss or act on items not on the agenda. Each speaker has up to three minutes.

3. REGULAR BUSINESS

A. Receive Update on the Cambria Skatepark

Added Staff Report Late

4. FUTURE AGENDA ITEMS

5. ADJOURN

Added Late on 1/11/2021

CAMBRIA COMMUNITY SERVICES DISTRICT

TO: PROS Commission

AGENDA NO. **3.A.**

FROM: John F. Weigold IV, General Manager

Meeting Date: January 12, 2021

Subject: RECEIVE UPDATE ON THE CAMBRIA
SKATEPARK

RECOMMENDATIONS:

The information contained in this memorandum is being provided to the PROS Commission regarding agenda item 3A, and receipt of an update on the status of the Cambria Skatepark.

DISCUSSION:

At the January 12, 2021 PROS Commission meeting, the Commission is to receive an update on the Cambria Skatepark project. This memorandum is intended to provide related information about bidding requirements and the use of the Sourcewell cooperative bidding program to solicit construction bids for the project.

As the Commission is aware, the District is about to enter into a consulting agreement with the firm Spohn Ranch Skateparks ("Spohn Ranch") for the design of the new Cambria Skatepark. Spohn Ranch has recently suggested that the District use the cooperative bidding entity Sourcewell to bid the project. We have asked District Counsel to review whether it is permissible to use Sourcewell to solicit bids for the project. As explained below, unfortunately the California law governing bidding on public works projects by community services districts does not permit using an entity like Sourcewell for the Skatepark project.

We are also informed that there is a related issue that District Counsel has identified regarding a potential conflict of interest problem under Government Code Section 1090 if Spohn Ranch is also interested in bidding on the construction of the Skatepark project. This issue is based upon advice letters that have been issued by the Fair Political Practices Commission in similar situations, where a consultant designs a project and subsequently wants to bid on its construction. This memorandum will not cover that issue in any detail, but we wanted to bring its existence to the attention of the Commission. We have asked that District Counsel advise Spohn Ranch of those opinions so that they can make an informed determination regarding that matter, if they are interested in bidding on the construction of the project.

With regard to Sourcewell, it is a cooperative purchasing governmental entity located in Minnesota. District Counsel has advised that under California law, while the CCSD could use Sourcewell for purchasing supplies and equipment, it is not an available resource for soliciting bids for a public works project such as the Cambria Skatepark.

The statutes governing the operation of community services districts (Government Code Section 61000, et seq.) include provisions relating to both purchasing and public works projects. Government Code Section 61063(a) provides that districts are to adopt policies and procedures for purchasing supplies and equipment that includes bidding regulations, **except** for matters governed by provisions in the Public Contracts Code relating to public works projects.

The statutes relating to purchasing are not otherwise specific as far as procedures, and it is not uncommon for agencies to use cooperative bidding programs such as Sourcewell in order to purchase supplies and equipment. Cambria has used such cooperative purchasing programs in the past.

Under State law, the Cambria Skatepark is a public works project, as opposed to simply purchasing supplies and equipment. Therefore, it is subject to the laws that apply to such projects. The statutes also specifically permit community services districts to adopt alternative procedures for its public works contracting, which are the procedures in the Uniform Public Construction Cost Accounting Act ("UPCCAA"). Cambria has done so (reference CCSD Municipal Code Section 1.06). Therefore, a public works project costing between \$60,000 and \$200,000 is subject to the UPCCAA's procedures for informal bidding and those exceeding \$200,000 must be put out to bid using formal bidding procedures (see Public Contracts Code Sections 22032(c) and 22037).

District Counsel also reviewed the use of Sourcewell to bid for construction of skateparks and found a number of entities in other states that have used Sourcewell for skatepark projects. Spohn Ranch has constructed some of those out of state projects; however, no such projects were found in California. District Counsel also contacted Sourcewell and reviewed the issue with their legal counsel. The Sourcewell attorney provided a memorandum that is captioned "Use of Sourcewell Contracts in California," which cites to the Joint Powers Act statutes as a basis for using their services. District Counsel has noted, however, that the statute cited, Government Code Section 6502, allows entities to exercise powers that are "common" to them, which would not be the case as far as bidding on a public works project. The Sourcewell attorney also noted in his email response that:

Generally, there are two legal vehicles Sourcewell members utilize to access cooperative purchasing contracts. The first is through an express authorization or exemption in statute or ordinance allowing purchases from competitively awarded cooperative purchasing contracts. The other, and method prevalent for California entities, is through exercise of joint powers provisions in law...

As noted, purchasing procedures can be broader than what applies to a public works project and such procedures often authorize use of cooperative purchasing arrangements; however, public works procedures do not contain either an express authorization or an exemption for using a cooperative purchasing entity such as Sourcewell. Therefore, the District cannot use Sourcewell to bid the skatepark project and instead must bid the project in accordance with California law and the requirements and procedures in the UPCCAA.