

CITY OF SAN DIEGO

Proposition B

(This proposition will appear on the ballot in the following form.)

PROP B **AMENDS THE CHARTER OF THE CITY OF SAN DIEGO BY ADDING SECTION 94.4, CONSTRUCTION MANAGER AT RISK CONTRACTS.** Shall the City Charter be amended to permit the award of public works construction contracts using a combination of (1) design review and management services, and (2) construction and construction management services; for a guaranteed maximum price pursuant to a process of competitive negotiation conducted as required by the Charter or Municipal Code?

This proposition requires approval by a simple majority (over 50%) of the voters.

PROPOSED CHARTER AMENDMENT

The portions of the charter to be added are underlined and the portions to be deleted are printed in ~~strike-out~~ type.

SEC. 94.4 CONSTRUCTION MANAGER AT RISK CONTRACTS

Notwithstanding any provisions of this Charter to the contrary, the City is not prohibited from awarding contracts for the construction of public works using a combination of (1) design review and management services, and (2) construction and construction management services; procured from a single person or entity for a guaranteed maximum price pursuant to a process of competitive negotiation, provided the process of competitive negotiation is conducted as may otherwise be required by this Charter or the Municipal Code. The City Council shall establish by ordinance guidelines for the award, use, and evaluation of such construction manager at risk contracts, and may set an amount below which the City Manager may award such contracts.

OFFICIAL TITLE AND SUMMARY PREPARED BY THE CITY ATTORNEY

CONSTRUCTION MANAGER AT RISK CONTRACTS

Shall the City Charter be amended to permit the award of public works construction contracts using a combination of (1) design review and management services, and (2) construction and construction management services; for a guaranteed maximum price pursuant to a process of competitive negotiation conducted as required by the Charter or Municipal Code?

CITY ATTORNEY'S IMPARTIAL ANALYSIS

Section 94 of the City Charter currently requires that contracts for the construction, reconstruction or repair of public buildings, streets, utilities, and other public works be awarded to the lowest responsible and reliable bidder. Under this contracting method, the City provides plans and specifications, which are generally prepared by consultant design firms. Contractors then review the plans and specifications and submit sealed bids for the work. The contract is then awarded to the lowest responsible and reliable bidder.

The proposed Charter amendment would allow the City to award a public works contract to a construction manager who is at risk ["CM at Risk"] for delivering the project at a guaranteed maximum price. Although the City would continue to hire its own design consultant to draft plans and specifications for the project under the CM at Risk contracting method, the CM at Risk would be hired for a negotiated fee to collaborate with the City's design consultant in the early stages of design to ensure that (1) the design incorporates the value engineering ideas of the CM at Risk and (2) the plans and specifications are sufficiently detailed and complete so as to avoid construction change orders that increase project costs once construction has started. The CM at Risk would then propose a guaranteed maximum price for construction of the project, which the City could then accept or reject. Once the City accepts the CM at Risk's guaranteed maximum price, then the CM at Risk must construct the project in accordance with the completed design for the guaranteed maximum price. If the City rejects the CM at Risk's guaranteed maximum price, then the City could renegotiate with the CM at Risk, modify the scope of the project, or decline to construct the project.

Under this method of contracting, the CM at Risk would be selected in accordance with a competitive selection process and criteria set forth in an implementing ordinance that must be approved by the City Council after a public hearing process. The selection process may take into account an applicant's construction experience for similar projects, value engineering and constructability design experience, equal opportunity contracting outreach for subcontractors, qualifications, history of performance in constructing public works projects, as well as fees for value engineering and design constructability review. Therefore, the winning proposal would not necessarily be the proposal with the lowest price. The City Council might also establish, by ordinance, an amount below which the City Manager may award CM at Risk contracts without City Council approval.

CITY MANAGER'S FISCAL ANALYSIS

A precise fiscal impact analysis on the potential savings resulting from the implementation of "construction manager at risk" provisions is almost impossible due to the differences in the type, size and complexity of various construction projects. While not quantifiable, due to the increased collaboration between the City, the architect and construction manager that is mandated by the construction manager at risk process, and because the construction manager will be guaranteeing a project construction budget, meaningful savings on future City of San Diego construction projects using this method are anticipated.

ARGUMENT IN FAVOR OF PROPOSITION B

Proposition B will amend the City Charter to allow the City to obtain pre-construction and construction management services from a qualified construction manager that will provide a guaranteed fixed price and serve as-a single point of responsibility, contracting directly with subcontractors during construction.

REDUCES TAXPAYERS' COSTS ON CITY OF SAN DIEGO PROJECTS

- Controls project cost growth.
- Provides "value engineering" to maximize cost/benefit decisions.
- Completeness of design evaluated *before* construction begins.
- Requires coordination between design and construction professionals.
- Cost, schedule and materials are evaluated through collaborative teamwork.

PROVIDES A GUARANTEED FIXED PRICE

- The Construction manager is *at risk* for delivering a project for a guaranteed fixed price, and is responsible for cost over-runs.

ACCELERATES COMPLETION OF PROJECTS

- Facilitates speedy delivery of projects.

FACILITATES EQUAL OPPORTUNITY IN CONTRACTING

- Encourages the Construction Manager to conduct broad-based outreach and to assemble a construction team representative of San Diego's diverse construction community.
- Provides the Construction Manager with the flexibility to distribute construction dollars throughout the region's socio-economically diverse vendor and contractor community.

*Proposition B will **not** require the use of the Construction Manager At Risk method – it will merely make it available as one method project managers can use.*

The Construction Manager at Risk method is already used for projects in many cities, states, and by agencies of the federal government, San Diego should be able to cut costs too!!

VOTE YES ON PROPOSITION B TO REDUCE COSTS, BUILD HIGH QUALITY PROJECTS, AND REDUCE CONSTRUCTION TIME AND IMPACTS!

JIM MADAFFER
City Councilmember

LISA BRIGGS
Executive Director
San Diego County Taxpayers Association

RICKEY LASTER
President
Multi-Cultural Contractors Group

JOSE O. MIRELES
Executive Director
Latino Builders Association

ABDUR-RAHIM HAMEED
President/CEO
Black Contractors Association, S.D. Inc.

ARGUMENT AGAINST PROPOSITION B

Changing the City Charter is serious business. We are talking about permanently amending our "local constitution." However, the City Bureaucrats have purposely kept you, the voters, in the dark as to what Construction Manger (CM) at Risk means. Here are a few facts:

***CM-At Risk is not a recognized and legal project delivery method for cities in the State of California. That is why the City needs a charter change to allow it.**

***CM-At Risk simply means that the City of San Diego will be able to choose any contractor for any project and the California Public Contract Code, the code that protects fair competition and ensures that the taxpayer gets the lowest price, will no longer apply.**

***CM-At Risk provides large out-of-town contractors with the incentive to become "more friendly" to our elected officials so that they will be given prime city projects to build.**

***CM-At Risk will hurt local contractors, especially small contractors and their local work force.**

The proponents will say that the City is faced with too many cost over-runs and something must be done. Don't be fooled! Eliminating competitive bidding will not lower costs and this proposition has nothing to do with cost containment. If it did, the City would enact any of the numerous recommendations made by industry experts that actually would lower costs, prevent over-runs and save the taxpayers money. That is not what is being proposed.

This charter change is simply about making a few "Friends of City Hall" a lot of money at taxpayer expense. The only thing standing in their way is you – Vote no on Construction Manager-At Risk and tell the City Bureaucrats there will be no returning to the days when the proverbial "friends" got all the City contracts.

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