

**DRAFT AMENDMENT OF CITY CHARTER TO PROVIDE ALTERNATIVE
PROCESS FOR STADIUM CONSTRUCTION**

Article XIII (entitled "Fiscal Administration") of the Charter of the City of Santa Clara, California would be amended by adding a new section to be numbered Section 1322 (entitled "Stadium Authority Contract Procedures") to read as follows:

"Sec. 1322 Stadium Authority Contracting Procedures.

(a) STADIUM CONTRACT PROCEDURES.

Subject to subdivision (b) below, if the City and the Redevelopment Agency of the City of Santa Clara jointly form a joint powers agency named the Santa Clara Stadium Authority for the purpose of leasing, constructing, operating, and/or maintaining a stadium located in the City, the City may award, or may delegate to the Stadium Authority the ability to award, a design-build contract related to the stadium to a qualified design-build contractor on a sole source basis, without utilizing the process set forth in section 1310. Any design-build contract awarded pursuant to this paragraph shall not be funded, either through direct payment or reimbursement, using funds contributed by the Agency or by a community facilities district established under the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5), except that such funds may be used to pay for or reimburse for subcontract work pursuant to subcontracts awarded by the design-build contractor to the lowest responsible bidder as provided in subdivision (b)(iv).

(b) CONDITIONS FOR USE OF STADIUM CONTRACT PROCEDURES

A design-build contract related to a Stadium shall not be awarded pursuant to subdivision (a) unless all of the following conditions are met:

(i) The design-build contract does not require expenditure of money from the City's general fund or enterprise funds.

(ii) The obligation of the Redevelopment Agency of the City of Santa Clara to contribute funding toward amounts due under the design-build contract is limited to a maximum of forty million dollars (\$40,000,000), exclusive of debt service and other financing costs.

(iii) A private party will be responsible for any construction cost overruns.

(iv) Any design-build contract awarded pursuant to this section shall require the design-build contractor to award subcontracts for construction work using a competitive bid process to be established by the City or the Stadium Authority. This competitive bid process may provide that subcontracts shall be awarded using either the lowest responsible bidder or by best value, as defined in Section 20133 of the California Public Contract Code. Funds contributed by the Redevelopment Agency of the City of Santa Clara or by a community facilities district established under the Mello-Roos Community Facilities Act of 1982 may only fund, either through direct payment or reimbursement, subcontracts awarded on the basis of the lowest responsible bidder



Draft Amendment to City Charter

Charter Review Committee
September 17, 2009
5:30 p.m.
Central Park Library

Conditions for Use of Stadium Contract Procedure

A. Stadium Authority Contracting Procedure

- If the City and Redevelopment Agency form a joint powers agency (the “Stadium Authority”), the City may award, or delegate to the Stadium Authority, a design build contract on a sole source basis
- Any design-build contract shall not be funded by the Agency or a Mello-Roos District except as noted in B below for subcontract work awarded to the lowest responsible bidder.

Conditions for Use of Stadium Contract Procedure

B. Conditions for Use of Stadium Contract

- City shall have no liability under the design-build contract.
- No expenditure of City general fund or enterprise funds
- Agency obligation is limited to \$40 Million Dollars (exclusive of debt service and financing costs)
- A private party will be responsible for construction cost overruns
- Agency and Mello-Roos funds may only be used for subcontracts awarded on the basis of the lowest responsible bidder