

RESOLUTION NO. 75666

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN AGREEMENT WITH THE NATIONAL DEVELOPMENT COUNCIL FOR NEW MARKETS TAX CREDIT FINANCING CONSULTING SERVICES

WHEREAS, in June 2010, staff of the City of San José ("City") informed the Transportation and Environment Committee of the status on the site development and programming options for the Environmental Innovation Center ("EIC") and identified several funding opportunities to assist with the construction of the EIC; and

WHEREAS, the New Markets Tax Credit ("NMTC") program is administered by the U.S Department of the Treasury ("Treasury") and was created to promote economic development in distressed areas and increases the amount of investment capital available to businesses and economic development programs through federal income tax credits; and

WHEREAS, each year credits from the Treasury's Community Development Financial Institutions ("CFDI") Fund are competitively allocated for distribution to certain qualifying entities known as Community Development Entities, which solicits private equity investments in exchange for a federal income tax credit totaling 39% of the amount invested that the investor claims over seven years; and these investments are then provided to a Qualified Active Low-Income Community Business ("QALICB"), which are a corporation or partnership that sponsors projects within the economically disadvantaged area it is located in; and

WHEREAS, although a city or other governmental agency project would not qualify as a QALICB, it may be possible for a transaction to be structured so that the project would qualify for NMTC; the EIC project is located in a qualifying census tract for the NMTC

program; and, assuming that a qualifying QALICB can be established, the EIC project would be eligible for NMTC that could generate approximately \$4 million in net revenue; and

WHEREAS, the National Development Council would assist the City in determining if a QALICB could be established that complies with the federal Internal Revenue Code and NMTC regulations, preparing the documentation necessary to create the QALICB, and advise the City as to how the City can best maintain its short and long term interest in the EIC; and

WHEREAS, the City desires to authorize the City Manager negotiate and execute an agreement with the National Development Council for New Markets Tax Credit consulting services with an initial term from December 15, 2010 through January 31, 2012; with an option to extend the agreement up to seven years for compliance and asset management services; with compensation to be contingent on the closing of the transaction, in an amount not to exceed \$177,500 for the initial term, and \$70,000 for services during the option period;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

The City Manager is hereby authorized to negotiate and execute an agreement with the National Development Council for New Markets Tax Credit consulting services with an initial term from December 15, 2010 through January 31, 2012; with an option to extend the agreement up to seven years for compliance and asset management services; with compensation to be contingent on the closing of the transaction, in an amount not to exceed \$177,500 for the initial term, and \$70,000 for services during the option period.

ADOPTED this 14th day of December, 2010, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CONSTANT, HERRERA,
KALRA, LICCARDO, NGUYEN, OLIVERIO, PYLE; REED.

NOES: NONE.

ABSENT: NONE.

DISQUALIFIED: NONE.



CHUCK REED
Mayor

ATTEST:



LEE PRICE, MMC
City Clerk