

**FY2009-10 COOPERATION AGREEMENT BETWEEN THE
CITY OF SAN JOSE AND THE REDEVELOPMENT
AGENCY OF THE CITY OF SAN JOSE FOR OPERATING
EXPENSES**

THIS AGREEMENT is made and entered into this ____ day of _____, 2009, by and between the City of San Jose, a municipal corporation of the State of California, hereinafter called "City," and the Redevelopment Agency of the City of San Jose, a public body corporate and politic, duly created and functioning under the laws of the State of California, hereinafter called "Agency".

RECITALS

- A. Agency is engaged in a program of urban redevelopment and economic development in its various redevelopment project areas. City is engaged in projects of economic and urban development throughout its territory.
- B. City and Agency have heretofore entered into cooperation agreements for the construction of certain public works projects to benefit redevelopment project areas. City and Agency have determined that the most efficient and expedient manner of providing for completion of the projects by Agency under these cooperation agreements is for the parties to enter into a contract requiring City to provide necessary personnel and support services in connection with the projects and for Agency to pay to City the costs of providing said services.
- C. On June 23, 2009 the Agency adopted its FY2009 -10 Revenue Resolution and Appropriations Resolution for the Merged Area Redevelopment Project which incorporates the 2nd year of the Two Year Spending Plan, adopted on December 16, 2008, as the Agency's operating expenses for FY2009-10 (which includes City services funded by the Agency as summarized in Attachment A). In September 2009, the Agency will bring forward a substantially revised proposed budget based on a revenue forecast provided by the County Assessor's Office on July 2009.
- D. City and Agency further desire to provide for the coordination of said Agency activities with related City activities to avoid duplication of effort and waste.

NOW, THEREFORE, the parties do hereby agree as follows:

- 1. The terms of this Agreement shall be effective as of July 1, 2009 through June 30, 2010, inclusive.

2. During the term of this Agreement, City agrees to provide to Agency the services of certain employees ("Support Services"). City employees' time:
 - a. shall be charged to Agency, and Agency shall reimburse City for such employees' time, at the actual rate of salary and fringe benefit costs, and negotiated overhead incurred by City, provided however that costs for the Office of Economic Development will be charged at 50% of actual costs incurred and for the Mayor and Council Offices, 25% of actual costs incurred;
 - b. shall include nonpersonal services, equipment and overhead expenses;
 - c. but in no event shall the amount payable to City be in excess of the amount required to fund such expenditures and amounts designated in the "Support Services" table in the 2009-10 Appropriations Resolution adopted by the Agency Board on June 23, 2009 or as subsequently amended;
3. Furthermore, during the term of this Agreement, City agrees to provide certain employees to work under the Executive Director's supervision, or the Agency's General Counsel, in the case of employees in the Agency's General Counsel's Office, (Agency Civil Service Employees). Agency's Executive Director, or General Counsel, as the case may be, may assign or reassign any or all of these employees to such work locations, including locations within City facilities, as may be deemed necessary by the Executive Director or General Counsel to promote the objects and purposes of this Agreement. Agency shall reimburse City for such employees' actual salaries, fringe benefits, and negotiated overhead.
4. Agency agrees to provide staff services to City for the implementation of programs related to Neighborhood Business Districts, Strong Neighborhoods Initiative and the Downtown Business Loan programs, as are required.

Agency agrees to represent City pursuant to delegations of authority from City, which are hereby given, in the implementation of the above-referenced programs to the extent required and legally permissible.
5. From time to time the Agency Board and the City Council may determine that City shall transfer funds to Agency for certain operating expenses. Such transfer shall occur upon terms that are mutually acceptable to City and Agency.
6. As of August 1, 2005, the Agency has occupied certain space from the City in the new City Hall located at 200 East Santa Clara Street, San Jose ("City Hall") and for FY 2009-10 shall pay the City for the use of such space pursuant to the following terms:

- a. The Agency shall make twelve (12) monthly payments of \$115,906.24 ("Monthly Payment") to the City for the use of the Premises. The Monthly Payments shall be due on the first day of each month during the Term, with the first Monthly Payment due on July 1, 2009 and the final Monthly Payment due on June 1, 2010.
 - b. The Monthly Payment shall be the sole consideration for use of the Premises which is comprised of a portion of the 13th and 15th floors and all of the 14th floor of the City Hall, as well as the 25% of space used by the City Council/Agency Board and the right to use the common areas and improvements, including the Rotunda; and the right to four (4) reserved and eight (8) unreserved parking spaces in the City Hall onsite parking garage.
 - c. The Premises were delivered to Agency in a fully furnished condition. The Monthly Payment also includes all maintenance and operational costs associated with the Premises. The Agency shall be responsible for the financing and construction of all subsequent tenant improvements to the 14th Floor space, subject to all applicable City permitting requirements.
7. As part of the Arena Management Agreement between the City of the San Jose and the San Jose Arena Management, an Arena Fee is due annually to the City. A deduction from this fee is allowed for certain possessory interest property taxes paid by the Arena Management and received by the City or Agency. The Agency shall reimburse City within 60 days of receipt of the City's invoice showing the deduction of the possessory interest payment from the annual Arena Fee, including backup documentation from the Arena Operator that the possessory interest tax has been paid.
 8. Agency shall protect, indemnify, defend and hold harmless City, its officers, agents and employees from and against any and all third party claims, lawsuits, demands, losses, causes of action, or liabilities, arising out of or resulting in any way from the work performed by City, pursuant to this Agreement, due in whole or in part to the willful or negligent acts or omissions, active or passive, of City, its officers, agents and employees.
 9. This Agreement may be terminated by either party, effective on the first day of any calendar month during the term hereof upon at least thirty (30) days written notice of such termination.

10. This Agreement may, at any time, be amended in writing by the mutual consent of the parties.

WITNESS the execution hereof the day and year first hereinabove set forth.

APPROVED AS TO FORM:

REDEVELOPMENT AGENCY
OF THE CITY OF SAN JOSE

Chief Deputy General Counsel

By: _____
Harry S. Mavrogenes
Executive Director

APPROVED AS TO FORM:

CITY OF SAN JOSE

Senior Deputy City Attorney

By: _____
Lee Price
City Clerk

ATTACHMENT A

OPERATING BUDGET FUNDED - CITY SERVICES

City Services	Adopted FY 2009-10
RDA Civil Service Staff	\$ 2,061,797
General Counsel Staff	1,444,723
Civic Center Agency Rent	1,390,875
	\$ 4,897,395
Overhead-RDA & GCO	892,765
IT (City accounting system support)	1,200
FMS (City accounting system inquiry)	2,000
IDTS Project (on-going support costs)	28,581
Finance - Risk Management	12,579
Office Economic Development (50% Funding)	1,087,185
Mayor/Board	2,117,674
	\$ 4,141,984
Total Operating Budget funding	\$ 9,039,379