

## **PLACEMENT AGENT AGREEMENT**

This Placement Agent Agreement (“Agreement”) is made and entered into by and between the City of Hayward, California (the “Issuer”) and Hilltop Securities Inc. (“HilltopSecurities”).

### **WITNESSETH:**

WHEREAS, the Issuer presently intends to enter into a lease in the approximate amount of \$20,661,000 (the “Lease”) and, in connection with the authorization, sale, issuance and delivery of such Lease, the Issuer desires to obtain the professional services of HilltopSecurities to serve as the placement agent for the Lease; and

WHEREAS, HilltopSecurities is willing to provide its professional services and its facilities as placement agent, acting not as a fiduciary, in connection with the issuance of the Lease.

NOW, THEREFORE, the Issuer and HilltopSecurities, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, do hereby agree as follows:

### **SECTION I DESCRIPTION OF SERVICES**

Upon the request of an authorized representative of the Issuer, HilltopSecurities agrees to provide its professional services and its facilities as placement agent in connection with the issuance of the Lease; and for having rendered such services, the Issuer agrees to pay to HilltopSecurities the compensation as provided in Section III hereof.

### **SECTION II TERM OF AGREEMENT**

This Agreement shall become effective as of the date executed by the Issuer as set forth on the signature page hereof and, shall remain in effect thereafter until the Issuer has paid HilltopSecurities in full the placement agent fee and all reimbursable expenses.

### **SECTION III COMPENSATION AND EXPENSE REIMBURSEMENT**

The fees due to HilltopSecurities for the services set forth and described in Section I of this Agreement with respect to the issuance of the Lease during the term of this Agreement shall be calculated in accordance with the schedule set forth on Appendix A attached hereto. Unless specifically provided otherwise on Appendix A or in a separate written agreement between Issuer and HilltopSecurities, such fees, together with any other fees as may have been mutually agreed upon and all expenses for which HilltopSecurities is entitled to reimbursement, shall become due and payable concurrently with the delivery of the proceeds of the Lease to the Issuer. HilltopSecurities has not received nor will it collect any compensation or other consideration from the buyer(s).

**SECTION IV  
MISCELLANEOUS**

1. Choice of Law. This Agreement shall be construed and given effect in accordance with the laws of the State of California.
2. Binding Effect; Assignment. This Agreement shall be binding upon and inure to the benefit of the Issuer and HilltopSecurities, their respective successors and assigns; provided however, neither party hereto may assign or transfer any of its rights or obligations hereunder without the prior written consent of the other party.
3. Entire Agreement. This instrument contains the entire agreement between the parties relating to the rights herein granted and obligations herein assumed. Any oral or written representations or modifications concerning this Agreement shall be of no force or effect except for a subsequent modification in writing signed by the parties hereto.
4. No Fiduciary Duty. The Issuer acknowledges and agrees that: (i) the transaction contemplated by this Agreement is an arm's length, commercial transaction between the Issuer and HilltopSecurities in which HilltopSecurities is not acting as a municipal advisor, financial advisor or fiduciary to the Issuer; (ii) HilltopSecurities has not assumed any advisory or fiduciary responsibility to the Issuer with respect to the transaction contemplated hereby and the discussions, undertakings and procedures leading thereto irrespective of whether HilltopSecurities or any of its affiliates has provided other services or is providing other services to the Issuer on other matters; (iii) the only obligations HilltopSecurities has to the Issuer with respect to the transaction contemplated hereby expressly are set forth in this Agreement; and (iv) the Issuer has consulted its own legal, accounting, tax, financial and other advisors, as applicable, to the extent it has deemed appropriate.

Very truly yours,

**HILLTOP SECURITIES, INC.**

By:

\_\_\_\_\_  
Authorized Representative

The foregoing is hereby agreed to and accepted as of the date first above written:

**CITY OF HAYWARD**

By: \_\_\_\_\_  
Assistant City Manager

**APPENDIX A**

The fees due HilltopSecurities will not exceed those contained in the fee schedule as listed below:

**\$30,000**

The Issuer shall be responsible for the following expenses:

Bond Counsel fees and charges  
Bank Counsel fees and charges  
Disclosure Counsel fees and charges  
Trustee or Escrow Bank  
Financial Advisor  
Printing and distribution costs of offering documents and securities  
Cost of any required notices  
Third party reports or providers such as an appraisal, title insurance, fiscal consultant,  
assessment engineer or special tax consultant  
CDIAC

*HilltopSecurities will be responsible for our own travel expenses and legal fees. Our fee is entirely contingent on the successful completion of a financing. If the issue fails to close, we will not be reimbursed for any expenses.*

Based upon the current proposal to issue a total of approximately \$20,661,000 of the Lease, the total amount of remuneration to HilltopSecurities is anticipated to be \$30,000. In the event the Issuer shall determine to change the total amount of the Lease to be issued, the total amount of the remuneration to HilltopSecurities with respect to the placement of the Lease may also change.