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OF THE CALIFORNIA GOVERNMENT CODE.

SITE LEASE

Dated as of _____ 1, 2016

by and between the

**CITY OF HAYWARD,
as Lessor**

and the

**HAYWARD PUBLIC FINANCING AUTHORITY,
as Lessee**

(Civic Center and Capital Projects – 2007 Refunding)

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SITE LEASE

THIS SITE LEASE, dated for convenience as of _____ 1, 2016, by and between the CITY OF HAYWARD, a chartered municipal corporation duly organized and existing under the Constitution and laws of the State of California, as lessor (the "City"), and the HAYWARD PUBLIC FINANCING AUTHORITY, a joint exercise of powers authority duly organized and existing under the laws of the State of California (the "Authority"), as lessee; and

WITNESSETH:

WHEREAS, the City has previously leased certain real property to the Authority under a Site Lease, dated as of August 1, 2007, and the Authority has concurrently leased such land and improvements back to the City under a Lease Agreement, dated as of August 1, 2007 (the "Prior Lease");

WHEREAS, the City's lease payment obligations under the Prior Lease are evidenced by 2007 Certificates of Participation (Civic Center and Capital Projects) in the aggregate principal amount of \$31,820,000 (the "Prior Certificates") under a Trust Agreement dated as of August 1, 2007, among the City, the Authority and The Bank of New York Mellon Trust Company, N.A., as trustee;

WHEREAS, the City has determined that it is in the best interests of the City at this time to refinance its obligations under the Prior Lease which are represented by the Prior Certificates, by exercising its right to prepay its lease payment obligations under the Prior Lease and thereby prepaying the Prior Certificates in full on August 1, 2017;;

WHEREAS, in order to raise funds required for that purpose, the City has agreed to lease certain real property, including land and improvements constituting the Civic Center located at 777 B Street (the "Leased Property"), as such property is more particularly described in Appendix A hereto to the Authority under this Site Lease, and the Authority has agreed to lease such property back to the City under a Lease Agreement dated as of ____ 1, 2016, which has been recorded concurrently herewith (the "Lease Agreement"), between the Authority as lessor and the City as lessee, a memorandum of which is being recorded concurrently herewith, and to assign its right to receive lease payments under the Lease Agreement (the "Lease Payments"), its right to enforce payment of the Lease Payments and otherwise to enforce its interests and rights under the Lease Agreement in the event of a default hereunder by the City, to CoBiz Public Finance, Inc. (the "Bank"), pursuant to that certain Assignment Agreement, dated as of _____ 1, 2016, by and between the Authority and the Bank, and recorded concurrently herewith; .

WHEREAS, the City is authorized to enter into this Site Lease and the Lease Agreement with the Authority under Section 37350 of the Government Code of the State of California, and the Authority is authorized to enter into this Site Lease and the Lease Agreement under the provisions of Section 6588 of the Government Code of the State of California.

NOW, THEREFORE, in consideration of the above premises and of the mutual covenants hereinafter contained and for other good and valuable consideration, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS AND RULES OF CONSTRUCTION

Section 1.01. Definitions. All terms specifically defined in the Lease Agreement shall have the same respective meanings when used herein. In addition, the following terms defined in this Section 1.01 shall have the respective meanings herein set forth when used herein.

"**Bank**" means CoBiz Public Finance, Inc., a _____ organized and existing under the laws of the State of _____, and its successors and assigns.

"**Lease Agreement**" means the Lease Agreement, dated as of _____ 1, 2016, by and between the Authority as lessor and the City as lessee, together with any duly authorized and executed amendments thereto.

"**Leased Property**" has the meaning given to said term in the recitals.

"**Site Lease**" means this Site Lease, together with any duly authorized and executed amendments hereto.

"**Site Lease Payment**" means the payment required to be paid by the Authority on the Closing Date pursuant to Section 3.03.

Section 1.02. Article and Section Headings. Unless otherwise specified, references to Articles, Sections, and other subdivisions of this Site Lease are to be designated Articles, Sections, and other subdivisions of this Site Lease as originally executed. The headings or titles of the several articles and sections, and the table of contents appended to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction or effect of the provisions hereof.

Section 1.03. References to Agreement. The words "hereof", "herein", "hereunder", and words of similar import refer to this Site Lease as a whole.

Section 1.04. Number and Gender. The singular form of any word used herein, including terms defined as provided in Section 1.01, shall include the plural, and vice versa. The use of a word of any gender shall include all genders.

ARTICLE II

REPRESENTATIONS, COVENANTS AND WARRANTIES

Section 2.01. Representations, Covenants and Warranties of the City. The City represents, covenants and warrants to the Authority as follows:

(a) Due Organization and Existence. The City is a chartered municipal corporation duly organized and existing under the Constitution and laws of the State.

(b) Authorization. The laws of the State authorize the City to enter into this Site Lease and to enter into the transactions contemplated by and to carry out its obligations under this Site Lease, and the City has duly authorized and executed this Site Lease.

(c) No Violations. Neither the execution and delivery of this Site Lease nor the fulfillment of or compliance with the terms and conditions hereof nor the consummation of the transactions contemplated hereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the City is now a party or by which the City is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrances whatsoever upon any of the Leased Property or assets of the City, or upon the Leased Property, except Permitted Encumbrances.

Section 2.02. Representations, Covenants and Warranties of Authority. The Authority represents, covenants and warrants to the City as follows:

(a) Due Organization and Existence. The Authority is joint exercise of powers authority duly organized and existing under the laws of the State of California ; has power to enter into the Site Lease; is possessed of full power to sublease real and personal property; and has duly authorized the execution and delivery of this Site Lease.

(b) Authorization. The laws of the State authorize the Authority to enter into this Site Lease and to enter into the transactions contemplated by and to carry out its obligations under this Site Lease, and the Authority has duly authorized and executed this Site Lease.

(c) No Violations. Neither the execution and delivery of this Site Lease nor the fulfillment of or compliance with the terms and conditions hereof, nor the consummation of the transactions contemplated hereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Authority is now a party or by which the Authority is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the Leased Property or assets of the Authority, or upon the Leased Property, except Permitted Encumbrances.

ARTICLE III

AGREEMENT TO LEASE; TERM OF SITE LEASE; SITE LEASE PAYMENT

Section 3.01. Lease. The City hereby leases the Leased Property to the Authority, and the Authority hereby leases the Leased Property from the City, upon the terms and conditions set forth in this Site Lease.

Section 3.02. Term. The term of this Site Lease shall commence on the Closing Date and shall end on August 1, 2026_, unless such term is extended as hereinafter provided. If on August 1, 2026, the Lease Agreement shall not be discharged by its terms, then the Term of this Site Lease shall be extended until the Lease Agreement shall be discharged by its terms (but in no event beyond August 1, 2036). If prior to August 1, 2026, the Lease Agreement shall be discharged by its terms, the Term of this Site Lease shall thereupon end.

Section 3.03. Site Lease Payment. The Authority hereby agrees to pay to the City, as rental for the use and occupancy of the Leased Property during the term of this Site Lease, the amount of \$_____ which shall be due and payable on the Closing Date, and shall be deemed to have been paid when the Assignment Agreement is executed and delivered by the Authority and the Bank, and the Escrow Fund and Costs of Issuance Account are fully funded on the Closing Date. No further amounts shall be due and payable by the Authority to the City under this Site Lease.

Section 3.04. Title. Fee title to the Leased Property shall reside in the City, and during the term of this Site Lease, the City shall hold fee title to the Leased Property and any and all additions which comprise fixtures, repairs, replacements or modifications to the Leased Property, including those fixtures, repairs, replacements or modifications which are added to the Leased Property by the City at its own expense and which may be removed without damaging the Project and including any items added to the Leased Property by the City pursuant to Section 5.9 of the Lease Agreement.

Section 3.05. No Merger. It is the express intention of the parties hereto that this Site Lease and the obligations of the parties hereunder shall be and remain separate and distinct from the Lease Agreeemt and the obligations of the parties thereunder, and that during the term of the Lease no merger of title or interest occur or be deemed to occur as a result of the position of the City as lessee under the Lease Agreement and as lessor under this Site Lease, or the position of the Authority as lessee under this Site Lease.

ARTICLE IV

EMINENT DOMAIN; NET PROCEEDS

Section 4.01. Eminent Domain. If all of the Leased Property shall be taken permanently under the power of eminent domain or sold to a government threatening to exercise the power of eminent domain, the term of this Site Lease shall cease as of the day possession shall be so taken. If less than all of the Leased Property shall be taken permanently, or if all of the Leased Property or any part thereof shall be taken temporarily, under the power of eminent domain, this Site Lease shall continue in full force and effect and shall not be terminated by virtue of such taking and the parties waive the benefit of any law to the contrary.

Section 4.02. Application of Net Proceeds. The Net Proceeds of any insurance award resulting from any damage to or destruction of the Leased Property or any improvements thereon by fire or other casualty, and the Net Proceeds of any eminent domain award resulting from any event described in Section 4.01 hereof, shall be applied as set forth in Section 6.2 of the Lease Agreement. All such Net Proceeds shall be paid to the City or the Bank as their interests may appear under the Lease Agreement, and the Authority hereby waives any and all right, title and interest which it may have in and to any such Net Proceeds by virtue of its estate in the Leased Property under this Site Lease.

ARTICLE V
MISCELLANEOUS

Section 5.01. Liens. The Authority shall not, directly or indirectly, create, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Leased Property, other than the respective rights of the Authority and the City as herein provided and the Permitted Encumbrances.

Section 5.02. Assignment and Subleasing by the Authority. For the purpose of providing funds to enable the Authority to pay the Site Lease Payment on the Closing Date, the Authority has leased the Leased Property to the City pursuant to the Lease Agreement. The Authority shall not have the right to further sublease or to assign any of its interests under this Site Lease in and to the Leased Property or any portion thereof.

Section 5.03. Amendment. Without the prior written consent of the Bank, the Authority and the City will not alter, modify or cancel, or agree or consent to alter, modify or cancel this Site Lease.

Section 5.04. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed to have been received 48 hours after deposit in the United States mail in registered or certified form with postage fully prepaid:

If to the City or the Authority:	City Clerk City of Hayward 777 B Street Hayward, California 94541 Attention: Assistant City Manager
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If to the Bank:	CoBiz Public Finance, Inc. 2600 N. Central Avenue, Suite 2000 Phoenix, Arizona 85004
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The Authority, the Bank and the City, by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications will be sent.

Section 5.05. Binding Effect. This Site Lease shall inure to the benefit of and shall be binding upon the Authority and the City and their respective successors and assigns.

Section 5.06. Severability. In the event any provision of this Site Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 5.07. Further Assurances and Corrective Instruments. The Authority and the City agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Leased Property hereby leased or intended so to be or for carrying out the expressed intention of this Site Lease.

Section 5.08. Execution in Counterparts. This Site Lease may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 5.09. Applicable Law. This Site Lease shall be governed by and construed in accordance with the laws of the State.

Section 5.10. Authority and City Representatives. Whenever under the provisions of this Site Lease the approval of the Authority or the City is required, or the Authority or the City is required to take some action at the request of the other, such approval or such request shall be given for the Authority by an Authority Representative and for the City by a City Representative, and any party hereto shall be authorized to rely upon any such approval or request.

Section 5.11. Captions. The captions or headings in this Site Lease are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Section of this Site Lease.

* * * * *

IN WITNESS WHEREOF, the Authority has caused this Site Lease to be executed in its name by its duly authorized officers; and the City has caused this Site Lease to be executed in its name by its duly authorized officers, as of the date first above written.

CITY OF HAYWARD, as Lessor

By _____
Assistant City Manager

Attest:

By _____
City Clerk

**HAYWARD PUBLIC FINANCING
AUTHORITY**, as Lessee

By _____
Treasurer

EXHIBIT A

DESCRIPTION OF LEASED PROPERTY

The land referred to herein is situated in the State of California, County of Alameda, City of Hayward and described as follows: