

**RESOLUTION NO. 2019-247**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE  
AUTHORIZING EXECUTION AND DELIVERY OF JOINT COMMUNITY FACILITIES  
AGREEMENTS IN CONNECTION WITH THE BOND OPPORTUNITIES FOR LAND  
DEVELOPMENT (BOLD) PROGRAM**

**WHEREAS**, the California Municipal Finance Authority (the "CMFA") is a joint exercise of powers authority, the members of which include numerous cities, counties and other local agencies in the State of California (the "State"); and

**WHEREAS**, the City is a member of CMFA and has approved, in accordance with the City's Land Secured Financing Policy No. 1500-006 (as such policy may be amended from time to time, the "Land Secured Financing Policy"), use of CMFA's Bond Opportunities for Land Development Program ("BOLD Program") to provide financing for development projects within the boundaries of the City; and

**WHEREAS**, the BOLD Program allows the financing through the levy of special taxes under the Mello-Roos Community Facilities Act of 1982, as amended (the "Act") of certain public facilities and development impact fees that finance public facilities (together, the "Improvements") to be owned by the City, and the City Council has approved participation in the BOLD Program and acceptance of applications of developers at its meeting on September 25, 2019; and

**WHEREAS**, section 53316.2 of the Act provides that a community facilities district (a "CFD") created by the CMFA may finance facilities to be owned or operated by the City, or services to be provided by City, or any combination, provided that CMFA and the City enter into a joint community facilities agreement; and

**WHEREAS**, the City desires to enter into joint community facilities agreements with CMFA from time to time in connection with the use by developers of the BOLD Program within the boundaries or service area of the City; and

**WHEREAS**, in order to use the proceeds of Bonds to reimburse advances made by the City for the Improvements before the date of issuance of the Bonds, Section 1.150-2 of the United States Income Tax Regulations requires that the City Council declare a City intention to reimburse such advances from the proceeds of Bonds.

**NOW, THEREFORE BE IT RESOLVED** by the City of Elk Grove that:

**Section 1.** The City Council has previously found and declared that the issuance of bonds by the CMFA in connection with the BOLD Program will provide significant public benefits and has previously approved the execution and delivery of acquisition agreements, joint community facilities agreements, or similar agreements for and on behalf of the City from time to time in connection with its participation in the BOLD Program. In furtherance of the foregoing, the City Council hereby approves the form of joint community facilities agreement attached hereto as Exhibit A (the "JCFA"), and authorizes execution and delivery of JCFA's in connection with CFDs in the form thereof, with such changes as the Mayor, City Manager, Director of Finance and

Administrative Services, City Attorney or the designee of any of them (each, an "Authorized Officer") may deem appropriate or necessary. Each Authorized Officer is authorized and directed to execute and deliver each JCFA on behalf of the City. The City Council hereby finds and declares that entrance into such agreements under the BOLD Program would be beneficial to the residents of the City.

**Section 2.** In connection with each individual project financing under the BOLD Program, the Authorized Officers and other appropriate City staff are hereby authorized to sign developer applications or other documents evidencing the official intent of the City to reimburse the general fund or other particular City fund in connection with a described project from the proceeds of tax-exempt obligations issued by CMFA as part of the BOLD Program in accordance with Section 1.150-2 of the United States Income Tax Regulations as directed by the CMFA; provided, that the CMFA shall be responsible for providing such applications or other documents and processing thereof and of related materials at its own expense.

**Section 3.** This Resolution shall take effect immediately upon its adoption. The City Clerk is hereby authorized and directed to transmit a certified copy of this resolution to the Secretary of the CMFA.

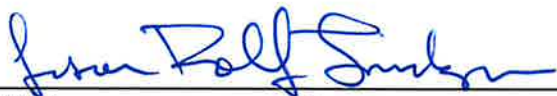
**PASSED AND ADOPTED** by the City Council of the City of Elk Grove this 13<sup>th</sup> day of November 2019



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STEVE LY, MAYOR of the  
CITY OF ELK GROVE

ATTEST:



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JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:



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JONATHAN P. HOBBS,  
CITY ATTORNEY

**EXHIBIT A**

**FORM OF JOINT COMMUNITY FACILITIES AGREEMENT**

**CMFA BOLD PROGRAM**

**Joint Community Facilities Agreement**

***Relating to:***

**California Municipal Finance Authority  
CFD No. \_\_\_\_\_**

This Joint Community Facilities Agreement (this "Agreement"), dated as of \_\_\_\_\_, 2019, by and between the California Municipal Finance Authority, a joint exercise of powers authority duly organized and existing under the Constitution and laws of the state of California (the "CMFA"), and the City of Elk Grove, a city duly organized and existing under the Constitution and laws of the state of California (the "City," and together with CMFA, the "Parties").

***WITNESSETH:***

WHEREAS, CMFA has conducted, or intends to conduct, proceedings under the Mello-Roos Community Facilities Act of 1982 (California Government Code section 53311 et seq.) (the "Act") to form the above-referenced community facilities district (the "CFD") to finance certain public facilities and/or development impact fees used for capital improvements ("City Fees") authorized to be financed under the Act as part of its Bond Opportunities for Land Development ("BOLD") program (together "City Infrastructure");

WHEREAS, under Section 53316.2 of the Act, CMFA may form the CFD to, among other things, finance the City Infrastructure in connection with new development in the City and issue bonds, the proceeds of which are used by the City for City Infrastructure, provided CMFA and the City enter into a joint community facilities agreement such as this Agreement;

WHEREAS, the CFD Infrastructure is described in the resolution of formation for the CFD, and set forth on Exhibit A hereto;

WHEREAS, CMFA intends to utilize the proceeds of sale of special tax bonds (the "Bonds") and special taxes of the CFD to finance some or all of the CFD Infrastructure, which may include City Fees, the proceeds of which are used for City Infrastructure;

WHEREAS, City is willing to cooperate with CMFA in accomplishing the financing of the City Infrastructure which will pay for facilities authorized to be financed by the CFD, and to confer upon the CMFA full power to provide financing for the City Infrastructure in the

event that proceeds of special taxes and/or bonds in the CFD become available and are utilized for such purpose;

WHEREAS, this Agreement is made under the authority of Section 53316.2 of the Act; and

WHEREAS, in consideration for the mutual undertakings of the Parties stated herein, the Parties agree as follows:

**AGREEMENT:**

1. Administration of CFD and Issuance of Bonds by CMFA. CMFA shall administer the CFD, including employing and paying all consultants, annually levying the special tax and paying and administering the Bonds, and complying with all state and federal requirements appertaining to the proceedings establishing the CFD and issuing and using the proceeds of the Bonds, including the requirements of the United States Internal Revenue Code of 1986, as amended (the "Code"). The City shall execute and deliver such certifications and agreements as may reasonably be required in order for bond counsel to CMFA to conclude that interest on the Bonds will be excluded from gross income under the Code, if applicable.

2. Agreement to Hold Available Moneys. CMFA shall hold or cause to be held within a separate fund, account or subaccount (the "City Subaccount") proceeds of each issue of Bonds issued to finance City Infrastructure, as well as proceeds of special taxes levied by such CFDs for "pay-as-you-go" funding from special taxes collected in excess of the amounts needed for bond debt service and administration expenses (such bond proceeds and excess amounts are referred to as "Available Moneys"), segregated from all other funds, and except for investment purposes, shall not be commingled with any other funds. Investment earnings on amounts in the City Subaccount shall be retained in the City Subaccount for the benefit of the City, except to the extent a portion of such earnings are used to pay rebate or yield reduction payments to the U.S. Treasury pursuant to the Code. Amounts on deposit in the City Subaccount shall be disbursed only in accordance with Section 3 of this Agreement and CMFA agrees to disburse, or cause to be disbursed, moneys on deposit in the City Subaccount as provided herein.

All City Fees funded through Available Moneys shall be deemed paid by the developer responsible for such City Fees in the amount of the Bond proceeds on the date that such Bond proceeds are deposited in the City Subaccount.

3. Disbursements City Subaccounts. Moneys on deposit in the City Subaccount shall be disbursed pursuant to written requisitions of the City, in substantially the form attached hereto as Exhibit B-1 and executed by the City Manager or Director of Finance and Administrative Services, or any designee of the foregoing (each, an "Authorized Officer"), which disbursements shall be used for the payment of City Infrastructure. Conditions of release are set forth hereto as Exhibit B-2.

CMFA and its designees, including any trustee or fiscal agent holding funds in a City Subaccount, may conclusively rely on such requisitions for purposes of making such disbursements. All disbursements from the City Subaccount to the City shall be made by wire transfer of immediately available funds or by check payable to the City's bank account number at a bank located within the United States on file with CMFA as part of the BOLD program, unless another method of payment is requested in writing by the City.

4. Use of City Fees for Public Capital Improvements. City shall utilize the City Fees for City Infrastructure. City acknowledges that, subject to approval of disbursements as set forth in Section 3 above, the City Fees may be financed through the CFD, and agrees to allow CFMA, or its designee, to finance the City Fees from time to time paid by the Developer, on the City's behalf, through the issuance of one or more series of Bonds and/or from proceeds of special taxes of the CFD.

5. Land-Secured Policy. The parties acknowledge that the City has a Land Secured Financing Policy No. 1500-006 (as such policy may be amended from time to time, the "Land Secured Financing Policy"), and this Agreement is executed in accordance with such Land Secured Financed Policy. The current version of the Land Secured Financing Policy is attached hereto as Exhibit C.

6. Amendments. This Agreement may be amended by a writing signed by the Parties, including any exhibit hereto; provided, that no amendments to Exhibit B-2 shall be made without the prior written consent of the developer signatory thereto.

7. Term of this Agreement. This Agreement shall be in full force and effect from this date to and including its termination by mutual written agreement of the parties hereto. CMFA agrees to terminate this agreement upon request of the City upon delivery to CMFA of an opinion Bond Counsel to the effect that the termination of this Agreement will not adversely affect the exclusion from gross income of interest on the Bonds for federal income tax purposes.

8. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original.

IN WITNESS WHEREOF the Parties have caused this Agreement to be executed by their authorized representatives as of the effective date stated above.

CITY OF ELK GROVE:

\_\_\_\_\_

By: \_\_\_\_\_  
Name:  
Title:

EXHIBIT A

DESCRIPTION OF CITY FACILITIES AND FEES

Authorized facilities capital facilities and fees are those listed in the facilities authorized to be financed by Community Facilities District No. \_\_\_\_\_ (the "CFD"), which include the following:

[List facilities to be financed]

EXHIBIT B-1

DISBURSEMENT REQUEST FORM

To:

California Municipal Finance Authority

2111 Palomar Airport Road, Suite 320

Carlsbad, California 92011

Email: \_\_\_\_\_

Re: BOLD Program - Request for Disbursement of Bond Proceeds

Community Facilities District No. \_\_\_\_\_

The undersigned, a duly authorized officer of the City of Elk Grove (the "City") hereby requests a disbursement from the City Subaccount(s) set forth below, and certifies that the amounts of development impact fees financed thereby and listed below have been or will be spent by the City for listed public capital improvements as of the date indicated below or within 30 days thereafter:

<u>Subaccount(s)</u>	<u>Amount(s)</u>
Community Facilities District No. _____	\$ _____

---

Total: \_\_\_\_\_

Wiring Instructions: \_\_\_\_\_

The undersigned hereby additionally certifies as follows:

1. These funds have been or will be used to acquire and/or construct capital improvements, and this disbursement is not being made for the purpose of reinvestment.

2. None of the expenditures for which payment is requested have been reimbursed previously from other sources of funds.

3. If the total amount above is greater than the funds held by CMFA on behalf of the City in the Subaccount(s) identified above, CMFA is authorized to amend the amount requested to be equal to the amount of such funds.

4. To the extent the disbursement is being made prior to the date the above-referenced bonds have been issued, this disbursement form serves as the declaration of official intent of the City, pursuant to Treasury Regulations 1.150-2, to reimburse itself with respect to expenditures made from the Subaccount(s) referenced above in the amount requested.

5. The amounts being disbursed pursuant to this request are being used to finance or refinance certain public infrastructure and facilities (the "Improvements"). City will own, and for the entire useful life of such Improvements reasonably expects to own, all of such Improvements. The Improvements consist of the following:

[Describe the improvements]

6. To the extent any of such Improvements are sold to an entity that is not a state or local government City, City will seek the advice and approval of bond counsel to CMFA for the BOLD program prior to any such sale. City will not allow any of such Improvements to be used (for example, by lease or other contract) in the trade or business of any nongovernmental persons (other than in their roles as members of the general public). All of such Improvements will be used in the performance of essential governmental functions of City or another state or local government City. The average expected useful life of such Improvements is at least \_\_\_\_ years. The representations and covenants contained in this paragraph are intended to support the conclusion that the interest paid on the bonds issued to finance the Improvements is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986 (the "Code").



Dated: \_\_\_\_\_

CITY OF ELK GROVE

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

## EXHIBIT B-2

### CONDITIONS APPLICABLE TO RELEASE OF FUNDS

The City of Elk Grove has adopted a Land Secured Financing Policy No. 1500-006 (as such policy may be amended from time to time, the "Land Secured Financing Policy") which includes limitations and conditions applicable to the use of proceeds of community facilities district ("CFD") bonds issued to finance infrastructure improvements within the City, as well as proceeds of special taxes levied by such CFDs for "pay-as-you-go" funding from special taxes collected in excess of the amounts needed for bond debt service and administration expenses (such bond proceeds and excess amounts are referred to as "Available Moneys").

Bond Proceeds and excess special taxes of the Community Facilities District No. \_\_\_\_\_ (the "[NAME] CFD") shall be used to finance some or all of the City Fees described in Exhibit A, in accordance with the Land Secured Policy. City shall utilize the City Fees for public capital improvements to be owned by the City, which City Fees are payable to the City by the Developer in connection with the Developer's "[NAME]" development in the City.

As required by the Land Secured Policy, the funding priority for Available Moneys shall be as follows:

First, be for the Developer's project-required infrastructure/facilities to be dedicated to the City and payment/reimbursement of City Fees; and

Second, any remaining Available Moneys not allocated or reserved for the first funding priority may fund public facilities and/or impact fees to be dedicated to public agencies other than the City.

The City's Director of Finance and Administrative Services shall be responsible for applying the provisions of the Land Secured Policy to the [NAME] CFD and the bonds, in his or her discretion.

As required by the Land Secured Policy, during the first two fiscal years in which the Special Taxes are levied, Special Taxes collected in excess of the amount needed for debt service on the Bonds, administrative expenses and replenishment of debt service reserves (the "Pay-Go Portion") shall, upon request of the Developer and upon direction of the City in writing to the CFD Administrator (presently Goodwin Consulting Group), be released to the Developer on or after September 2 following the end of each of the first two fiscal years, to reimburse the cost of Authorized Facilities or CFD Fees not financed with Bond Proceeds. Subsequent to the first two fiscal years, no later than September 10 following the end of each fiscal year, the Pay-Go Portion shall be released by the CFD Administrator to the City upon request and used by the City to finance any Pay-Go Facilities determined by the City in the sole discretion of the City.

CMFA:

CALIFORNIA MUNICIPAL  
FINANCE AUTHORITY

CITY:

CITY OF ELK GROVE

By: \_\_\_\_\_  
Authorized Signatory

By: \_\_\_\_\_  
Name:  
Title:

**DEVELOPER ACKNOWLEDGEMENT TO CONDITIONS APPLICABLE TO RELEASE  
OF FUNDS:**

[[DEVELOPER]]

By: \_\_\_\_\_  
Name:  
Title:

EXHIBIT C

LAND SECURED FINANCING POLICY

**CERTIFICATION**  
**ELK GROVE CITY COUNCIL RESOLUTION NO. 2019-247**

STATE OF CALIFORNIA        )  
COUNTY OF SACRAMENTO    )       ss  
CITY OF ELK GROVE         )

*I, Jason Lindgren, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing resolution was duly introduced, approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on November 13, 2019 by the following vote:*

**AYES:**        **COUNCILMEMBERS:**    **Ly, Hume, Detrick, Nguyen, Suen**

**NOES:**       **COUNCILMEMBERS:**    **None**

**ABSTAIN:**   **COUNCILMEMBERS:**    **None**

**ABSENT:**    **COUNCILMEMBERS:**    **None**

  
\_\_\_\_\_  
**Jason Lindgren, City Clerk**  
**City of Elk Grove, California**