

# **JOINT COMMUNITY FACILITIES AGREEMENT**

## **CMFA BOLD PROGRAM**

### **Joint Community Facilities Agreement**

#### ***Relating to:***

#### **California Municipal Finance Authority CFD No. 2022-27 (City of Chula Vista – Sunbow)**

This Joint Community Facilities Agreement (this “Agreement”), dated as of \_\_\_\_\_, 2022, is entered into 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 Chula Vista, a charter city duly organized and validly existing under the Constitution and laws of the State of California (the “City,” and together with CMFA, the “Parties”).

#### ***WITNESSETH:***

WHEREAS, the CMFA 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”) encompassing all or a portion of the Sunbow development project (the “Project”). The developer of the Project is ACI Sunbow, LLC, a California limited liability company (the “Developer”). The CFD shall be authorized to finance City capital facilities and related costs (“City Infrastructure”) in satisfaction of City development impact fees described in Exhibit A hereto (“City Fees”) authorized to be financed under the Act as part of its Bond Opportunities for Land Development (“BOLD”) program, which City Fees are payable with respect to all development within the Project and certain City capital facilities to be constructed by or on behalf of the Developer as described in Exhibit A hereto (“Acquisition Improvements” and with the City Infrastructure and City Fees the “Facilities”);

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

WHEREAS, the CMFA intends to utilize the proceeds of sale of special tax bonds (the “Bonds”) and special taxes of the CFD (the “Special Taxes”) to finance some or all of the Facilities;

WHEREAS, the City is willing to cooperate with the CMFA in accomplishing the financing of the Facilities through the CFD, and to confer upon the CMFA full power to provide such financing in the event that proceeds of Special Taxes and/or Bonds of the CFD become available and are utilized for such purpose, in accordance with the provisions hereof and of the Acquisition Financing Agreement (the “Acquisition Agreement”), to be entered into by and among the City, the CMFA, and ACI Sunbow, LLC, a California limited liability company;

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 the CMFA. The CFD shall be established and administered in accordance with the City's Statement of Goals and Policies Regarding Establishment of Community Facilities Districts attached hereto as Exhibit B with the exception of: (1) the prohibition on financing development impact fees; (2) the prohibition on the escalation of the maximum special tax to pay for public facilities; (3) the payment to the City of compensation equal to one percent (1%) of the total authorized bonded indebtedness of the CFD; (4) the requirement that an appraisal be coordinated by, done under the direction of, and addressed to the City; and (5) the requirement that all consultants including the appraiser, be selected and retained by the City. The CMFA shall administer the CFD, including employing and paying all consultants, annually levying the Special Taxes 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") with respect to the tax-exempt Bonds that are issued. The City shall execute and deliver such certifications and agreements as may reasonably be required in order for bond counsel to the CMFA to conclude that interest on any tax-exempt Bonds will be excluded from gross income under the Code, if applicable. To the extent such certifications and agreements cannot be executed with respect to certain City Fees, or as otherwise provided for in Section 18(d) of the AFA, Bonds may be issued on a taxable basis.

2. Agreement to Hold Available Moneys. The CMFA shall hold or cause to be held within a separate fund (the "Project Fund") proceeds of each issue of Bonds issued to finance City Infrastructure, as well as proceeds of Special Taxes levied by the CFD 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"). The Project Fund shall be segregated from all other funds and, except for investment purposes, shall not be commingled with any other funds. The Project Fund may include separate accounts as necessary to separately account for the proceeds of tax-exempt and taxable Bonds (the "Tax-Exempt Account" and "Taxable Account," respectively) and to account for the proceeds of such Bonds that are to fund City Fees and Acquisition Improvements. Investment earnings on amounts in each Tax-Exempt Account shall be retained in the Tax-Exempt Account, 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 Project Fund shall be disbursed in accordance with Section 3 of this Agreement and CMFA agrees to disburse, or cause to be disbursed, moneys on deposit in the Project Fund as provided herein. All City Fees funded through Available Moneys shall be deemed paid in the amount of the Bond proceeds on the date that such Bond proceeds are deposited with the City.

3. Disbursements From Project Fund. Moneys on deposit in the Project Fund shall be disbursed in accordance with the Acquisition Agreement.

4. Use of City Fees for Public Capital Improvements and Acquisition of Acquisition Improvements. City shall utilize the City Fees for City Infrastructure. City acknowledges that, subject to approval of disbursements as set forth in the Acquisition Agreement, the City Infrastructure may be financed through the CFD. The Acquisition Improvements shall be acquired by the City as set forth in the Acquisition Agreement.

5. Amendments. This Agreement may be amended by a writing signed by the Parties, including any exhibit hereto; provided, that no amendments to Section 3 shall be made without the prior written consent of the Developer.

6. 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 prior to the formation of the CFD.

7. 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.

**CMFA:**

**CALIFORNIA MUNICIPAL  
FINANCE AUTHORITY**

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

**CITY:**

**CITY OF CHULA VISTA**

By: \_\_\_\_\_

Name: Maria V. Kachadoorian

Title: City Manager

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Glen R. Goggins  
City Attorney

## EXHIBIT A

### DESCRIPTION OF FACILITIES

#### **Development Impact Fees:**

Eastern Transportation Development Impact Fee (ETDIF)  
Traffic Signal Fee  
Park Benefit Fee  
Poggi Sewer Basin Development Impact Fee  
Public Facilities Development Impact Fee (PFDIF)  
Sewer Capacity Charge

EXHIBIT B  
CITY'S GOALS AND POLICIES  
[See Attached]