

**RESOLUTION NO. 22-052**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VICTORVILLE, CALIFORNIA, AUTHORIZING THE USE OF THE BOND OPPORTUNITIES FOR LAND DEVELOPMENT (“BOLD”) PROGRAM AND AUTHORIZING THE CALIFORNIA MUNICIPAL FINANCE AUTHORITY TO ACCEPT APPLICATIONS FROM PROPERTY OWNERS, CONDUCT PROCEEDINGS AND LEVY SPECIAL TAXES WITHIN THE TERRITORY OF THE CITY OF VICTORVILLE PURSUANT TO THE MELLO-ROOS COMMUNITY FACILITIES ACT OF 1982, AS AMENDED, AND AUTHORIZING RELATED ACTIONS**

**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**, City of Victorville (the “City”) is currently a member of CMFA in good standing; and

**WHEREAS**, the CMFA has established the Bond Opportunities for Land Development Program (the “BOLD Program”) to allow the financing of certain public facilities and/or certain development impact fees that finance public facilities (together, the “Improvements”) levied by local agencies in the State through the levy of special taxes under the Mello-Roos Community Facilities Act of 1982, as amended (the “Act”); and

**WHEREAS**, the CMFA from time to time may be requested by owners of land within the City to utilize the BOLD Program for the financing of Improvements related to new development within the City which Improvements will be financed for acquisition by the City or to finance impact fees payable to the City in connection with new development; and

**WHEREAS**, the City desires to allow the owners of property to be developed within the non-incorporated portions of the City to participate in the BOLD Program (“Participating Developers”) and to allow the CFMA to conduct proceedings under the Act to form community facilities districts (“CFDs”) from time to time under the Act, to levy special taxes within such CFDs, and to issue bonds secured by such special taxes under the Act to finance the Improvements, provided that such Participating Developers voluntarily agree to participate and consent to the levy of such special taxes and the issuance of such bonds; and

**WHEREAS**, property owners within the jurisdiction of the City may in the future elect to be Participating Developers upon obtaining approval of the CMFA, and the CMFA may conduct proceedings under the Act to form a CFD, levy special taxes within such CFD and issue bonds secured by such special taxes to finance Improvements; and

**WHEREAS**, the City will not be responsible for the conduct of any proceedings under the Act for the formation of any CFD; the levy or collection of special taxes for any CFD or any required remedial action in the case of delinquencies in any special tax payments, or the issuance, sale or administration of any bonds issued in connection with the BOLD Program; and

**WHEREAS**, the City finds that the BOLD program offered by the CMFA can provide significant public benefits, and in conformance with Government Code Section 6586.5 relating to the issuance of bonds by a joint powers authority of which the City is a member, notice was published at least five days prior to the adoption of this resolution at a public hearing, which was

duly conducted by this Council concerning the significant public benefits of the BOLD Program and the bond financing of the Improvements from time to time.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CTY OF VICTORVILLE DOES HEREBY RESOLVE AS FOLLOWS:**

**Section 1.** The use of the BOLD Program in connection with the financing of Improvements is hereby authorized and approved. The appropriate officials and staff are hereby authorized and directed to allow BOLD Program participation to be available to property owners who are subject to the payment of fees for new development and/or who are conditioned to install public improvements in connection with new development.

**Section 2.** The City hereby finds and declares that the issuance of bonds by the CMFA in connection with the BOLD Program will provide significant public benefits, including without limitation, savings in effective interest rate, bond preparation, bond underwriting and bond issuance costs and the more efficient delivery of local agency services to residential and commercial development within the City.

**Section 3.** In connection with the issuance of bonds from time to time by the CFMA for the BOLD Program, a form of acquisition agreement, joint community facilities agreements or similar agreement will be required to be entered into, and the form of such agreement will be subject to approval by appropriate staff of the City. The City Council finds and declares that entrance into each such agreement will constitute a “joint community facilities agreement” for purposes of the Act and shall be beneficial to residents of the City. Any such agreement may include, directly or by reference, City standards, policies, and procedures applicable to the financing of public facilities constructed by developers for acquisition by the City.

**Section 4.** The appropriate officials and staff of the City are hereby authorized and directed to allow and approve BOLD Program participation by requesting property owners that are required to install public improvements and/or the payment of fees in connection with new development in the City, including signing developer applications (Exhibit A) or other documents evidencing the official intent of the City to reimburse itself in connection with each project from the proceeds of tax-exempt obligations issued by CMFA as part of the BOLD Program, and to advise such owners requesting participation in BOLD that the City has approved the BOLD Program; provided, that the CMFA shall be responsible for providing applications and processing of documentation and related materials at its own expense.

**Section 5.** This Resolution shall take effect immediately upon its adoption.

**Section 6.** The City Clerk shall certify to the passage and adoption of this Resolution; shall enter the same in the book of original Resolutions; and is hereby authorized and directed to transmit a certified copy of this resolution to the Secretary of the CMFA.

## Exhibit A

**FORM OF BOLD PROGRAM  
JOINT COMMUNITY FACILITIES AGREEMENT**

**CMFA BOLD PROGRAM**

**Joint Community Facilities Agreement  
by and between  
CMFA and City of Victorville**

**[Relating to \_\_\_\_\_ Project in the City]**

This Joint Community Facilities Agreement (this "Agreement"), dated as of \_\_\_\_\_, 20\_\_\_, 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 Victorville, a municipal corporation and general law 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 community facilities districts (each, a "CFD") to finance certain public facilities and development impact fees used for capital improvements authorized to be financed under the Act (the "CFD Improvements" and the "CFD Fees," respectively) as part of its Bond Opportunities for Land Development ("BOLD") program;

WHEREAS, the CFD Improvements and CFD Fees will be described in the resolution of formation for each CFD, including CFD Fees payable and/or CFD Improvements to be acquired by the City and set forth on Exhibit A hereto (the "City Fees" and the "City Improvements," respectively);

WHEREAS, CMFA intends to utilize the proceeds of sale of special tax bonds of the CFDs (the "Bonds") to finance some or all of the City Fees and/or City Improvements;

WHEREAS, under Section 53316.2 of the Act, CMFA may form a CFD to, among other things, finance the City Fees and/or City Improvements, provided that CMFA and the City enter into a joint community facilities agreement such as this Agreement; and

WHEREAS, City is willing to cooperate with CMFA in accomplishing the financing of the City Fees and/or City Improvements eligible to be financed by the Act, and to confer upon the CMFA full power to provide financing for the City Fees and/or City Improvements in the event that proceeds of special taxes and/or bonds in a 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 each 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").

2. Disbursements from Project Funds. Moneys on deposit in the Project Fund shall be disbursed pursuant to written requisitions of the CMFA following receipt by CMFA of requisitions signed by the City, in substantially the form attached hereto as Exhibit B and executed by the City Manager or his or her designee (each, an "Authorized Officer"). CMFA and its designees, including any trustee or fiscal agent holding funds in a Project Fund, may conclusively rely on such requisitions for purposes of making such disbursements. All disbursements from the Project Fund 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.

3. Agreement to Hold City Fees. CMFA shall hold or cause to be held within a separate fund, account or subaccount (the "Project Fund") special taxes and/or Bond proceeds from the CFD. All City Fees funded through Bond proceeds 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 Project Fund. CMFA shall disburse, or cause to be disbursed, moneys on deposit in the Project Fund only as provided herein.

4. Use of City Fees for Public Capital Improvements. City shall utilize the City Fees for public capital improvements to be owned by the City. The City acknowledges that, subject to approval of disbursements as set forth in Section 3 above, the City Fees may be financed through a CFD formed by CMFA as part of the BOLD program, and agrees to allow CMFA, or its designee, to finance the City Fees from time to time with respect to developers applying for BOLD financing, 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. Purchase of City Improvements. To the extent the City is acquiring City Improvements using Bond proceeds or special taxes generated by a CFD, City shall work with each developer to put in place all necessary agreements, certificates or other documents required for the City to acquire such improvements. Neither CMFA nor any of its agents shall be responsible for inspection or review of any such documents relating to financed City Improvements, unless set forth in a separate written agreement between CMFA and the City providing for the same.

6. Amendments. This Agreement may be amended by a writing signed by the Parties, including to update Exhibit A to reflect additional or different City Fees and/or City Improvements to be financed through the BOLD program from time-to-time.

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.

[Signatures on Following Page]

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

CITY:

CITY OF VICTORVILLE

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

Name: Edward J. Becker  
Title: Executive Director

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

Name:  
Title:

EXHIBIT A

DESCRIPTION OF CITY FEES AND/OR CITY IMPROVEMENTS



EXHIBIT B

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

The undersigned, a duly authorized officer of the City of Victorville (the "City") hereby requests a disbursement from the Project Fund set forth below, and certifies that the amounts of development impact fees and/or capital improvements listed below have been or will be spent by the City as of the date indicated below or within 5 days thereafter:

<u>Subaccount(s)</u>	<u>Amount(s)</u>
[example, CMFA CFD No. 20__-__, Special Tax Bonds Series 20__, Project Fund]	\$

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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. The amounts being disbursed pursuant to this request are being used to finance or refinance certain public infrastructure and facilities (the "Improvements"). The 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]

5. To the extent any of such Improvements are sold to an entity that is not a state or local government, the City will seek the advice and approval of bond counsel to CMFA for the BOLD program prior to any such sale. The 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 the City or another state or local government agency. 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: \_\_\_\_\_

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

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