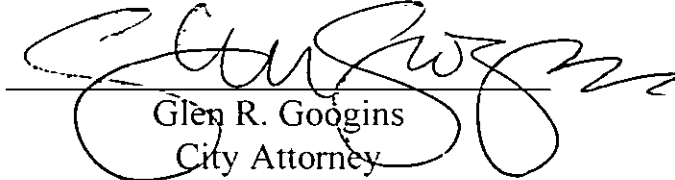


THE ATTACHED AGREEMENT HAS BEEN REVIEWED  
AND APPROVED AS TO FORM BY THE CITY  
ATTORNEY'S OFFICE AND WILL BE  
FORMALLY SIGNED UPON APPROVAL BY  
THE CITY COUNCIL

  
Glen R. Googins  
City Attorney

Dated: 8 / 13 / 15

INDEMNIFICATION AGREEMENT  
BETWEEN  
THE CITY OF CHULA VISTA AND  
FIGTREE COMPANY, INC

EXHIBIT B  
Indemnification Agreement  
**INDEMNIFICATION AGREEMENT**

**BY AND BETWEEN**  
**THE City of Chula Vista AND**  
**FIGTREE COMPANY, INC.**

This Indemnification Agreement (the "Agreement") is entered into by and between the City of Chula Vista, a municipal corporation or political subdivision, duly organized and existing under the laws of the State of California (the "Public Entity") and Figtree Company, Inc., a California corporation, the administrator of the Figtree Property Assessed Clean Energy and Job Creation Program (the "Administrator"), which is a program of the California Enterprise Development Authority, a California joint exercise of powers authority (the "Authority").

**RECITALS**

**WHEREAS**, the Authority is a joint exercise of powers authority whose members include the Public Entity in addition to other cities and counties in the State of California; and

**WHEREAS**, the Authority established the Figtree Property Assessed Clean Energy and Job Creation Program (the "Figtree PACE Program") to allow the financing of certain renewable energy, energy efficiency and water efficiency improvements that are permanently affixed to real property through the levy of assessments voluntarily agreed to by the participating property owners pursuant to Chapter 29 of Division 7 of the Streets and Highways Code ("Chapter 29") and the issuance of improvement bonds, or other forms of indebtedness, under the Improvement Bond Act of 1915 upon the security of the unpaid assessments; and

**WHEREAS**, the Authority has conducted or will conduct proceedings required by Chapter 29 with respect to the territory within the boundaries of the Public Entity; and

**WHEREAS**, the legislative body of the Public Entity adopted or will adopt a resolution authorizing the Public Entity to join the Figtree PACE Program; and

**WHEREAS**, the Public Entity will not be responsible for the formation, operation and administration of the Figtree PACE Program as well as the sale and issuance of any bonds or other forms of indebtedness in connection therewith, including the conducting of assessment proceedings, the levy and collection of assessments and any remedial action in the case of such assessment payments, and the offer, sale and administration of any bonds issued by the Authority on behalf of the Figtree PACE Program; and

**WHEREAS**, the Administrator is the administrator of the Figtree PACE Program and agrees to indemnify the Public Entity in connection with the operations of the Figtree PACE Program as set forth herein;

**NOW, THEREFORE**, in consideration of the above premises and of the Public Entity's agreement to join the Figtree PACE Program, the parties agree as follows:

1. **Indemnification**. Figtree has provided the CEDA with an indemnification for negligence or malfeasance of any type as a result of the acts or omissions of Figtree, its officers, employees, subcontractors and agents, arising from or related to the Figtree PACE Program, the assessments, the assessment districts, the improvements or the financing and marketing thereof. Figtree agrees to defend, indemnify and hold harmless the Public Entity, its officers, elected or appointed officials, employees, agents and volunteers from and against any and all actions, suits, proceedings, claims, demands, losses, costs and expenses, including legal costs and attorneys' fees, for injury or damage due to negligence or malfeasance of any type claims as a result of the acts or omissions of Figtree, except for such loss or damage which was caused by the sole negligence or willful misconduct of the Public Entity. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as limitation upon the amount of indemnification to be provided by Figtree.

2. **Amendment/Interpretation of this Agreement**. This Agreement represents the entire understanding of the parties as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by both of the parties hereto. This Agreement shall not be interpreted for or against any party by reason of the fact that such party may have drafted this Agreement or any of its provisions.

3. **Section Headings**. Section headings in this Agreement are included for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

4. **Waiver**. No waiver of any of the provisions of this Agreement shall be binding unless in the form of writing signed by the party against whom enforcement is sought, and no such waiver shall operate as a waiver of any other provisions hereof (whether or not similar), nor shall such waiver constitute a continuing waiver. Except as specifically provided herein, no failure to exercise or any delay in exercising any right or remedy hereunder shall constitute a waiver thereof.

5. **Severability and Governing Law**. If any provision or portion thereof of this Agreement shall be held by a court of competent jurisdiction to be invalid, void, or otherwise unenforceable, the remaining provisions shall remain enforceable to the fullest extent permitted by law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of California applicable to contracts made and to be performed in California.

6. **Notices**. All notices, demands and other communications required or permitted hereunder shall be made in writing and shall be deemed to have been duly given if delivered by hand, against receipt, or mailed certified or registered mail and addressed as follows:

If to the Administrator

Figtree Company, Inc.  
9915 Mira Mesa Blvd., Suite 130  
San Diego, California 92131  
Attn: Chief Executive Officer

If to the Public Entity:

City of Chula Vista  
276 Fourth Ave  
Chula Vista, CA 91910  
Attn: Director of Public Works

7. The Authority agrees to comply with all state and local laws, and the City's PACE Guidelines, in its implementation and provision of the Figtree PACE Program in the City.

8. No suit or arbitration shall be brought arising out of this Agreement, against City unless a claim has first been presented in writing and filed with City and acted upon by City in accordance with the procedures set forth in Chapter 1.34 of the Chula Vista Municipal Code, as same may from time to time be amended, the provisions of which are incorporated by this reference as if fully set forth herein, and such policies and procedures used by City in the implementation of same. Upon request by City, the Authority shall meet and confer in good faith with City for the purpose of resolving any dispute over the terms of this Agreement

9. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, which together shall constitute the same instrument.

10. **Effective Date.** This Agreement will be effective as of the date of the signature of Public Entity's representative as indicated below in the signature block.

IN WITNESS HEREOF, the parties hereto duly executed this Agreement as of the date below.

CITY OF CHULA VISTA

\_\_\_\_\_  
Mary Casillas Salas, Mayor

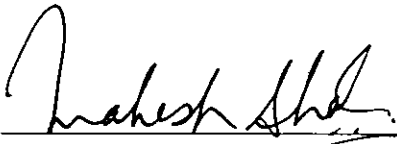
Attest:

\_\_\_\_\_  
Donna Norris, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Glen R. Googins, City Attorney

Figtree Company, Inc., a California corp.

By   
Name: Mahesh Shah  
Title: CEO

Date: 8/11/2015