

**EXHIBIT****"B"****PROJECT AGREEMENT**

**THIS PROJECT AGREEMENT** (this AProject Agreement@) is executed by and among the *City of Round Rock, Texas* (the ACity@) and the *Round Rock Transportation and Economic Development Corporation* (the "Corporation") and dated as of September 30, 2022.

**WITNESSETH:**

**WHEREAS**, the Corporation was created by the City pursuant to authority granted by the Section 4B of the Development Corporation Act of 1979, Article 5190.6, V.A.T.C.S., as amended, now codified as Local Government Code, Title 12, Subtitle C1 particularly Chapters 501 and 505 of the Local Government Code (collectively, the AAct@); and

**WHEREAS**, on August 9, 1997 and on November 8, 2011, the citizens of the City voting at elections on said dates approved the levy of a one-half of one percent sales and use tax upon the receipts at retail of taxable items, for all purposes authorized by the Act (the ASales Tax@); and

**WHEREAS**, under authority of the Act, it is the intent of the Corporation to issue borrow pursuant to a loan agreement for the purpose of financing eligible projects under the Act, and to secure such loan with the Sales Tax collected by the City under authority of the Act; and

**WHEREAS**, on September 22, 2022, the Corporation adopted a resolution (the ASIB Loan Resolution@) and the City approved the adoption of the SIB Loan Resolution by the Corporation, which resolution has authorized the execution of a State Infrastructure Bank Loan Agreement between the Corporation and the Texas Transportation Commission, acting by and through the Texas Department of Transportation, in the amount of \$27,000,000 (the "SIB Loan Agreement") for the purpose of financing various improvements primarily for the benefit of the City (referred to in the SIB Loan Resolution as the AProject@, which improvements are more specifically described in Exhibit "A" attached to this Project Agreement), and the Corporation and the City have previously entered into a sales tax remittance agreement (the ASales Tax Remittance Agreement@) for the purpose of providing a mechanism for distributing the Sales Tax between the Corporation and the City; and

**WHEREAS**, for the purpose of promoting and encouraging employment and the public welfare, the Board of Directors of the Corporation desires to provide funds to be used to finance the Project; and

**WHEREAS**, the City Council of the City desires to provide for the timely transfer of the proceeds of the Sales Tax to the Corporation in accordance with the provisions of the Act to be used by the Corporation to repay the SIB Loan Agreement entered into to finance the Project; and

**WHEREAS**, the parties hereto find it necessary and advisable to enter into this Agreement to evidence the duties and responsibilities of the respective parties with respect to the financing, construction and acquisition of the Project.

***NOW THEREFORE***, in consideration of the covenants and agreements herein made, and subject to the conditions herein set forth, the City and the Corporation contract and agree as follows:

**SECTION 1. DEFINITIONS AND INCORPORATION OF PREAMBLES.** The terms and expressions used in this Project Agreement, unless the context shows clearly otherwise, shall have the meanings set forth herein, including terms defined in the Preambles hereto, which preambles are incorporated in and made a part hereof for all purposes, or, if not defined herein, such terms shall have the meanings given in the SIB Loan Resolution.

**SECTION 2. OBLIGATION OF CORPORATION TO FINANCE PROJECT.** The Corporation agrees to pay, and will pay, certain costs of acquiring and constructing the Project on behalf of the City through the SIB Loan Agreement to provide the money for such payment, all in the manner hereinafter described and as provided in the SIB Loan Resolution; and the Corporation, by such payment, will therefore provide for the acquisition and construction of the Project for the benefit of the City.

**SECTION 3. USE OF SIB LOAN AGREEMENT PROCEEDS.** The proceeds from the SIB Loan Agreement will be used for the payment of costs and expenses in connection with the execution and delivery of the SIB Loan Agreement and the acquisition and construction of the Project, including, without limitation, all financing, legal, printing, administrative, and other expenses and costs incurred in the execution and delivery the SIB Loan Agreement and acquiring the Project. The SIB Loan Agreement will be in the amount of \$27,000,000 which amount is now estimated to be sufficient, together with other available funds, to cover all the aforesaid costs and expenses and other amounts required.

**SECTION 4. ACQUISITION AND CONSTRUCTION CONTRACTS.** The City, acting on behalf of and as agent for the Corporation under this Project Agreement, will enter into such contracts as are necessary to provide for acquiring and constructing the entire Project, and said contracts shall be executed as required by the respective laws applicable to the City. The Corporation shall cause the proceeds from the SIB Loan Agreement to be available to pay under such contracts. The Corporation shall deposit proceeds from the SIB Loan Agreement into the 2022 Project Fund in accordance with the SIB Loan Resolution (excluding proceeds required to be deposited into the Debt Service Fund and to pay costs of issuance of the SIB Loan Agreement at closing). The 2022 Project Fund shall be used for paying the Corporation's costs and expenses incidental to the issuance of the SIB Loan Resolution and to pay certain costs of acquiring, by purchase and construction, the Project. All contracts and draws on the 2022 Project Fund shall be approved by the Corporation and by the City, and any form of written approval signed by the President of the Board of Directors of the Corporation or by the City Manager or the Chief Financial Officer of the City will evidence the approval of the Corporation and the City, respectively, for the purposes of this Section. Draws on the 2022 Project Fund shall be made in accordance with the SIB Loan Resolution.

**SECTION 5. OWNERSHIP OF PROJECT.** (a) The Corporation will provide, make available, and render, to and for the benefit of the City and its inhabitants the Project financed by the Corporation pursuant to this Project Agreement. It is agreed that the City always shall have the exclusive use of the Project. In consideration of the Corporation's acquiring, making available, and rendering to and for the benefit of the City and its inhabitants, the facilities and services of the Project, the City makes and agrees to comply with its covenants which are set forth in the Sales Tax Remittance Agreement. The City shall not be relieved of its covenants and obligations under the Sales Tax Remittance Agreement, notwithstanding the failure of the Corporation to acquire or construct all or any part of the Project. It is hereby provided that in further consideration of the covenants made by the City under this Section and under the Sales Tax Remittance Agreement, the City shall become the owner of the Project upon completion of the construction of each distinct portion of the Project, as more particularly described in subsection (b) of this Section.

(b) After completion of the acquisition and construction of each identifiable portion of the Project, and when an identifiable portion of the Project is ready to be placed in service, the City shall inspect the same and if it is found by the City to have been acquired and constructed as required by this Project Agreement, the City, acting by and through the Mayor of the City, shall notify the Corporation in writing that it has accepted the Project. Upon such acceptance, all of the Corporation's right, title, and interest of every nature whatsoever in and to such portion of the Project automatically shall vest irrevocably in the City without the necessity of the execution of any conveyance by the Corporation, and such transaction shall result in the automatic sale and delivery of such portion of the Project by the Corporation to the City, and the vesting of title to such portion of the Project in the City in consideration for the agreement of the City to perform its obligations required under this Project Agreement. If requested in writing by the City, acting by and through the Mayor or City Manager of the City, the Corporation will execute and deliver to the City an appropriate instrument acknowledging that such sale, delivery, and vesting of title has occurred, but such instrument shall not be necessary to effect the automatic sale, delivery, and vesting of title, which shall occur as described above. Until the acceptance of a portion of the Project by the City, all right, title, and interest in and to a portion of the Project shall be in the Corporation. After such acceptance and the resulting sale, delivery, and vesting of title in the City, the Corporation shall have no right, title, or interest in, or responsibility with respect to, a portion of the Project and the Corporation shall have no right to extend, improve or otherwise expend funds in the 2022 Project Fund of the SIB Loan Resolution for such portion of the Project.

**SECTION 6. ACQUISITION.** The City and the Corporation agree to proceed promptly with the acquisition, by purchase and construction, of the Project. The City and Corporation hereby covenant that they will make a diligent effort to complete such acquisition and construction as soon as practicable. The City and the Corporation do not anticipate any delays in completing the acquisition of the Project, but the City and the Corporation shall not be liable to each other for any damages caused by any delays in completion of the Project.

**SECTION 7. USE OF CITY'S PUBLIC PROPERTY.** By these presents, the City authorizes use of any and all real property, streets, alleys, public ways and places, and general utility or sewer easements of the City for acquisition and construction of the Project.

**SECTION 8. FORCE MAJEURE.** If, by reason of Force Majeure, any party hereto shall be rendered unable wholly or in part to carry out its obligations under this Project Agreement, then such party shall give notice and full particulars of such Force Majeure in writing to the other parties within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and any such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term Force Majeure as employed herein, shall mean acts of God, strikes, lockouts, or other industrial disturbances, acts of public enemy, orders of any kind of the Government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquake, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines, or canals, or other causes not reasonably within the control of the party claiming such inability. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlement is unfavorable to it in the judgment of the party having the difficulty. It is specifically excepted and provided, however, that in no event shall any Force Majeure relieve the City of its obligation to transfer Sales Tax revenues to the Corporation as required under the Sales Tax Remittance Agreement.

**SECTION 9. REGULATORY BODIES.** This Project Agreement and the Project shall be subject to all valid rules, regulations, and laws applicable thereto passed or promulgated by the United States of America, the State of Texas, or any governmental body or agency having lawful jurisdiction or any authorized representative or agency of any of them.

**SECTION 10. TERM OF PROJECT AGREEMENT.** The term of this Project Agreement shall be for the period during which the SIB Loan Agreement is effective and any amounts thereunder are outstanding and unpaid.

*[The remainder of this page intentionally left blank]*

***IN WITNESS WHEREOF***, the parties have caused this Agreement to be signed in multiple counterparts, each of which shall be considered an original for all purposes, as of the day and year first set out above.

**CITY OF ROUND ROCK, TEXAS**

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

(SEAL)

**ROUND ROCK TRANSPORTATION  
AND ECONOMIC DEVELOPMENT  
CORPORATION**

By \_\_\_\_\_  
President, Board of Directors

ATTEST:

\_\_\_\_\_  
Secretary, Board of Directors

(SEAL)

## **EXHIBIT A**

### **DESCRIPTION OF THE PROJECT**

Costs associated with utility relocation, right-of-way acquisition and construction necessary for a non-tolled, off-system project involving various improvement to Gattis School Road in Williamson County as further set forth in the Application.