

## PUBLIC PROPERTY FINANCE ACT CONTRACT

THIS Public Property Finance Act Contract No. 18-025 hereafter referred to as the "Finance Contract") is dated as of September 6, 2018, by and between **Bank of America, National Association**, a national banking association organized under the laws of the United States of America (herein referred to as "BANA"), and the **City of Round Rock**, a political sub-division or agency of the State of Texas (hereinafter referred to as the "Issuer").

WITNESSETH: In furtherance of the providing by BANA of financing to the Issuer in connection with the Issuer's acquisition from various vendors that is more fully described on EXHIBIT A attached hereto (the "Property"), and in consideration of the mutual covenants and conditions hereinafter set forth, pursuant to the provisions of the Public Property Finance Act, Chapter 271, Subchapter A, Texas Local Government Code, as amended (the "Act"), the parties agree as follows:

**1. Term and Payments.** The Issuer hereby covenants and agrees to pay to the order of BANA and BANA's successors and assigns those principal and interest installment amounts in those sums set forth on EXHIBIT B attached hereto (the "Payments") on or before those dates per installment that are more fully set forth on EXHIBIT B (the "Payment Dates"). It is acknowledged and understood that BANA may assign its rights hereunder to a third party and that notice of said assignment shall be provided to the Issuer and that the Issuer, thereafter, shall look to and consider said assignee as the party to whom all of the Issuer's duties hereunder are owed. To the extent permitted by law, the obligation of the Issuer to make the Payments shall not be subject to set-off, counterclaim, or recoupment. The interest is calculated on the basis of a 30/360-day year on the unpaid principal amounts from the Schedule Date of the EXHIBIT B.

**2. Security, Levy of Taxes, Budgeting.**

(a) To the extent permitted by law, the Issuer hereby agrees to levy and collect, a continuing direct annual Ad Valorem Tax on all taxable property within the boundaries of the Issuer, within the limitations prescribed by law, at a rate from year to year sufficient, together with such other revenues and funds lawfully available to the Issuer for the payment of the Payments, to provide funds each year to pay the Payments, full allowance being made for delinquencies and costs of collection. Such taxes and such revenues and funds in an amount sufficient to make the Payments are pledged to BANA and BANA's successors and assigns for such purpose as the same shall become due and payable under this Finance Contract.

(b) The Issuer waives all rights of set-off, recoupment, counterclaim and abatement against BANA and BANA's successors and assigns with respect to the amounts due under this Finance Contract, and to the extent permitted by law, the Issuer's obligation to pay amounts due under this Finance Contract is absolute and unconditional and not subject to set-off, recoupment, counterclaim or abatement for any reason whatsoever.

**3. Deposit into the Payment Fund.**

(a) Upon this Finance Contract taking effect the Issuer shall establish a Payment Fund, which shall be maintained by the Issuer as long as any Payments are unpaid. The Issuer hereby pledges the Payment Fund for the exclusive purpose of securing the Payments and shall apply the funds therein to the payment of Payments as such payments come due.

(b) Each year in which Payments come due, the Issuer shall, not later than the day preceding any such due date, deposit into the Payment Fund, from the Issuer's Ad Valorem taxes or other lawfully available funds (within the limits prescribed by law) an amount sufficient to make such payment. To the extent permitted by law, the Issuer hereby pledges its Ad Valorem tax as security for this obligation. To the extent required by the Texas Constitution, the Issuer agrees during each year of the term of this Finance Contract to levy and collect annually a sufficient sum to pay the greater of (1) interest on the debt created by this Finance Contract and a sinking fund of at least two percent of the principal amount of such debt, or (2) the payments required by Exhibit B attached hereto.

(c) The Payment Fund shall be depleted at least once a year except for a carryover amount not to exceed one twelfth (1/12) of the amount of the Payments expected to come due in the following year.

**4. Taxes.** The Issuer agrees to directly pay all taxes, insurance and other costs of every nature associated with its ownership of the Property.

**5. The Issuer's Covenants and Representations.** The Issuer covenants and represents as follows:

(a) The Issuer will provide an opinion of its counsel to the effect that, it has full power and authority to enter into this Finance Contract which has been duly authorized, executed, and delivered by the Issuer and is a valid and binding obligation enforceable in accordance with its terms, and all requirements for execution, delivery and performance of this Finance Contract have been, or will be, complied with in a timely manner;

(b) All Payments hereunder for the current fiscal period have been duly authorized and will be paid when due;

(c) There are no pending or threatened lawsuits or administrative or other proceedings contesting the authority for, authorization of performance of, or expenditure of funds pursuant to this Finance Contract;

(d) The information supplied and statements made by the Issuer in any financial statement prior to or contemporaneously with this Finance Contract are true and correct;

(e) The Issuer has complied or will comply with all bidding/proposal laws applicable to this transaction and the purchase of the Property.

(f) No event has occurred which would constitute an event of default under any debt, revenue bond or obligation which the Issuer has issued during the past ten (10) years.

(g) The Issuer will pay the Payments due by check, wire transfer, or ACH only.

**6. Use and Licenses.** The Issuer shall pay and discharge all operating and other expenses of every nature associated with its use of the Property. The Issuer shall obtain, at its expense, all registrations, permits and licenses, if any, required by law for the installation and operation of the Property.

**7. Maintenance.** The Issuer agrees to be solely responsible for all maintenance and operating costs of every nature associated with its ownership of the Property and the Issuer acknowledges that BANA or BANA's successors or assigns shall have no responsibility for the payment of any such costs.

**8. Damage to or Destruction of Property.** The Issuer shall bear the entire risk of loss, damage, theft, or destruction of the Property from any and every cause whatsoever, and no loss, damage, destruction, or other event shall release the Issuer from the obligation to pay the full amount of the payments or from any other obligation under this Finance Contract.

**9. No Warranty.** EXCEPT FOR REPRESENTATIONS, WARRANTIES, AND SERVICE AGREEMENTS RELATING TO THE PROPERTY MADE OR ENTERED INTO BY THE MANUFACTURERS OR SUPPLIERS OF THE PROPERTY, IF ANY, ALL OF WHICH ARE HEREBY ASSIGNED TO THE ISSUER, BANA HAS MADE AND MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AND ASSUMES NO OBLIGATION WITH RESPECT TO THE TITLE, MERCHANTABILITY, CONDITION, QUALITY OR FITNESS OF THE PROPERTY DESCRIBED IN EXHIBIT A FOR ANY PARTICULAR PURPOSE OR THE CONFORMITY OF THE PROPERTY TO SPECIFICATION OR PURCHASE ORDER. All such risks shall be borne by the Issuer without in any way excusing it from its obligations under this Finance Contract, and BANA shall not be liable for any damages on account of such risks. All claims or actions on any warranty so assigned shall be made or prosecuted by the Issuer, at its sole expense, upon prior written notice to BANA. BANA or its assigns may, but shall have no obligation whatsoever to, participate in a claim on any warranty. Any recovery under such a warranty shall be made payable jointly to both parties.

**10. Evidence of Indebtedness and Security Agreement.**

(a) An executed copy of this Finance Contract shall evidence the indebtedness of the Issuer as provided herein and shall constitute a security agreement pursuant to applicable law, with BANA, its successors or assigns as the secured party. The grants, lien, pledge and security interest of BANA, its successors or assigns created herein shall become effective immediately upon and from the Delivery Date, and the same shall be continuously effective for so long as any Finance Contract Payments are outstanding.

(b) A fully executed copy of this Finance Contract and the proceedings authorizing same shall be kept at all times and shall be filed and recorded as a security agreement among the permanent records of the Issuer. Such records shall be open for inspection to any member of the general public and to any individual, firm, corporation, governmental entity or other person proposing to do or doing business with, or having or asserting claims against the Issuer, at all times during regular business hours.

(c) If, in the opinion of counsel to the Issuer or to BANA, its successors or assigns, applicable law ever requires filings additional to the filing pursuant to subsection (b) of this section in order to preserve and protect the priority of the grants, assignments, lien, pledge and security interest of BANA, its successors or assigns created herein as to all Payments, then the Issuer shall diligently and regularly make such filings to the extent required by law to accomplish such result.

**11. Default and Remedies.**

(a) Each of the following occurrences or events for the purpose of this Finance Contract is hereby declared to be an Event of Default:

- (1) the failure to make payment of the Payment when the same becomes due and payable; or
- (2) default in the performance or observance of any other covenant agreement or obligation of the Issuer, which default materially, adversely affects the rights of BANA or its successors or assigns, including, but not limited to, its prospect or ability to be repaid in accordance with this Finance Contract, and the continuation thereof for a period of 20 days after notice of such default is given by BANA or any successors or assigns of BANA to the Issuer.

(b) Remedies for Default.

(1) Upon the happening of any Event of Default, then and in every case BANA or its successors or assigns, or an authorized representative thereof, including, but not limited to, an attorney or trustee therefore, may proceed against the Issuer for the purpose of protecting and enforcing the rights of BANA or its successors or assigns under this Finance Contract, by mandamus or other suit, action or special proceeding in equity or at law, in any court of competent jurisdiction, for any relief permitted by law, including the specific performance of any covenant or agreement contained herein, or thereby to enjoin any act or thing that may be unlawful or in violation of any right of BANA or its successors or assigns or any combination of such remedies; provided that none of such parties shall have any right to declare the balance of the Finance Contract Payments to be immediately due and payable as a remedy because of the occurrence of an Event of Default.

(2) The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy, and no delay or omission to exercise any right or power occurring upon any Event of Default shall impair any such right or power or be construed to be a waiver thereof and all such rights and powers may be exercised as often as may be deemed expedient.

(c) Remedies Not Exclusive.

(1) No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under this Finance Contract or now or hereafter existing at law or in equity; provided, however, that notwithstanding any other provision of this Finance Contract, the right to accelerate the debt evidenced by this Finance Contract shall not be available as a remedy because of the occurrence of an Event of Default.

**12. Assignment.** Without BANA's prior written consent, the Issuer will not either (a) assign, transfer, pledge, hypothecate, grant any security interest in or otherwise dispose of this Finance Contract or the Property or any interest in this Finance Contract or the Property; or (b) sublet or lend the Property or permit it to be used by anyone other than the Issuer or the Issuer's employees and other authorized users. BANA may assign its rights, title and interest in and to this Finance Contract, and any other documents executed with respect to this Finance Contract and/or grant or assign a security interest in this Finance Contract, in whole or in part. Such successors and assigns of BANA shall have the right to further grant or assign a security interest in this Finance Contract, as well as the rights to Payments hereunder, in whole or in part, to any third party. No assignment or reassignment of BANA's rights, title or interest in this Finance Contract shall be effective with regard to the Issuer unless and until the Issuer shall have received a copy of the document by which the assignment or reassignment is made, disclosing the name and address of such assignee. The Issuer shall maintain written records of any assignments of the Finance Contract.

**13. Personal Property.** The Property is and shall at all times be and remain personal property, and will not be considered a fixture to any real property.

**14. BANA's Right to Perform for The Issuer.** If the Issuer fails to make any payment or perform or comply with any of its covenants or obligations hereunder, BANA or BANA's successors or assigns may, but shall not be required to, make such payment or perform or comply with such covenants and obligations on behalf of the Issuer, and the amount of any such payment and the expenses (including but not limited to reasonable attorneys' fees) incurred by BANA or BANA's successors or assigns in performing or complying with such covenants and obligations, as the case may be, together with interest thereon at the highest lawful rate under the State of Texas law, shall be payable by the Issuer upon demand.

**15. Interest on Default.** If the Issuer fails to pay any Payment specified herein within twenty (20) days after the due date thereof, the Issuer shall pay to BANA or any successor or assigns of BANA, interest on such delinquent payment at the highest rate allowed by Texas law.

**16. Notices.** Any notices to be given or to be served upon any party hereto in connection with this Finance Contract must be in writing and may be given by certified or registered mail, and shall be deemed to have been given and received forty-eight (48) hours after mailing. Such notice shall be given to the parties at their respective addresses designated on the signature page of this Finance Contract or at such other address as either party may hereafter designate.

**17. Prepayment.**

(a) The Issuer shall have the right, at its option, to prepay the Finance Act Contract in whole, on any payment date which has an amount shown in the "Early Redemption Value" column of Exhibit B attached hereto. "N/A" shall mean not prepayable. The Issuer shall not have the right to prepay the Finance Contract in part at any time.

(b) As condition precedent to the Issuer's right to make, and BANA's obligation to accept, any such prepayment, BANA shall have actually received notice at least thirty (30) days in advance of the Issuer's intent to exercise its option to prepay.

**18. Continuing Disclosure.** Specifically and without limitation, the Issuer agrees to provide audited financial statements, prepared by a certified public accountant not later than nine (9) months after and as of the end of each fiscal year. Periodic financial statements shall include a combined balance sheet as of the end of each such period, and a combined statement of revenues, expenditures and changes in fund balances, from the beginning of the then fiscal year to the end of such period. These reports must be certified as correct by one of the Issuer's authorized agents. If the Issuer has subsidiaries, the financial statements required will be provided on a consolidated and consolidation basis.

**19. Tax Exemption.**

(a) The Issuer certifies that it does not reasonably anticipate more than \$10,000,000 of "tax-exempt obligations", including this Finance Contract will be issued by it and any subordinate entities during the current calendar year. Further, the Issuer designates this Finance Contract as "qualified tax exempt obligations" under Section 265 (b) 3 of the Internal Revenue Code of 1986, as amended (the "Code") eligible for the exception contained in Section 265 (b) 3 (D) of the Code allowing for an exception to the general rule of the Code which provides for a total disallowance of a deduction for interest expense allocable to the carrying of tax exempt obligations.

(b) The Issuer hereby represents and covenants that the proceeds of this Finance Contract are needed at this time to provide funds for the Issuer's purchase of the property for which this Finance Contract was executed and delivered, as specified in this Finance Contract; that (i) final disbursement of the proceeds of this Finance Contract will occur within three years from the Delivery Date, (ii) substantial binding obligations to expend at least five (5) percent of the net proceeds will be incurred within six months after the Delivery Date and (iii) the acquisition of such property will proceed with due diligence to completion; and that, except for the Escrow Agreement, if applicable, and the Payment Fund, no other funds or accounts have been or will be established or pledged to the payment of this Finance Contract.

(c) The Issuer will not directly or indirectly take any action or omit to take any action, which action or omission would cause the Finance Contract to constitute a "private activity bond" within the meaning of Section 141(a) of the Code.

(d) The Issuer will not take any action or fail to take any action with respect to the investment of the proceeds of this Finance Contract or any other funds of the Issuer, including amounts received from the investment of any of the foregoing, that would cause this Finance Contract to be an "arbitrage bond" within the meaning of such section 148 of the Code.

(e) There are no other obligations of the Issuer which are sold at substantially the same time as the Finance Contract, sold pursuant to the same plan of financing with the Finance Contract and are reasonably expected to be paid from substantially the same source of funds as the Finance Contract.

(f) The Issuer will not take any action, or as the case may be, knowingly omit to take any action within its control that, if taken or omitted, as the case may be, would cause the Finance Contract to be treated as "federally guaranteed" obligations for purposes of Section 149(b) of the Code.

(g) The Issuer will take all necessary steps to comply with the requirement that certain amounts earned by the Issuer on the investment of the "gross proceeds" of the Finance Contract (within the meaning of Section 148(f)(6)(B) of the Code), if any, be rebated to the federal government. Specifically, the Issuer will (i) maintain records regarding the investment of the gross proceeds of the Finance Contract as may be required to calculate and substantiate the amount earned on the investment of the gross proceeds of the Finance Contract and retain such records for at least six years after the day on which the last outstanding Finance Contract is discharged, (ii) account for all gross proceeds under a reasonable, consistently applied method of accounting, including any specified method of accounting required by applicable regulations to be used for all or a portion of the gross proceeds, (iii) calculate, at such times as are required by applicable regulations, the amount earned from the investment of the gross proceeds of the Finance Contract and (iv) timely pay all amounts required to be rebated to the federal government. In addition, the Issuer will correct any errors within a reasonable amount of time thereafter, including payment to the federal government of any delinquent amounts owed to it, including interest thereon and penalty, if any, as may be necessary or appropriate to assure that interest on the Finance Contract is not includable in the gross income for federal income tax purposes.

(h) The Issuer will timely file with the Secretary of the Treasury of the United States the information required by Section 149(e) of the Code with respect to the Finance Contract on such form and in such place as the Secretary may prescribe. Notwithstanding any other provision of this Finance Contract, the Issuer's obligation under the covenants and provisions of this Section 19 shall survive the defeasance and discharge of this Finance Contract.

**20. Miscellaneous.**

(a) Time is of the essence. No covenant or obligations hereunder to be performed by the Issuer are waived, except by the written consent of BANA or its successors or assigns. BANA's or its successors or assigns' rights hereunder are cumulative and not alternative.

(b) This Finance Contract shall be construed in accordance with, and governed by the state of Texas laws.

(c) This Finance Contract constitutes the entire agreement between the parties and shall not be modified, waived, discharged, terminated, amended, altered or changed in any respect except by a written document signed by both BANA and the Issuer.

(d) Any term or provision of this Finance Contract found to be prohibited by law or unenforceable shall not affect the legality the remainder of this Finance Contract.

(e) Use of the neuter gender herein is for purposes of convenience only and shall be deemed to mean and

include the masculine or feminine gender whenever appropriate.

(f) The captions set forth herein are for convenience of reference only, and shall not define or limit any of the terms or provisions hereof.

(g) Issuer agrees to equitably adjust the payments payable under this Finance Contract if there is a determination by the IRS that the interest payable pursuant to this Finance Contract (as incorporated within the schedule of payments) is not excludable from income in accordance with the Internal Revenue Code of 1986, as amended, such as to make BANA and its assigns whole.

(h) Except as otherwise provided, this Finance Contract shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns, where permitted by this Finance Contract.

(i) BANA shall comply with the requirements of Chapter 2270 of the Texas Government Code as it pertains to this Contract.

(j) THIS CONTRACT IS EVIDENCE OF A PRIVATELY PLACED BANK LOAN, IS NOT IN REGISTERED FORM, AND MAY NOT BE TRANSFERRED TO BEARER. TRANSFERS OF THIS CONTRACT ARE NOT REGISTERED ON BOOKS MAINTAINED FOR THAT PURPOSE BY THE ISSUER.

[Signature page follows]

IN WITNESS WHEREOF, the parties have executed this Finance Contract as of the 6<sup>th</sup> day of September in the year 2018.

Bank of America, National Association

\_\_\_\_\_  
Vice President  
11333 McCormick Road  
M/C MD5-032-07-05  
Hunt Valley, MD 21031

Witness Signature\_\_\_\_\_

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

Print Title \_\_\_\_\_

**The Issuer:** City of Round Rock

\_\_\_\_\_  
Craig Morgan, Mayor  
221 East Main Street  
Round Rock, TX 78664

Witness Signature\_\_\_\_\_

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

Print Title \_\_\_\_\_

**EXHIBIT A**Public Property Finance Act Contract **No. 18-025** (THE "FINANCE CONTRACT")

By And Between

Bank of America, National Association and ***the Issuer***, City of Round Rock

Dated as of September 6, 2018

**QTY                      DESCRIPTION**

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Personal Property

Property Cost: \$2,982,547.85

Payback Period: ten (10) semi-annual Payments

9 – Ford Trucks  
24 – Ford Explorer SUVs  
3 – Scag Mowers  
1 – Swenson Spreader  
1 – Firefighting Aerial Apparatus

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PROPERTY LOCATION:  
Throughout the City  
Round Rock, TX 78664

**EXHIBIT B****>> SCHEDULE OF PAYMENTS & EARLY REDEMPTION VALUE <<**PUBLIC PROPERTY FINANCE ACT CONTRACT **NO. 18-025** (THE "FINANCE CONTRACT")

BY AND BETWEEN

Bank of America, National Association and the **Issuer**, City of Round Rock

Schedule Dated as of September 6, 2018

PMT NO.	PMT DATE MO. DAY YR	TOTAL PAYMENT	INTEREST PAID	PRINCIPAL PAID	EARLY REDEMPTION VALUE after pmt on this line
1	2/6/2019	\$322,177.98	\$36,628.21	\$285,549.77	N/A
2	8/6/2019	\$322,177.98	\$39,745.70	\$282,432.28	N/A
3	2/6/2020	\$322,177.98	\$35,583.49	\$286,594.49	\$2,127,971.30
4	8/6/2020	\$322,177.98	\$31,359.94	\$290,818.04	\$1,837,153.26
5	2/6/2021	\$322,177.98	\$27,074.15	\$295,103.83	\$1,542,049.44
6	8/6/2021	\$322,177.98	\$22,725.20	\$299,452.78	\$1,242,596.66
7	2/6/2022	\$322,177.98	\$18,312.16	\$303,865.82	\$938,730.84
8	8/6/2022	\$322,177.98	\$13,834.09	\$308,343.89	\$630,386.95
9	2/6/2023	\$322,177.98	\$9,290.02	\$312,887.96	\$317,498.99
10	8/6/2023	\$322,177.98	\$4,678.99	\$317,498.99	\$0.00
Grand Totals		\$3,221,779.80	\$239,231.95	2,982,547.85	

Interest Rate: 2.9474%

## INCUMBENCY CERTIFICATE

Public Property Finance Act Contract **No. 18-025** (THE "FINANCE CONTRACT")

By And Between

Bank of America, National Association and ***the Issuer***, City of Round Rock

Dated as of September 6, 2018

I, Sara White, do hereby certify that I am the duly elected or appointed and acting City Clerk, of the City of Round Rock, Issuer, a political subdivision or agency of the State of Texas, duly organized and existing under the laws of the State of Texas, that I or my designee have custody of the records of such entity, and that, as of the date hereof, the individual(s) named below are the duly elected or appointed officer(s) of such entity holding the office(s) set forth opposite their respective name(s). I further certify that (i) the signature(s) set opposite their respective name(s) and title(s) are their true and authentic signature(s), and (ii) such officers have the authority on behalf of such entity to enter into that certain Public Property Finance Act Contract No.18-025, between City of Round Rock (the "Issuer") and Bank of America, National Association ("BANA").

Name

Title

Signature

Craig Morgan

Mayor

\_\_\_\_\_

IN WITNESS WHEREOF, I have duly executed this certificate hereto this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

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

Sara L. White, City Clerk



## TAX AND ARBITRAGE CERTIFICATE

Public Property Finance Act Contract No.18-025 (THE "FINANCE CONTRACT")

BY AND BETWEEN

Bank of America, National Association and **Issuer**, City of Round Rock

Dated as of September 6, 2018

This **Tax and Arbitrage Certificate** is executed on this 6<sup>th</sup> day of September, 2018 by the undersigned ("Issuer") and pertains to that financing agreement dated September 6, 2018, as is more fully described above (the "Financing Contract"). This Certificate is being issued pursuant to Section 148 of the Internal Revenue Code of 1986, as amended (the "Code") and Treasury Regulation Sections 1.141-1 through 1.141-15, 1.148-0 through 1.148-11, 1.149(d), 1.149(g)-1, 1.150-1 and 1.150-2 (the "Regulations"). The Issuer hereby agrees that: (a) proceeds derived from the issuance of the Finance Contract shall only be used to acquire property that has a governmental purpose and will not be used to acquire property that will benefit any private business activity; (b) proceeds derived from the issuance of the Finance Contract shall never be invested in instruments yielding an interest rate return in excess of the rate of interest set forth in the Finance Contract; (c) proceeds derived from the issuance of the Finance Contract shall be fully and completely expended for their anticipated purpose within at least one year from the date of the Finance Contract; (d) proceeds derived from the issuance of the Finance Contract shall not be used to finance any acquisition other than the purchase of that property identified in the Finance Contract along with related costs and costs of issuance; (e) the repayment of the Finance Contract is not guaranteed directly or indirectly by the federal government; (f) Issuer shall execute a Form 8038-G and allow for such to be filed of record with the Internal Revenue Service; (g) the Finance Contract is in registered form and that the Issuer shall maintain a record regarding the ownership of the Finance Contract and the payment of all sums payable under the Finance Contract; (h) the proceeds derived from the issuance of the Finance Contract are not in excess of the sums required in order to acquire the property that is the subject of the Finance Contract and to fund the costs associated with the issuance of the Finance Contract; (i) Issuer does not currently contemplate the sale or disposition of the property that is the subject of the Finance Contract prior to the expiration of the Finance Contract's payment terms; and (j) the Issuer shall otherwise abide by all applicable rules and regulations related to the issuance of the Finance Contract.

To the best of the knowledge and belief of the undersigned, the expectations as set forth above, are reasonable; and there are no present facts, estimates, and circumstances which would change the foregoing expectations. The Issuer has not been notified of the listing, or proposed listing of it, by the Internal Revenue Service as an Issuer whose arbitrage certificates may not be relied upon.

Executed on the date first referenced above.

**Issuer:** City of Round Rock

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Craig Morgan, Mayor  
221 East Main Street  
Round Rock, TX 78664

# Sheets & Crossfield, P.C.

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ATTORNEYS AT LAW

309 East Main Street • Round Rock, TX 78664-5246

Phone 512-255-8877 • fax 512-255-8986

[www.sheets-crossfield.com](http://www.sheets-crossfield.com)

August 23, 2018

Bank of America, National Association  
11333 McCormick Road  
M/C MD5-032-07-05  
Hunt Valley, MD 21031

RE: Public Property Finance Act Contract No.18-025

I have examined the Public Property Finance Act Contract No.18-025 (the "Finance Contract") between the City of Round Rock (the "Issuer") and Bank of America, National Association ("BANA") dated September 6, 2018. The Finance Contract provides financing for the purchase by the City of Round Rock of certain Property as identified in the Finance Contract and provides that the Issuer shall finance the Property by making Payments as specified in the Public Property Finance Act Contract No.18-025.

I have also examined other certificates and documents as I have deemed necessary and appropriate under the circumstances.

Based upon the foregoing examination, I am of the opinion that:

1. The Issuer is a political subdivision of the State of Texas with the requisite power and authority to incur obligations, the interest on which is exempt from taxation by virtue of Section 103(a) of the Internal Revenue Code of 1986, as amended;
2. The execution, delivery and performance by the Issuer of the Finance Contract have been duly authorized by all necessary action on the part of the Issuer; and
3. The Finance Contract constitutes a legal, valid and binding obligation of the Issuer enforceable in accordance with its terms.

The opinion expressed above is solely for the benefit of the Issuer, BANA and/or its subsequent successors or assigns.

Very truly yours,

Stephan L. Sheets,  
City Attorney

**RESOLUTION NO. R-2018-\_\_\_\_\_**

**A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF PUBLIC PROPERTY FINANCE ACT CONTRACT NO. 18-025 FOR THE PURPOSE OF FINANCING PUBLIC PROPERTY WITH BANK OF AMERICA, NATIONAL ASSOCIATION; AND RELATED INSTRUMENTS, AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH.**

**WHEREAS**, the City of Round Rock, Texas ("City") desires to enter into a Public Property Finance Act Contract ("Finance Contract") with Bank of America, National Association ("BANA") for the purpose of financing certain public property ("Equipment"); and

**WHEREAS**, the principal amount expected to be financed is \$2,982,547.85; and

**WHEREAS**, the City is a political subdivision of the State of Texas in which City is located (the "State") and is duly organized and existing pursuant to the constitution and laws of the State of Texas; and

**WHEREAS**, the City desires to designate this Finance Contract dated as of September 6, 2018, as a "qualified tax exempt obligation" of the City for the purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

**WHEREAS**, pursuant to applicable law, the governing body of City ("City Council") is authorized to acquire, dispose of and encumber real and personal property including, without limitation, rights and interests in property, leases and easements necessary to the functions or operations of City; and

**WHEREAS**, the City Council desires to obtain certain Equipment described in Exhibit "A" of the Finance Contract with BANA in the amount not to exceed \$2,982,547.85; and

**WHEREAS**, the City Council hereby finds and determines that the execution this Finance Contract in the principal amount not exceeding the amount stated above ("Principal Amount") for the purpose of acquiring the property ("Property") described specifically in Exhibit

“A” of the Finance Contract is appropriate and necessary to the functions and operations of the City, and that the Equipment is essential for the City to perform its governmental functions; and

**WHEREAS**, the City has taken the necessary steps, including those relating to any applicable legal bidding requirements, to arrange for the acquisition of the Equipment, Now Therefore

**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ROUND ROCK, TEXAS,**

**Section 1.** That the Mayor (“Authorized Representative”) acting on behalf of City is hereby authorized to negotiate, enter into, execute, and deliver the Finance Contract dated as of September 6, 2018, as forth in Exhibit A and presently before the City Council, attached hereto and incorporated herein, which document is available for public inspection at the office of the City. Each Authorized Representative acting on behalf of City is hereby authorized to negotiate, enter into, execute, and deliver such other documents relating to the Finance Contract as the Authorized Representative deems necessary and appropriate. All other related contracts and agreements necessary and incidental to the Finance Contract are hereby authorized.

**Section 2.** That by a written instrument signed by an Authorized Representative, said Authorized Representative may designate specifically identified officers or employees of the City to execute and deliver agreements and documents relating to the Finance Contract on behalf of the City.

**Section 3.** That the Finance Contract dated as of September 6, 2018, by and between the City of Round Rock, Texas and BANA is designated by the City as a “qualified tax exempt obligation” for the purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended; and

**Section 4.** This Resolution shall take effect immediately upon its adoption and approval.

The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this Resolution was adopted was posted and that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof were discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.

**RESOLVED** this 23<sup>rd</sup> day of August, 2018.

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CRAIG MORGAN, Mayor  
City of Round Rock, Texas

ATTEST:

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SARA L. WHITE, City Clerk