

EXHIBIT

"A"

ECONOMIC DEVELOPMENT PROGRAM AGREEMENT

This Economic Development Program Agreement ("Agreement") is entered into this 14th day of MARCH, 2018, by and between the **City of Round Rock, Texas**, a Texas home rule municipal corporation ("**City**"), and **TOTKN, LLC ("TOTKN")**, a Texas Limited Liability Company. The foregoing are referred to collectively as the "**Parties**."

WHEREAS, the City has adopted Resolution No. _____, attached as **Exhibit A** ("City Resolution"), establishing an economic development program and authorizing the Mayor to enter into this Agreement with TOTKN in recognition of the positive economic benefits to the City through the construction by TOTKN of a restaurant, bar, music venue and amphitheater, similar to TOTKN existing business known as the Nutty Brown Café and Amphitheater located in Dripping Springs, Texas (the "Facility") to be constructed on the site described in **Exhibit B**, (the "Property"); and

WHEREAS, TOTKN will employ at least forty employees at the Facility by the end of Year 2, as defined below; and

WHEREAS, the purpose of this Agreement is to promote economic development as contemplated by Chapter 380 and Chapter 505 of the Texas Local Government Code whereby TOTKN will expend at least \$10,000,000 in the construction of the Facility; and

WHEREAS, the City agrees to provide performance based economic development grants to TOTKN to defray a portion of TOTKN's expenses;

NOW, THEREFORE, in consideration of the mutual benefits and promises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and TOTKN agree as follows:

1. **Authority.** The City's execution of this Agreement is authorized by Chapter 380 of the Texas Local Government Code, and the City Resolution, and constitutes a valid and binding obligation of the City in the event TOTKN proceeds with construction of the Facility. The City acknowledges that TOTKN is acting in reliance upon the City's performance of its obligations under this Agreement in making its decision to commit substantial resources and money to construct the Facility.

2. Definitions.

2.1 **"Economic Incentive Payment(s)" ("EIPs")** means the amount paid and fees waived by the City to TOTKN under the Program.

2.2 **"Effective Date"** is the date this Agreement is executed to be effective by the Parties.

2.3 **"Facility"** means the restaurant, bar, music venue and amphitheater to be constructed by TOTKN on the Property.

- 2.4. **“Full Time Equivalent Employee” (“FTE”)** means a combination of employees, each of whom individually is not a full-time employee because they are not employed on average at least 35 hours per week, but who, in combination, are counted as the equivalent of a full-time employee. FTE’s shall include original hires or their replacements over time.
- 2.5 **“Program”** means the economic development program established by the City pursuant to Chapter 380 of the Texas Local Government Code and under the City Resolution to promote local economic development and stimulate business and commercial activity within the City.
- 2.6 **“Property”** means the tract of land described in **Exhibit B**.
- 2.7 **“Property Tax”** means the amount of property tax on the Property and the Facility collected by the City.
- 2.8 **“Recapture Liability”** means the total amount of all EIP’s that are paid, and fees waived, as result of this Agreement that are subject to recapture by the City from TOTKN in the event of a TOTKN default.
3. **Term.** This Agreement shall become enforceable upon its Effective Date and shall terminate on the latter of March 1, of Year 6, as determined in accordance with 5.1 below, or the payment to TOTKN of all EIPs based on Property Taxes.
4. **Rights and Obligations of TOTKN.**
- 4.1 Facility. TOTKN agrees to spend at least \$10,000,000.00 to construct and complete the Facility on or before the 1st day of December 31, 2019. TOTKN agrees to provide the City with documentation that shows proof that this obligation has been satisfied, and the City shall have the right, following reasonable advance notice to TOTKN, to audit TOTKN’s records relating to the construction of the Facility to verify same.
- 4.2 Compliance with regulations. TOTKN agrees that it will comply with the requirements of PUD No. 112, the City’s development approval processes and shall operate the Facility consistent with applicable City ordinances, development regulations, and requirements.
- 4.3 Continuous operation. TOTKN agrees that it will continuously operate the Facility during the term of this Agreement, including any extensions; provided, however, the Parties acknowledge and agree the concert season for the music venue and amphitheater is March 15 through November 15 of each year.
- 4.4 Jobs. TOTKN agrees to employ at least 30 full-time employees and/or FTE’s by December 31 of Year 1 in accordance with the schedule set forth below. TOTKN agrees to employ at least 40 full-time employees and/or FTE’s by December 31 of Year 2 in accordance with the schedule set forth below. As used in the schedule

below, the term “jobs” includes full-time employees and FTE’s. “Year 1” shall be the calendar year immediately following the issuance of the last Certificate of Occupancy for the Facility; provided, however, if the Williamson Central Appraisal District appraisal of taxable value does not reflect the completion of the Facility and installation of all equipment, then “Year 1” shall be the second calendar year following the issuance of the last Certificate of Occupancy for the Facility.

<u>Year</u>	<u>Retained Jobs</u>	<u>New Jobs</u>	<u>Total Jobs</u>
Year 1	0	30	30
Year 2	30	10	40
Year 3	40	0	40
Year 4	40	0	40
Year 5	40	0	40

- 4.5 Job Compliance Affidavit. On or before March 1 following each year described in the schedule in Section 4.4 of this Agreement, TOTKN agrees to provide the City a Job Compliance Affidavit, a copy of such Job Compliance Affidavit is attached hereto as **Exhibit C**. City shall have the right, following reasonable advance notice to TOTKN, to audit TOTKN’s payroll records to verify that this obligation has been satisfied.

5. Rights and Obligations of the City.

In consideration of TOTKN’s compliance with this Agreement, the City agrees as follows:

5.1 Economic Incentive Payments (“EIP”).

5.1.1 EIP’s Based on Property Taxes. City shall, subject to TOTKN’s satisfaction of its obligations set forth herein, make EIPs to TOTKN as set forth herein. The EIP’s based on Property Taxes shall be made in annual payments on or before March 1 of each year and shall be a percentage of Property Tax paid to the City for the previous year. “Year 1” shall be the calendar year immediately following the issuance of the last Certificate of Occupancy for the Facility; provided, however, if the Williamson Central Appraisal District appraisal of taxable value does not reflect the completion of the Facility and installation of all equipment, then “Year 1” shall be the second calendar year following the issuance of the last Certificate of Occupancy for the Facility. EIP’s shall be calculated as paid as follows:

<u>Year</u>	<u>Percentage of Property Tax</u>	<u>Paid by March 1 of:</u>
Year 1	100%	Year 2
Year 2	100%	Year 3
Year 3	75%	Year 4
Year 4	50%	Year 5
Year 5	25%	Year 6

5.1.2 EIPs Based on Development Fees. Except as provided below, the City agrees to waive all site preparation, construction permit, and inspection fees related to the Facility, up to a maximum of \$30,000. This waiver shall not include utility impact fees, fees to connect to utilities, or inspection fees paid to third-party inspectors.

5.1.3 EIPs Subject to Future Appropriations. Notwithstanding the obligation of the City to make EIPs to TOTKN, this Agreement shall not be construed as a commitment, issue or obligation of any specific taxes or tax revenues for payment to TOTKN. The EIPs by the City under this Agreement, if paid, are subject to the City's appropriation of funds for such payments in the budget year for which they are made. The EIPs to be made to TOTKN shall be made solely from annual appropriations from the general funds of the City or from such other funds of the City as may be legally set aside for the implementation of Article III, Section 52a of the Texas Constitution or Chapter 380 of the Local Government Code or any other economic development or financing program authorized by statute or home rule powers of the City under applicable Texas law, subject to any applicable limitations or procedural requirements. In the event that the City does not appropriate funds in any fiscal year for the EIPs due under this Agreement, the City will immediately provide TOTKN notice of such failure to appropriate funds. Subject to the provisions below, such failure to appropriate funds shall not be considered a default under Section 7.3, and the City shall not be liable to TOTKN for the unpaid EIP, however, this Agreement will automatically extend for another year and will remain in effect until TOTKN has received all of the EIPs provided for herein. In addition, TOTKN shall have the right but not the obligation to rescind this Agreement, which shall not be deemed to constitute a default by TOTKN. Upon TOTKN submitting all five Job Compliance Affidavits, as set forth in Section 4.8, and if TOTKN is not in default under this Agreement when submitting the Year 5 Job Compliance Affidavit, then TOTKN will be deemed to have satisfied all of its obligations under this Agreement. If TOTKN has satisfied its obligations under this Agreement and has not received all of the EIPs within ten (10) years of the Effective Date of this Agreement, the City shall be deemed in default of this Agreement under Section 7.3 below. To the extent there is a conflict between this section and any other language or covenant in this Agreement, this section shall control.

6. EIP Recapture. Subject to compliance with the notice of default and opportunity to cure provisions of Section 7.3 below, if the City terminates this Agreement as a result of TOTKN's default, the City may recapture and collect from TOTKN the Recapture Liability. TOTKN shall pay to the City the Recapture Liability within thirty (30) days after the City makes demand for same, subject to any and all lawful offsets, settlements, deduction, or credits to which TOTKN may be entitled. Notwithstanding anything herein to the contrary, such Recapture Liability shall not exceed, in the aggregate, an amount equal to all EIPs that were paid pursuant to this Agreement for the immediately preceding two years, (together with interest thereon to be charged at the statutory rate for delinquent taxes as determined by Section 33.01 of the Property Tax Code of the

State of Texas, but without the addition of a penalty). The City shall have all remedies for the collection of the Recapture Liability as provided generally in the Tax Code for the collection of delinquent property taxes. Regardless of the foregoing, it is understood and agreed that the Recapture Liability does not constitute unpaid taxes, and that no tax lien is created or imposed on the Property as a result of TOTKN's default.

7. Miscellaneous.

- 7.1 Mutual Assistance. The Parties will do all things reasonably necessary or appropriate to carry out the terms and provisions of this Agreement.
- 7.2 Representations and Warranties.
- a. The City represents and warrants to TOTKN:
 - i. the Program and this Agreement are within its authority;
 - ii. it is duly authorized and empowered to establish the Program and enter into this Agreement; and
 - iii. the Agreement is an enforceable and binding obligation of the City.
 - b. TOTKN represents and warrants to the City that it has the requisite authority to enter into this Agreement.
- 7.3 Default. If either the City, or TOTKN should default in the performance of any obligations of this Agreement, the other party shall provide such defaulting party written notice of the default, and a minimum period of thirty (30) days to cure such default, prior to instituting an action for breach or pursuing any other remedy for default. If the City remains in default after notice and opportunity to cure, TOTKN shall have the right to terminate this Agreement by giving written notice thereof to City and to pursue any remedy at law or in equity for the City's default. If TOTKN remains in default after notice and opportunity to cure, City shall have the right to terminate this Agreement by giving written notice thereof to TOTKN and to pursue any remedy at law or in equity for TOTKN's default.
- 7.4 Attorney's Fees. In the event any legal or equitable action or proceeding is commenced in a court of competent jurisdiction between the City and TOTKN to enforce provisions of this Agreement, the prevailing party in such legal action shall be entitled to recover its reasonable attorney's fees and expenses incurred by reason of such action, to the extent allowed by law.
- 7.5 Entire Agreement. This Agreement contains the entire agreement between the Parties with respect to the EIP.
- 7.6 Binding Effect. This Agreement shall be binding on and inure to the benefit of the Parties, their respective successors and assigns.

- 7.7 Assignment. TOTKN may not assign all or part of its rights and obligations to a third party without the express written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed, provided, however, that TOTKN may assign this Agreement without the consent of the City to an entity which controls, is controlled by or is under common control with TOTKN, any successor entity to TOTKN by way of merger, consolidation or other non-bankruptcy corporate reorganization, or an entity which acquires all or substantially all of TOTKN's assets, partnership or membership interests, or capital stock.
- 7.8 Amendment. This Agreement may be amended by the mutual written agreement of the Parties.
- 7.9 Termination. In the event TOTKN elects not to construct the Facility as contemplated by this Agreement, TOTKN shall notify the City in writing, and this Agreement and the obligations on the part of all Parties shall be deemed terminated and of no further force or effect. If TOTKN elects to stop receiving EIPs, TOTKN shall notify the City in writing, and this Agreement and the obligations on the part of all Parties shall be deemed terminated and of no further force or effect; provided, however, TOTKN will remain obligated to pay back all EIPs previously received pursuant to this Agreement.
- 7.10 Notice. Any notice and or statement required and permitted to be delivered shall be deemed delivered by actual delivery, facsimile with receipt of confirmation, or by depositing the same in the United States mail, certified with return receipt requested, postage prepaid, addressed to the appropriate party at the following addresses:

If to City:

City of Round Rock
221 E. Main Street
Round Rock, TX 78664
Attn: City Manager
Phone: (512) 218-5400
Email: lhadley@roundrocktexas.gov

With a required copy to:
Sheets & Crossfield
309 E. Main Street
Round Rock, TX 78664
Attn: Stephan L. Sheets
Phone: (512) 255-8877
Email: steve@scrrlaw.com

If to TOTKN:

TOTKN, LLC
1011 Westland Ridge Road
Dripping Springs, Texas
Attn: James Michael Farr, Manager
Email: bigdaddyfarr@yahoo.com

With a required copy to:

Robert Kleeman
Sneed, Vine & Perry, P.C.
900 Congress Avenue, Suite 300
Austin, Texas 78701
(512) 476-6955 – main
(512) 494-3135 - direct
(512) 476-1825 – fax
rkleeman@sneedvine.com

Any party may designate a different address at any time upon written notice to the other Parties.

- 7.11 Interpretation. Each of the Parties has been represented by counsel of their choosing in the negotiation and preparation of this Agreement. Regardless of which party prepared the initial draft of this Agreement, this Agreement shall, in the event of any dispute, however its meaning or application, be interpreted fairly and reasonably and neither more strongly for or against any party.
- 7.12 Applicable Law. This Agreement is made, and shall be construed and interpreted, under the laws of the State of Texas and venue shall lie in Williamson County, Texas.
- 7.13 Severability. In the event any provisions of this Agreement are illegal, invalid or unenforceable under present or future laws, and in that event, it is the intention of the Parties that the remainder of this Agreement shall not be affected. It is also the intention of the Parties of this Agreement that in lieu of each clause and provision that is found to be illegal, invalid or unenforceable, a provision be deemed added to this Agreement which is legal, valid or enforceable and is as similar in terms, to the greatest extent possible, to the provision found to be illegal, invalid or unenforceable.
- 7.14 Section Headings. The section headings contained in this Agreement are for convenience only and will in no way enlarge or limit the scope or meaning of the various and several paragraphs.
- 7.15 No Third-Party Beneficiaries. This Agreement is not intended to confer any rights, privileges or causes of action upon any third party.

- 7.16 Force Majeure. Except as otherwise provided herein, an equitable adjustment shall be made for delay or failure in performing if such delay or failure is caused, prevented, or restricted by conditions beyond that Party's reasonable control (a "*force majeure* event"). A *force majeure* event for the purposes of this Agreement shall include, but not be limited to, acts of God, fire; explosion, vandalism; storm or similar occurrences; orders or acts of military or civil authority; litigation; changes in law, rules, or regulations outside the control of the affected Party; national emergencies or insurrections; riots; acts of terrorism; or supplier failures, shortages or breach or delay. Except as otherwise expressly provided, herein, there shall be an equitable adjustment allowed for performance under this Agreement as the result of any event of *force majeure*.
- 7.17 No Joint Venture. It is acknowledged and agreed by the Parties that the terms hereof are not intended to and shall not be deemed to create any partnership or joint venture among the Parties. The City, its past, present and future officers, elected officials, employees and agents of the City, do not assume any responsibilities or liabilities to any third party in connection with the development of the Facility or the design, construction or operation of any portion of the Facility.

EXECUTED to be effective as of the _____ day of _____, 2018 (the "Effective Date").

CITY OF ROUND ROCK, TEXAS,

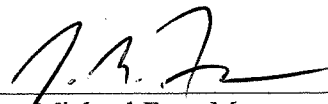
By: _____
Craig Morgan, Mayor

Date: _____, 2018

APPROVED as to form:

Stephan L. Sheets, City Attorney

TOTKN, LLC, a Texas Limited Liability Company

By: 
James Michael Farr, Manager

Date: March 14, 2018

EXHIBIT "A"
TO THE ECONOMIC DEVELOPMENT PROGRAM AGREEMENT

RESOLUTION NO. R-_____

WHEREAS, TOTKN, LLC ("*TOTKN*"), a Texas Limited Liability Company has expressed to the City of Round Rock ("City") its desire to construct a restaurant, bar, music venue and amphitheater in the City which will provide jobs and additional tax base to the City, and

WHEREAS, TOTKN intends to add at least 40 employees within two years of the occupancy of the Facility;

WHEREAS, §380.001 Local Government Code provides that a municipality may establish an economic development program ("Program") to promote local economic development and to stimulate business and commercial activity in the municipality, and

WHEREAS, the City Council has determined that the Program described in Exhibit "A" will meet the goals set forth in said §380.001 and will be of mutual benefit to both parties, Now Therefore

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

That the City offers to TOTKN a §380.001 Program in exchange for TOTKN constructing a restaurant, bar, music venue and amphitheater in the City, and

BE IT FURTHER RESOLVED

That the offer of the Program shall be as generally outlined in Exhibit "A" attached hereto and incorporated herein for all purposes.

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 ____ day of _____, 2018.

CRAIG MORGAN, Mayor

City of Round Rock, Texas

ATTEST:

SARA L. WHITE, City Clerk

EXHIBIT A
TO THE RESOLUTION

ECONOMIC DEVELOPMENT PROGRAM

The terms of the §380.001 Economic Development Program to be offered to TOTKN, LLC ("*TOTKN*"), in exchange for TOTKN's constructing a restaurant, bar, music venue and amphitheater in the City of Round Rock are as generally outlined below:

1. TOTKN's obligations:

1.1. TOTKN agrees to construct a restaurant, bar, music venue and amphitheater in the City that is similar to its existing business known as the Nutty Brown Café and Amphitheater located in Dripping Springs, Texas (the "Facility").

1.2. TOTKN agrees to create at least 40 jobs within two years of its occupancy of the Facility.

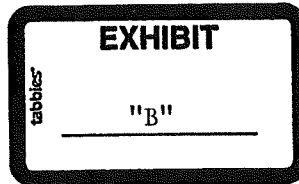
2. City's obligations:

2.1. City shall, subject to TOTKN's satisfaction of its obligation to construct the Facility make Economic Incentive Payments to TOTKN as follows:

City subject to TOTKN's satisfaction of its obligations to construct two new buildings, make EIPs to TOTKN as set forth herein. The EIP's shall be made in annual payments on or before March 1 of each year and shall be a percentage of Property Tax paid for the previous year. "Year 1" shall be the calendar year immediately following the issuance of the last Certificate of Occupancy for the Facility; provided, however, if the Williamson Central Appraisal District appraisal of taxable value does not reflect the completion of the Facility and installation of all equipment, then "Year 1" shall be the second calendar year following the issuance of the last Certificate of Occupancy for the Facility. EIP's shall be calculated as paid as follows:

<u>Year</u>	<u>Percentage of Property Tax</u>	<u>Paid by March 1 of:</u>
Year 1	100%	Year 2
Year 2	100%	Year 3
Year 3	75%	Year 4
Year 4	50%	Year 5
Year 5	25%	Year 6

3. The terms and provisions of this Program will be set out in more detail in the Economic Development Program Agreement of even date herewith.



METES AND BOUNDS DESCRIPTION

FOR A 18.389 ACRE TRACT OF LAND SITUATED IN THE EPHRIAM EVANS SURVEY, ABSTRACT NO. 212 AND THE DAVID CURRY SURVEY, ABSTRACT NO. 130, IN WILLIAMSON COUNTY, TEXAS, BEING ALL OF THE CALLED 14.064 ACRE TRACT OF LAND (TRACT 1), ALL OF THE CALLED 2.00 ACRE TRACT OF LAND (TRACT 2) AND ALL OF THE CALLED 2.35 ACRE TRACT OF LAND (TRACT 3), SAID TRACTS CONVEYED TO THE CITY OF ROUND ROCK, RECORDED IN DOCUMENT NO. 2006087974, OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS. SAID 18.389 ACRE TRACT OF LAND SURVEYED ON THE GROUND BY DIAMOND SURVEYING, INC. DURING THE MONTH OF AUGUST, 2017 AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" iron rod found (Grid Coordinates: N=10175359.56, E=3127918.13) monumenting the northwest corner of said 14.064 acre (TRACT 1) City of Round Rock tract and the southwest corner of Lot 1, University Oak Shopping Center Section 1, a Replat of Lots 2B & 2C, Block A, East Chandler Retail Center Replat of Lot 2, Recorded in Cabinet CC, Slides 230-233, Plat Records of Williamson County, Texas a subdivision recorded in Cabinet FF, Slides 380-381 of the Plat Records of Williamson County, Texas, same being on the east boundary line of a called 10.881 acre tract of land (PART 1) conveyed to the State of Texas as recorded in Volume 479, Page 85 of the Deed Records of Williamson County, Texas, same being on the east right-of-way line of Interstate Highway No. 35, for the northwest corner and **POINT OF BEGINNING** hereof, from which an iron rod found with cap marked "CS LTD" monumenting the northwest corner of said Lot 1, bears N 02°02'52" W passing at a distance of 112.57 feet an iron rod found with cap marked "CS LTD" monumenting the northeast corner of said 10.881 acre State of Texas tract, in all a total distance of 187.02 feet;

THENCE, departing the east boundary line of said 10.881 acre State of Texas tract and said east right-of-way line of Interstate Highway No. 35, with the north boundary line of said 14.064 acre (TRACT 1) City of Round Rock tract and the south boundary line of Lot 1 and Lot 2 of said University Oak Shopping Center Section 1, a Replat of Lots 2B & 2C, Block A, East Chandler Retail Center Replat of Lot 2, Recorded in Cabinet CC, Slides 230-233, Plat Records of Williamson County, Texas, the following three courses and distances:

1. **S 81°50'22" E** for a distance of **173.32** feet to a PK Nail set on top of a wall, for an angle point hereof;
2. **S 52°10'22" E** for a distance of **172.57** feet to a 1/2" iron rod found, for an angle point hereof;
3. **N 75°40'22" E** passing at a distance of 99.56 feet a 1/2" iron rod found monumenting the southeast corner of said Lot 1 and the southwest corner of said

Lot 2, in all a total distance of **171.06 feet** to a 1/2" iron rod found monumenting the northeast corner of said 14.064 acre (TRACT 1) City of Round Rock tract and the most southerly southeast corner of said Lot 2, same being on an angle point in the west boundary line of Lot 2D, Block A, Replat of Lot 2 of East Chandler Retail Center a subdivision recorded in Cabinet CC, Slides 230-233 of the Plat Records of Williamson County, Texas, for the most northerly northeast corner hereof;

THENCE, **S 34°51'57" E** with the east boundary line of said 14.064 acre (TRACT 1) City of Round Rock tract and the west boundary line of said Lot 2D, Block A for a distance of **529.34 feet** to a 1/2" iron rod found monumenting the northwest corner of said 2.00 acre (TRACT 2) City of Round Rock tract and the southwest corner of said Lot 2D, Block A, for an angle point hereof;

THENCE, with the north boundary line of said 2.00 acre (TRACT 2) City of Round Rock tract and the south boundary line of said Lot 2D, Block A, the following two (2) courses and distances:

1. **N 71°07'46" E** for a distance of **229.82 feet** to a 1/2" iron rod found for an angle point hereof;
2. **N 64°25'25" E** for a distance of **164.65 feet** to a 1/2" iron rod found monumenting the northeast corner of said 2.00 acre (TRACT 2) City of Round Rock tract and the northwest corner of said 2.35 acre (TRACT 3) City of Round Rock tract;

THENCE, **N 63°52'39" E** with the north boundary line of said 2.35 acre (TRACT 3) City of Round Rock tract and the south boundary line of Lot 2D, Block A and Lot 2I, Block A of said Replat of Lot 2 of East Chandler Retail Center, passing at a distance of 12.74 feet a 1/2" iron rod found 0.13' south of this line, in all a total distance of **238.32 feet** to a 1/2" iron rod found monumenting the northeast corner of said 2.35 acre (TRACT 3) City of Round Rock tract and the northwest corner of Lot 3, Block B, Oakmont Centre Section Five a subdivision recorded in Cabinet F, Slides 139-142 of the Plat Records of Williamson County, Texas for the most easterly northeast corner hereof;

THENCE, with the east boundary line of said 2.35 acre (TRACT 3) City of Round Rock tract and the west boundary line of said Lot 3, Block B, the following three (3) courses and distances:

1. **S 25°55'00" E** for a distance of **348.40 feet** to a 1/2" iron rod set with cap marked "Diamond Surveying", for an angle point hereof, from which a 1/2" iron rod found bears **N 76°09'32" W** for a distance of 7.24 feet;

2. **S 46°48'00" W** for a distance of **60.46 feet** to a 1/2" iron rod set with cap marked "Diamond Surveying", for an angle point hereof, from which a 1/2" iron rod found bears **N 00°11'34" W** for a distance of 4.53 feet;
3. **S 02°45'00" W** for a distance of **120.87 feet** to a 1/2" iron rod set with cap marked "Diamond Surveying", for the southeast corner of said 2.35 acre (TRACT 3) City of Round Rock tract, same being on the north boundary line of Lot 1, Final Plat of Cypress Addition, a subdivision recorded in Cabinet N, Slides 266-268 of the Plat Records of Williamson County, Texas, for the southeast corner hereof, from which a 1/2" iron rod found monumenting an angle point in the north boundary line of Lot 2 of said Final Plat of Cypress Addition, bears **N 69°27'35" E** for a distance of 20.21 feet;

THENCE, with the north boundary line of said Lot 1, Final Plat of Cypress Addition, the south boundary line of said 2.35 acre (TRACT 3) City of Round Rock tract, the south boundary line of said 2.00 acre (TRACT 2) City of Round Rock tract and the south boundary line of said 14.064 acre (TRACT 1) City of Round Rock tract, the following four (4) courses and distances:

1. **S 69°27'35" W** passing at a distance of 266.18 feet a 1/2" iron rod found (spinner) monumenting the southwest corner of said 2.00 acre (TRACT 2) City of Round Rock tract and the southeast corner of said 14.064 acre (TRACT 1) City of Round Rock tract, in all a total distance of **370.88 feet** to a 1/2" iron rod found monumenting an angle point hereof;
2. **S 67°44'06" W** for a distance of **171.32 feet** to a 1/2" iron rod found monumenting an angle point hereof;
3. **S 63°52'09" W** for a distance of **101.47 feet** to a 1/2" iron rod found monumenting an angle point hereof;
4. **S 56°52'26" W** for a distance of **130.20 feet** to a 1/2" iron rod found monumenting the most southerly southwest corner of said 14.064 acre (TRACT 1) City of Round Rock tract and an angle point in said north boundary line of Lot 1, Final Plat of Cypress Addition, same being on an angle point in the east boundary line of a called 26.208 acre tract of land (TRACT 3) conveyed to CRPHYH, L.P. as recorded in Document No. 2005003003 of the Official Public Records of Williamson County, Texas, for the most southerly southwest corner hereof, from which a 1/2" iron rod found monumenting the northwest corner of said Lot 1, Final Plat of Cypress Addition and an angle point in said east boundary line of the 26.208 acre CRPHYH, L.P. tract bears **S 56°04'36" W** for a distance of 29.17 feet;

THENCE, with the west boundary line of said 14.064 acre (TRACT 1) City of Round Rock tract and said east boundary line of the 26.208 acre CRPHYH, L.P. tract, the following three (3) courses and distances:


1. **N 38°12'07" W** for a distance of **204.53 feet** to a 1/2" iron rod set with cap marked "Diamond Surveying", for an angle point hereof;
2. **N 60°26'12" W** for a distance of **633.89 feet** to the center of a wastewater manhole, for an angle point hereof;
3. **N 55°54'08" W** for a distance of **66.59 feet** to a 1/2" iron rod set with cap marked "Diamond Surveying", for the most westerly southwest corner of said 14.064 acre (TRACT 1) City of Round Rock tract and the north corner of said 26.208 acre CRPHYH, L.P. tract, same being on the east boundary line of said 10.881 acre State of Texas tract and the east right-of-way line of said Interstate Highway No. 35, from which a TXDOT Type 1 concrete monument found monumenting the beginning of a curve to the left in said east boundary line of the 10.881 acre State of Texas tract and said east right-of-way line of Interstate Highway No. 35, bears **S 02°02'52" E** for a distance of 47.16 feet;

THENCE, **N 02°02'52" W** with the west boundary line of said 14.064 acre (TRACT 1) City of Round Rock tract, said east boundary line of the 10.881 acre State of Texas tract and said east right-of-way line of Interstate Highway No. 35 for a distance of **547.98 feet** to the **POINT OF BEGINNING** hereof and containing 18.389 acres of land more or less.

Bearing Basis: State Plane Coordinate System, NAD83, Texas Central Zone (4203).

Distances shown hereon are surface based on a combined surface adjustment factor of 1.00011.

A survey drawing has been prepared to accompany this metes and bounds description.

 **DIAMOND SURVEYING, INC.**
116 SKYLINE ROAD, GEORGETOWN, TX 78628
(512) 931-3100
FIRM REGISTRATION NO. 10006900



January 4, 2018

SHANE SHAFER, R.P.L.S. NO. 5281 DATE



EXHIBIT "C"
TO THE ECONOMIC DEVELOPMENT PROGRAM AGREEMENT

JOB COMPLIANCE AFFIDAVIT

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED _____ (NAME) _____, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED BELOW AND AFTER HAVING BEEN DULY SWORN, ON HIS/HER OATH STATED AS FOLLOWS:

1. "MY NAME IS _____. I AM OVER THE AGE OF 21 YEARS AND AM CAPABLE OF MAKING THIS AFFIDAVIT. THE FACTS STATED IN THIS AFFIDAVIT ARE WITHIN MY PERSONAL KNOWLEDGE AND ARE TRUE AND CORRECT.

2. "I AM THE _____ (TITLE) _____ OF **TOTKN, LLC**, AND I AM DULY AUTHORIZED TO MAKE THIS AFFIDAVIT.

3. "AS OF DECEMBER 31, 20__, **TOTKN, LLC** HAD THE FOLLOWING JOB POSITIONS:

EMPLOYEE ID NO.

JOB POSITION OR TITLE

EMPLOYEE ID NO.

JOB POSITION OR TITLE

TOTAL JOBS _____

DATED THIS ____ DAY OF _____, 20__.

(PRINTED NAME)

_____ (TITLE)

SUBSCRIBED AND SWORN TO BEFORE ME ON THIS THE ____ DAY OF _____,
20__.

NOTARY PUBLIC, STATE OF TEXAS