

EXHIBIT

"A"

ECONOMIC DEVELOPMENT AGREEMENT

This Economic Development Agreement (the "**Agreement**") is entered into this _____ day of _____, 2018 (the "**Effective Date**") by and between the **Round Rock Transportation and Economic Development Corporation**, a Type B Corporation created pursuant to Chapter 505 of the Texas Local Government Code ("**TEDCO**"), and **Ridge Development Company, L.L.C.**, a Delaware limited liability company ("**RDC**"). The foregoing are referred to collectively as the "**Parties**."

WHEREAS, the TEDCO is a Type B Economic Development Corporation created pursuant to Chapters 501 and 505 of the Texas Local Government Code (the "**Code**"); and

WHEREAS, the primary purpose of TEDCO is to participate in projects which promote or develop new or expanded business enterprises that create or retain primary and other jobs, which projects can include the construction of improvements to public infrastructure such as streets and roads, water and sewer utilities, drainage and related improvements; and

WHEREAS, RDC proposes to purchase land, and construct one or more buildings containing at least 400,000 square feet in the aggregate, and install equipment, facilities, and improvements (the "**Project**"), as defined below, which project the TEDCO Board of Directors has determined will promote or develop new or expanded business enterprises that create or retain jobs; and

WHEREAS, in order to develop the Project, it is necessary to construct an extension of the public right-of way commonly known as Chisholm Trail and related improvements, (the "**Chisholm Trail Project**") as defined below; and

WHEREAS, the Parties intend that once the Property (as defined below) is acquired by RDC and has been subdivided, platted (including the dedication of the Chisholm Trail Project), and the Chisholm Trail Project completed, the City will accept the Chisholm Trail Project and be responsible therefor, all in accordance with applicable law; and

WHEREAS, TEDCO is willing to fund a portion of the cost of the Chisholm Trail Project as provided in this Agreement;

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 RDC agree as follows:

- 1. Authority.** TEDCO'S execution of this Agreement is authorized by Chapters 501 and 505 off the Texas Local Government Code and constitutes a valid and binding obligation of TEDCO in the event RDC proceeds with construction of the Project. TEDCO acknowledges that RDC is acting in reliance upon TEDCO's performance of its obligations under this Agreement in making its decision to commit substantial resources and money to construct the Project.

RDC's execution of this Agreement is authorized as applicable by its members and/or manager and constitutes a valid and binding obligation of RDC. RDC acknowledges that

TEDCO is acting in reliance upon RDC's using commercially reasonable efforts to lease the Project which the parties expect will promote or develop new or expanded business enterprises that create or retain jobs.

2. Definitions.

- 2.1 **"Chisholm Trail Project"** means the construction of the extension of Chisholm Trail and related improvements shown on **Exhibit B.**
- 2.2 **"City"** means the City of Round Rock, Texas.
- 2.3 **"Effective Date"** is the date set forth above as the date this Agreement is executed to be effective by the Parties.
- 2.4 **"Project"** means the buildings, equipment, facilities, and improvements to be constructed by RDC on the Property located in the city limits of City and generally depicted on **Exhibit B.**
- 2.5 **"Property"** means the tract of land legally described in **Exhibit A.**

3. Representations, Rights, and Obligations of RDC.

- 3.1 Project. RDC understands that TEDCO expects that the Project when it is constructed and leased will promote or develop new or expanded business enterprises that will create or retain primary and other jobs. RDC agrees to complete the construction of at least 400,000 square feet in the aggregate of distribution/light industrial space on or before the 31st day of January, 2021, subject to any *force majeure* events. RDC agrees to provide TEDCO with commercially reasonable documentation evidencing that the obligation in the immediately prior sentence has been satisfied, and TEDCO shall have the right to audit RDC's records to verify same.
- 3.2 Compliance with regulations. RDC agrees that it will comply with the City's development approval processes and shall operate the Project consistent with City ordinances, development regulations, and requirements.
- 3.3 Continuous operation. RDC agrees to use commercially reasonable efforts to cause the Project to remain leased for a period of ten years under one or more leases relating thereto entered into at any time during such ten-year period.

4. Constructing and Funding the Chisholm Trail Project

- 4.1 The Parties acknowledge that the Chisholm Trail Project is public infrastructure that is required or suitable for the development of the Project.
- 4.2 RDC shall cause the Chisholm Trail Project to be constructed in accordance with applicable law, including building codes, ordinances, and regulations applicable to

the work, and in accordance with the plat and plans that are approved by the City. RDC will obtain all necessary permits and approvals from the City.

- 4.3 During construction of the Chisholm Trail Project, the City shall have the right to review all documents, maps, plats and records, reports and drawings affecting the construction of the Chisholm Trail Project, and to inspect the work in progress all in accordance with applicable law.
- 4.4 As set forth below, TEDCO agrees to make monthly progress payments to RDC for the actual cost of the Chisholm Trail Project, up to but not exceeding the total amount of \$705,000.00.
- 4.5 Not more often than once per month, RDC shall submit to the City's Director of Transportation (the "**Director**") for review an Application for Payment in a form reasonably acceptable to the Director (an "**Application**"), filled out and signed by RDC covering the work completed as of the date of the Application and accompanied by supporting documentation reasonably acceptable to the Director.
- 4.6 The Application shall not include materials or equipment not incorporated in the work but delivered and suitably stored at the site or at another location.
- 4.7 Applications shall include the following documentation:
 - a. updated progress schedule,
 - b. monthly subcontractor report, and
 - c. any other documentation reasonably required by the Director.
- 4.8 The Director will, within ten (10) business days after receipt of each Application, either indicate a recommendation for payment and forward the Application for processing by TEDCO or return the Application to RDC indicating the Director's reasons for refusing to recommend payment. In the latter case, RDC may make the necessary corrections and resubmit the Application.
- 4.9 TEDCO shall make the payment to RDC no later than 30 days following its receipt of the Director's recommendation for payment.

5. Miscellaneous.

- 5.1 Mutual Assistance. The Parties will do all things reasonably necessary or appropriate to carry out the terms and provisions of this Agreement.
- 5.2 Default. If either TEDCO or RDC 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 TEDCO remains in default after notice and opportunity to cure, RDC shall have the right to pursue any remedy at law or in equity for TEDCO's breach. If RDC remains in default after notice and opportunity to cure, TEDCO shall have the right to pursue any remedy at law or in equity for RDC's breach.

- 5.3 Attorney's Fees. In the event any legal action or proceeding is commenced in a court of competent jurisdiction between TEDCO and RDC to enforce provisions of this Agreement and recover damages for breach, 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.
- 5.4 Entire Agreement. This Agreement contains the entire agreement between the Parties with respect to the subject matter hereof. This Agreement may only be amended, altered or revoked by written instrument signed by the Parties.
- 5.5 Binding Effect. This Agreement shall be binding on and inure to the benefit of the Parties, their respective successors and assigns.
- 5.6 Assignment. RDC may not assign this Agreement without the express written consent of TEDCO, which consent shall not be unreasonably withheld, conditioned or delayed, provided, however, that RDC may assign this Agreement without the consent of TEDCO to an entity which controls, is controlled by or is under common control with RDC, any successor entity to RDC by way of merger, consolidation or other non-bankruptcy corporate reorganization, or an entity which acquires all or substantially all of RDC's assets, partnership or membership interests, or capital stock. Notwithstanding the foregoing, the Parties hereby acknowledge and agree that RDC intends to acquire and develop the Project and the Chisholm Trail Project with a financial partner and accordingly, RDC may assign this Agreement without the consent of TEDCO to any partnership, limited liability company, limited partnership, corporation or other entity formed to facilitate the acquisition and development of the Project and the Chisholm Trail Project, including without limitation to Principal Ridge Round Rock Venture I, LLC.
- 5.7 Amendment. This Agreement may be amended by the mutual written agreement of the Parties.
- 5.8 Termination. In the event RDC elects not to construct the Project as contemplated by this Agreement, RDC shall notify TEDCO 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.
- 5.9 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 TEDCO: Round Rock Transportations and Economic Development Corp.
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@scrllaw.com

If to RDC: Ridge Development Company, L.L.C.
1900 West Loop South
Houston, Texas 77027
Attn: Ben Newell
Email: Ben.Newell@ridgedevelopment.net

With a required copy to:
Drane & Freyer Limited
200 West Madison Street, Suite 2800
Chicago, IL 60606
Attn: Wendy Freyer
Email: wfreyer@dflaw.com

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

- 5.10 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.
- 5.11 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.
- 5.12 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 added to this

Agreement which is legal, valid or enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

- 5.13 Paragraph Headings. The paragraph 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.
- 5.14 No Third-Party Beneficiaries. This Agreement is not intended to confer any rights, privileges or causes of action upon any third party.
- 5.15 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*.
- 5.16 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. TEDCO and the City, their past, present and future officers, elected officials, employees and agents of TEDCO or the City, do not assume any responsibilities or liabilities to any third party in connection with the development of the Project or the design, construction or operation of any portion of the Project.
- 5.17 Estoppel Certificate. RDC may request an estoppel certificate from TEDCO so long as the certificate is requested in connection with a bona fide business purpose and requests commercially reasonable certifications. TEDCO agrees to promptly execute and deliver any estoppel certificate reasonably requested pursuant to this Section 5.17. The certificate, which will upon request be addressed to RDC, or a lessee, purchaser or assignee of RDC, shall include, but not necessarily be limited to, statements (qualified to the best knowledge of the City) that this Agreement is in full force and effect without default (or if a default exists, the nature of such default and any curative action which should be undertaken to cure same), the remaining term of this Agreement, and such other matters reasonably requested by the party(ies) to receive the certificate.

EXECUTED as of the date first set forth above.

**ROUND ROCK TRANSPORTATION
AND ECONOMIC DEVELOPMENT
CORPORATION**

By: _____
Craig Morgan, President

Date: _____, 2018

APPROVED as to form:

Stephan L. Sheets, TEDCO Attorney

Ridge Development Company, L.L.C.
a Delaware limited liability company

By: _____
Name: _____
Title: _____

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

EXHIBIT B

**GENERAL DEPICTION OF THE PROJECT
AND
THE CHISHOLM TRAIL PROJECT**

See Attached