

EXHIBIT

"A"

ECONOMIC DEVELOPMENT PROGRAM AGREEMENT

This Economic Development Program Agreement ("**Agreement**") is entered into this ____ day of July, 2018, by and between the **City of Round Rock, Texas**, a Texas home rule municipal corporation ("**City**"), and the **Crow Group Series, LLC** a Texas limited liability company ("**Crow**").

WHEREAS, the City has adopted Resolution No. _____, attached as **Exhibit A** ("**Program Resolution**"), establishing an economic development program and Resolution No. _____, attached hereto as **Exhibit B** (the "**Authorizing Resolution**"), authorizing the Mayor to enter into this Agreement with Crow in recognition of the positive economic benefits to the City through Crow's development of approximately five (5) acres of land, as more particularly described on the attached **Exhibit C** ("**Property**") with the construction of three Class A office buildings containing a total of approximately 125,000 square feet of office, parking, and related space, the ("**Project**"), as described in the attached **Exhibit D**, (the Program Resolution and the Authorizing Resolution being collectively referred to herein as the "**City Resolutions**"); and

WHEREAS, the purpose of this Agreement is to promote economic development as contemplated by Chapter 380 of the Texas Local Government Code whereby Crow intends to construct, develop and operate the Project in conformance with the City's development approvals for the Project, and;

WHEREAS, Crow intends to invest approximately \$24 million in improvements to the Property; and

WHEREAS, the City agrees to provide funding through an Economic Development Loan (as defined below) to Crow to defray a portion of the Project's costs;

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 Crow 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 Resolutions and constitutes a valid and binding obligation of the City in the event Crow proceeds with the development of the Project. The City acknowledges that Crow 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 develop the Project.

2. **Definitions.**

1.1 ***“Class A Office Building”*** means the highest-quality office spaces in the market. Class A Office Buildings are newly constructed and are outfitted with top-of-the-line fixtures, amenities, and systems. Class A Buildings are aesthetically pleasing and have a notable presence in high-visibility locations, such as a city's central business district. Class A Office Buildings are managed and maintained by reputable property management companies that keep them looking impeccable.

1.2 ***“Economic Development Loan” (“Loan”)*** means the loan of funds by the City to Crow to offset a portion of the cost to acquire and develop the Property. A copy of the Loan is attached hereto as **Exhibit E.**

1.3 ***“Effective Date”*** is the date this Agreement is executed to be effective by the City and Crow.

1.4 ***“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.

1.5 ***“Project”*** means Crow's planned development of the Property which shall consist of three Class A office buildings, which shall include approximately 125,000 square feet of office, parking, and related space. The Project shall also include a fully developed public park area and other amenities as shown on **Exhibit D.**

2.1 ***“Property”*** means approximately 5 acres of land more particularly described in **Exhibit C.**

2. **Term.** This Agreement shall become enforceable upon its Effective Date. This Agreement shall terminate upon the earlier to occur of: (a) December 31, 2023; or (b) Crow's completion of the Project.

3. **Rights and Obligations of Crow.** In consideration of the City's compliance with this Agreement, Crow agrees as follows:

3.1 The Project consists of three Phases as set out below:

Phase I: Crow has already completed Phase I which is a Class A Office Building which is located on the City Centre Business Park, Block A, Lot 2, containing at least 22,500 square feet, and costing at least \$ 4,000,000;

Phase II: A Class A Office Building to be constructed on the City Centre Business Park, Block A, Lot 1, containing at least 22,500 square feet, costing at least \$4,000,000, and to be completed no later than December 31, 2020; and

Phase III: A Class A Office Building to be constructed on the City Centre Business Park, Block A, Lot 4 and/or 5, containing at least 80,000 square feet, costing at least

\$16,000,000 and to be completed no later than December 31, 2023.

4.2 **Compliance with Development Regulations and Other Ordinances.** Crow shall comply with the City's development approval processes and shall develop the Project on the Property in compliance with City ordinances, City-approved development regulations, and other City development requirements.

4.3 **Improvements and Additions to Real and Personal Property.** Crow agrees to spend a cumulative total of at least \$24 million in improvements to the Property.

4.4 **Crow Accounting.** Crow shall maintain complete books and records showing its compliance with its obligations under this Agreement, which books and records shall be deemed complete if kept in accordance with generally acceptable accounting principles as applied to Texas corporations. Such books and records shall be available for examination by the duly authorized officers or agents of the City during normal business hours upon request made not less than ten (10) business days prior to the date of such examination. Crow shall maintain such books and records throughout the term of this Agreement and for four (4) years thereafter.

5. **Rights and Obligations of the City.** In consideration of Crow's compliance with this Agreement, the City agrees as follows:

5.1 **Economic Development Loan.**

The City shall, pursuant to Chapter 380 of the Texas Local Government Code, but subject to the conditions set out herein, make an Economic Development Loan to Crow. The Economic Development Loan shall be in the form attached hereto as **Exhibit – E.** The Loan shall be secured by a first lien Deed of Trust and Vendor's Lien on Lot 5, Block A, City Centre Business Park, said Deed of Trust to be in the form attached hereto as **Exhibit – F.**

6. **Miscellaneous.**

6.1 **Mutual Assistance.** The City and Crow will do all things reasonably necessary or appropriate to carry out the terms and provisions of this Agreement, and to aid and assist each other in carrying out such terms and provisions in order to put each other in the same economic condition contemplated by this Agreement regardless of any changes in public policy, the law, or taxes or assessments attributable to the Property.

6.2 **Representations and Warranties.** The City represents and warrants to Crow that the Program and this Agreement are within its authority, and that it is duly authorized and empowered to establish the Program and enter into this Agreement, unless otherwise ordered by a court of competent jurisdiction. Crow represents and warrants to the City that it has the requisite authority to enter into this Agreement.

6.3 **Default.** If either the City or Crow 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 either

Party remains in default after notice and opportunity to cure, the non-defaulting Party shall have the right to pursue any remedy at law or in equity for the defaulting Party's breach.

6.4 **Attorney's Fees.** In the event any legal action or proceeding is commenced between the City and Crow 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.

6.5 **Entire Agreement.** This Agreement contains the entire agreement between the parties. This Agreement may only be amended, altered or revoked by written instrument signed by the City and Crow.

6.6 **Binding Effect.** This Agreement shall be binding on and inure to the benefit of the parties, their respective successors and assigns.

6.7 **Assignment.** Crow may assign all or part of its rights and obligations to a third party with the express written consent of the City (which consent shall not be unreasonably withheld, conditioned or denied). If the proposed assignee is an affiliated entity under the common control of the assignor, the City shall consent to an assignment if the assignor is in compliance with all terms of this Agreement. A collateral assignment of this Agreement under the terms of a loan shall not be an assignment for purposes of this Section.

6.8 **Amendment.** This Agreement may be amended by the mutual written agreement of the parties.

6.9 **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 City: City of Round Rock
 221 E. Main Street
 Round Rock, TX 78664
 Attn: City Manager
 Phone: (512) 218-5400
 Email: citymanager@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 Crow: The Crow Group LLC
4600 Secluded Hollow
Austin, TX 78727
Attn: Ryan Crow
Phone: (409) 779-9299
Email: ryan@thecrowgroup.net

With required copy to:
Justin Northcutt
10311 Talleyran Dr.
Austin, TX 78750
Phone: (512) 417-1881
Email: justin@thecrowgroup.net

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

6.10 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.

6.11 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.

6.12 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.

6.13 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.

6.14 No Third-Party Beneficiaries. This Agreement is not intended to confer any rights, privileges, or causes of action upon any third party.

6.15 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 (an "*event of*

force majeure”). An *event of force majeure* 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*

6.16 **Exhibits.** The following **Exhibits A - E** are attached and incorporated by reference for all purposes:

<u>Exhibit A:</u>	City Resolution No. _____
<u>Exhibit B:</u>	City Resolution No. _____
<u>Exhibit C:</u>	Crow Property Description
<u>Exhibit D:</u>	Project Description
<u>Exhibit E:</u>	Economic Development Loan
<u>Exhibit F:</u>	Deed of Trust

6.17 **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 Project or the design, construction or operation of any portion of the Project.

EXECUTED to be effective as of the ____ day of July, 2018 (the “*Effective Date*”).

(SIGNATURES ON FOLLOWING PAGES)

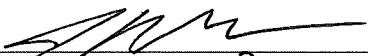
CITY OF ROUND ROCK, TEXAS,
a home rule city and municipal corporation

By: _____
Craig Morgan, Mayor

APPROVED as to form:

Stephan L. Sheets, City Attorney

CROW GROUP SERIES, LLC
a Texas Limited Liability Company

By: 

Its: Managing Partner

Date: 13 July 2018

EXHIBIT A (to the Agreement)

(The "Program Resolution")

RESOLUTION NO. R-2018-_____

WHEREAS, CROW GROUP SERIES, LLC, ("Crow") has expressed to the City of Round Rock ("City") its desire to construct a project in the City containing three Class A Office Buildings, with related parking, amenities, and public park areas which will provide additional tax base to the City and will promote local economic development and stimulate business and commercial activity in the City, and

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 Crow a §380.001 Program in exchange for Crow constructing the Class A Office Building project 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 Program Resolution)

ECONOMIC DEVELOPMENT PROGRAM

The terms of the §380.001 Economic Development Program to be offered to CROW GROUP SERIES, LLC, ("Crow") in exchange for Crow's constructing a project containing three Class A Office Buildings in the City of Round Rock are as generally outlined below:

1. Crow's obligations:
 - 1.1. Crow agrees to purchase three tracts of land containing approximately 5 acres described as Lots 1, 4, and 5, Block A of the City Centre Business Park, the ("Property").
 - 1.2. Crow agrees to construct three Class A Office Buildings containing at least 125,000 square feet, along with parking and related improvements on the Property (the "Project").
 - 1.3. Crow agrees to invest at least \$24,000,000 in the three Class A Office Buildings and related improvements.
2. City's obligations:
 - 2.1. City shall, subject to Crow's satisfaction of its obligations set out above, make an Economic Development Loan to Crow in the amount of \$2,200,000 with provisions for credits towards the principal amount and forgiveness of interest if Crow complies with its development obligations.
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.

EXHIBIT B (to the Agreement)

(The “Authorizing Resolution”)

RESOLUTION NO. R-2018-_____

WHEREAS, CROW GROUP SERIES, LLC, (“Crow”) plans to construct a project containing three Class A Office Buildings (the “Project”) in the City which will promote local economic development and stimulate business and commercial activity in the City; and

WHEREAS, the purpose of this Resolution is to approve an economic development agreement as contemplated by Chapter 380 of the Texas Local Government Code whereby Crow will expend significant sums to construct and operate the Project in conformance with the City’s development approvals for the Project, **Now Therefore**

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

That the Mayor is hereby authorized and directed to execute on behalf of the City, an Economic Development Program Agreement with Crow, a copy of same being attached hereto as Exhibit “A” 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.

RESOLVED this ____ day of _____, 2018.

CRAIG MORGAN, Mayor

City of Round Rock, Texas

ATTEST:

SARA L. WHITE, City Clerk

EXHIBIT C (to the Agreement)

(The “Property Description”)

Lots 1, 2, 4, and 5, Block "A", of City Centre Business Park, a subdivision in Williamson County, Texas, according to the map or plat of record in Cabinet P, Slides 303-304, Plat Records, Williamson County, Texas.

EXHIBIT D (to the Agreement)

(The Project Description)

The Round Rock City Centre development project will consist of three office buildings totaling roughly 130,000 sqft. City Centre 1, which is a 22,500 sqft building, was delivered in March of 2018 and is currently in the process of being leased. City Centre 2 will also be 22,500 sqft and is currently in the planning and permitting phase. City Centre 3, which will be the largest of the 3 buildings, will be about 100,000 sqft and is expected to break ground in late 2019/early 2020.

EXHIBIT E (to the Agreement)

(Economic Development Loan)

EXHIBIT F (to the Agreement)

(Deed of Trust)