

Town Council Regular Meeting

July 21, 2025
Town Hall
2121 Cross Timbers Road
Flower Mound, TX 75028

6:00 p.m.

Comments regarding any agenda item can be sent to the Town Council by emailing towncouncil@flowermound.gov or by calling 972.874.6005 and leaving a message.

AMENDED AGENDA

A. CALL TO ORDER

B. INVOCATION

C. PLEDGES

D. PUBLIC COMMENT

An opportunity for citizens to address the Town Council regarding any item on this agenda that is not a "Public Hearing." Issues regarding daily operational or administrative matters should first be dealt with by calling Town Hall at 972.874.6000 during business hours.

In accordance with the Texas Open Meetings Act, the Town Council is restricted from discussing or acting on items not listed on the agenda.

To speak to Council during public comment, please fill out a [comment form \(PDF\)](#).

- Speakers are limited to 3 minutes, a tone will sound at 30 seconds left and when time has expired, and times may be adjusted by the mayor
- Speakers must address their comments to the Town Council
- Please state your name and address when speaking

E. ANNOUNCEMENTS

1. Announcements from the mayor and council members

F. TOWN MANAGER'S REPORT

1. Capital Improvement Projects
2. Economic Development Projects
3. Organizational Updates
 - a. Independence Fest

- b. Legislative Updates
- c. Employee Service Recognition

G. FUTURE AGENDA ITEM(S)

The purpose of this item is to allow the Mayor and members of Council an opportunity to bring forward items they wish to discuss at a future meeting, with the understanding that a consensus of Council is needed in order for that item to be placed on a future agenda and in accordance with the Town Council Agenda Setting Policy (Ord. 65-15).

H. COORDINATION OF CALENDARS

1. July 31/Aug 2 - Strategic Planning Retreat
2. August 4 - Regular Meeting (Budget)

I. CONSENT ITEM(S)

This part of the agenda consists of non-controversial or "housekeeping" items required by law. Items may be removed from Consent by any council member by making such request prior to a motion and vote.

1. Minutes - 7/7 - Consider approval of the minutes from a Town Council Regular Meeting; Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District Special Meeting; and Crime Control and Prevention District Special Meeting held on July 7, 2025.
2. Wastewater Treatment Plant - SBR Repair - Consider approval of a repair estimate with Zone Industries for the repair of the Wastewater Sequencing Batch Reactor pump through Buy Board contract number 672-22, in the amount of \$81,375.00; and authorization for the Mayor to execute same on behalf of the Town.
3. Oncor Rate Change Effective Date Suspension - Consider approval of a resolution of the Town of Flower Mound suspending the July 31, 2025, effective date of Oncor Electric Delivery Company's requested rate change to permit the Town time to study the request and to establish reasonable rates.
4. HVAC replacement- FS4 - Consider the approval for the purchase and installation of 4 new HVAC units from Trane at Fire Station 4 for the amount of \$84,762.00.
5. HVAC replacement- FS5 - Consider the approval for the purchase and installation of 4 new HVAC units from Trane at Fire Station 5 for the amount of \$76,246.00.
6. Interlocal agreement for law enforcement services - Consider the approval for the Interlocal Cooperation Agreement for Law Enforcement Services for a portion of Canyon Falls Municipal Utility District in Argyle ETJ.

J. REGULAR ITEM(S)

1. HF Silveron Land, LP Chapter 380 Agreement - Public Hearing to consider approval of a Chapter 380 Agreement with HF Silveron Land, LP for the economic development of Flower Mound, and authorization for the Mayor to execute same on behalf of Town.
2. AAB Venture Capital Chapter 380 Agreement and Purchase and Sale Agreement (PSA) - Public Hearing to consider approval of (1) a Chapter 380

Agreement with AAB Venture Capital and (2) a Purchase and Sale Agreement (PSA) for the sale of approximately 22 acres of Town-owned land along Denton Creek Road between FM 1171 and Canyon Falls Drive, for \$7,978,014.00; and to authorize the Mayor to execute both agreements on behalf of the Town.

3. MISC25-0003 - Caliber Collision - Consider a request for a concept plan (MISC25-0003 - Caliber Collision) with a request for a deviation to computing parking and loading requirements pursuant to Section 82-73 of the Code of Ordinances. The property is generally located south of Justin Road and east of Long Prairie Road. (PZ recommended approval by a vote of 6 to 0 at its July 14, 2025, meeting.)

K. BOARDS/COMMISSIONS

Discuss and consider resignations, appointments, evaluations, reassignments, discipline, or dismissals for the following boards or commissions: Animal Services Board, Capital Improvements Advisory Committee, Community Development Corporation, Cultural Arts Commission, Denton County Transportation Authority, Environmental Conservation Commission, Historical Commission, Parks Board, School Liaison Committee, SMARTGrowth Commission, Tax Increment Reinvestment Zone Number (TIRZ #1), Tax Increment Reinvestment Zone Number (TIRZ #2), Transportation Commission, and Veterans Liaison Board.

L. WORK SESSION ITEM

1. Discussion of Stormwater Fee Study.

M. CLOSED MEETING

The Town Council to convene into closed meeting pursuant to Texas Government Code Chapter 551, including, but not limited to, Sections 551.071, 551.072, 551.074, and 551.087 for consultation with Town Attorney, and to discuss matters relating to real property, personnel, and economic development negotiations, as indicated below. The Town Council may convene in executive session to conduct a private consultation with its attorney on any legally posted agenda item, when the Town Council seeks the advice of its attorney about pending or contemplated litigation, a settlement offer, or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the provisions of Chapter 551, including the below-referenced items.

1. Consultation with Town Attorney.
 - a. Agenda posting process
 - b. Board and Commission Training
2. Discuss and consider purchase, exchange, lease or value of real property for parks, cultural arts, public safety, public rights-of-way, and/or other municipal purposes, including real property located north of FM 1171 and west of US 377, and all matters incident and related thereto.
3. Discuss and consider resignations, appointments, evaluations, reassignments, discipline, or dismissals for the following boards or commissions: Board of Adjustment/Oil & Gas Board of Appeals, and Planning and Zoning Commission.
4. Discuss and consider economic development incentives, including retail centers, grocers, corporate relocation/expansion/retention, hospitality projects, health care facilities, construction of public improvements, requests for incentive related proposals to develop real property, and Tax Increment Reinvestment Zone (TIRZ) #1, TIRZ #2, River Walk PID No. 1, Proposed PID, MMDs, and MUDs.
5. Discuss the duties of the Municipal Court Judge, including the June report regarding court activities.

N. RECONVENE

O. ADJOURN

I do hereby certify that the amended notice of above meeting for the Town of Flower Mound was posted at Town Hall, Town of Flower Mound, Texas and on the Town's website in compliance with Chapter 551, Texas Government Code on Thursday, July 17, 2025, by 12:00 p.m.

Anne Carnes, Deputy Town Secretary

The Flower Mound Town Hall and Jody Smith Hall are wheelchair accessible. Requests for accommodation or interpretive services must be made 48 hours prior to this meeting by contacting Town Hall at 972.874.6000. Additional time limits will be provided for members of the public that need to address the Town Council through a translator.

**FLOWER MOUND TOWN COUNCIL REGULAR MEETING; TOWN OF
FLOWER MOUND FIRE CONTROL, PREVENTION, AND EMERGENCY
MEDICAL SERVICES DISTRICT SPECIAL MEETING; AND CRIME CONTROL
AND PREVENTION DISTRICT SPECIAL MEETING**



July 7, 2025
Town Hall
2121 Cross Timbers Road
Flower Mound, TX 75028

6:00 p.m.

DRAFT MINUTES

A. CALL TO ORDER

Mayor Moore called the meeting to order at 6:00 p.m. with the following members present:

Cheryl Moore, Mayor
Ann Martin, Mayor Pro Tem
Adam Schiestel, Deputy Mayor Pro Tem
Chris Drew, Councilmember Place 2
Janvier Werner, Councilmember Place 4

with the following member(s) absent:

Brian Taylor, Councilmember Place 3

constituting a quorum with the following members of the Town Staff participating:

James W. Childers, Town Manager
Bryn Meredith, Town Attorney
Tommy Dalton, Assistant Town Manager
Tiffany Bruce, Assistant Town Manager/Town Engineer
Lexin Murphy, Director of Development Services
John Zagurski, Chief Financial Officer
JP Walton, Strategic Services Officer
Traci Henderson, Town Secretary
Anne Carnes, Deputy Town Secretary
Sarah Luxton, Senior Management Analyst
Jake Speckhals, Environmental Review Analyst

B. INVOCATION

Chaplain Plunk gave the invocation.

C. PLEDGE OF ALLEGIANCE TO THE AMERICAN FLAG AND TO THE TEXAS FLAG

"Honor the Texas flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible."

Mayor Moore led the pledges.

D. PRESENTATION

1. Proclamation for National Parks and Recreation Month

Mayor Moore recited the proclamation and presented this to Chuck Jennings, Director of Parks and Recreation, for National Parks and Recreation Month. Mr. Jennings announced the 40th Anniversary of the Parks and Recreation Month Proclamation, and thanked the Council, residents, and staff for all their support.

E. PUBLIC COMMENT

The purpose of this item is to allow the public an opportunity to address the Town Council regarding any item on this agenda that is not a "Public Hearing." Issues regarding daily operational or administrative matters should first be dealt with by calling Town Hall at 972.874.6000 during business hours.

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- Speakers must address their comments to the Town Council
- Please state your name and address when speaking

Names listed below don't necessarily reflect the order in which each person spoke and all addresses are located in Flower Mound unless otherwise indicated.

	Speaker name and address	Subject (as written on the form)
1.	Carolyn Auburn, 7500 Arabian Circle	Animal Control
2.	Gavin Anderson, 7404 Arabian Circle	Dangerous Dogs Ordinance - Repeat Offenders
3.	Fred Vincent, 3933 Bordeaux Circle	Gibson Grant Art Dedication
4.	Jacquelyn Narrell, 4801 Lusk Lane	FMHC

Mayor Moore moved to item H - Future Agenda Item(s)

F. ANNOUNCEMENTS

1. Announcements from the mayor and council members

There were announcements from the Mayor or Council members regarding:

Mayor:
Welcomed new Town Secretary, Traci Henderson
Deputy Town Secretary Anne Carnes filling in for tonight's meeting

Councilmember Drew:
Appreciation of the Parks and Recreation Department

Mayor Pro Tem Martin:
Welcomed new Town Secretary, Traci Henderson
Appreciation of the Parks and Recreation Department and all Town staff for a wonderful event, particularly the children's parade.
Appreciation to Mayor Moore for her statement on the Guadalupe River and request for prayers for the victims, families, friends, survivors, and first responders.

G. TOWN MANAGER'S REPORT

Mr. Childers provided an update/report regarding:

The events in Kerr County- The Town of Flower Mound has sent Engine Eight (8) and first responders: Captain, Waylan Langford; Engineer, Eric Frias; Firefighter/Paramedic Ryan Hughes; and Firefighter/Paramedic Dominic Lozano to assist. In addition, follow our social media pages on updates and how to support efforts in the area. Lastly, continuing thoughts and prayers.

H. FUTURE AGENDA ITEM(S)

Mayor Moore requested a review of the Animal Control Ordinance specific to dangerous dogs. Town Council was in agreement. Town Manager Childers stated that staff would aim to present this item to Town Council at the August 18, 2025, meeting.

Mayor Moore moved to item F. - Announcements

I. COORDINATION OF CALENDARS

Mayor Moore announced the following meeting dates and confirmed councilmembers will be in attendance.

1. July 21 - Regular Meeting
2. July 31 & August 2 - Strategic Planning Retreat

J. CONSENT ITEM(S)

ACTION: Adam Schiestel moved to approve consent agenda items J.1-J.9 as presented. Ann Martin seconded the motion.
AYES: Janvier Werner, Ann Martin, Adam Schiestel, Chris Drew
NAYS: None
ABSTAIN: None
RESULT: 4 : 0

1. Minutes - 6/16 - Consider approval of the minutes from a Town Council Regular Meeting; Town of Flower Mound Fire Control, Prevention, and Emergency Medical Services District Special Meeting; and Crime Control and Prevention District Special Meeting held on June 16, 2025.
2. Denton Creek Blvd Bridge and Water Lines Change Order No. 2 - Consider approval of Change Order No. 2 for the Denton Creek Blvd Bridge and Water Lines project, amending the contract with Urban Infraconstruction LLC to provide an increase to the contract amount of \$65,746.41; and authorization for the Mayor to execute same on behalf of the Town.
3. Cedarcrest Water Line Improvement - Construction Agreement - Consider approval of a Construction Agreement with Four Star Excavating for the Cedarcrest Water Line Improvement project, in the amount of \$631,461.00; and authorization for the Mayor to execute same on behalf of the Town.
4. Wastewater Treatment Plant - Chemicals - Consider approval of a purchase order cost increase for polymer chemicals for the Wastewater Treatment Plant from Polydyne, Inc. in the amount of \$25,000; and authorization for the Mayor to execute same on behalf of the Town.
5. Satellite Leak Detection - Consider approval of the agreement with Asterra to provide satellite leak detection services for the Town's water distribution system associated with the Water System Leak Detection & Repair project, in the amount of \$135,500.00; and authorization for the Mayor to execute same on behalf of the Town.
6. Fire Apparatus Safety Upgrades - Consider approval of the purchase of apparatus upgrades from Siddons Martin Emergency Group to total \$70,843.46; and authorization for the Mayor to execute same on behalf of the Town.
7. Pavement Joint Sealing Services - Consider approval of the purchase of Concrete Pavement Crack & Joint Sealant Services from Curtco, Inc., through City of Grand Prairie contract #21119, in the estimated amount of \$469,785.25.
8. Grant Resolution - Consider approval of a Resolution authorizing the application of a grant proposal to the Texas Parks and Wildlife Department, for funding

assistance for the development of Leonard and Helen Johns Community Park; and authorization for the Mayor to execute same on behalf of the Town.

RESOLUTION NO. 14-25

A RESOLUTION OF THE TOWN OF FLOWER MOUND, TEXAS, DESIGNATING THE DIRECTOR OF PARKS AND RECREATION AS THE TOWN'S REPRESENTATIVE TO WORK WITH THE TEXAS PARKS & WILDLIFE DEPARTMENT FOR THE PURPOSE OF SUBMITTING AN APPLICATION FOR THE TEXAS PARKS & WILDLIFE LOCAL PARKS – NON-URBAN OUTDOOR GRANT FOR THE DEVELOPMENT OF LEONARD AND HELEN JONHS COMMUNITY PARK; CERTIFYING THAT THE TOWN IS ELIGIBLE TO RECEIVE PROGRAM ASSISTANCE; CERTIFYING THAT THE TOWN'S MATCHING SHARE IS AVAILABLE IN CURRENT FUNDS; AND DEDICATING THE PROPOSED SITE FOR PERMANENT PUBLIC AND RECREATIONAL USES; AND PROVIDING AN EFFECTIVE DATE.

9. Historical Commission Meetings Resolution - Consider approval of a Resolution of the Town Council of the Town of Flower Mound, Texas, amending Resolution 02-24, Section 2, Meetings, Quorum pertaining to the meeting date of the Historical Commission, and providing an effective date of September 1, 2025.

RESOLUTION NO. 15-25

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING SECTION 2, "MEETINGS, QUORUM" OF RESOLUTION NO. 02-24 OF THE TOWN OF FLOWER MOUND, TEXAS, UPDATING THE DATE OF THE HISTORICAL COMMISSION'S REGULAR MEETING; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

K. REGULAR ITEM(S)

1. Tree Rebate Program - Consider approval of a Resolution creating the Town of Flower Mound Tree Rebate Program.

Staff Presentation

Sarah Luxton, Senior Management Analyst gave a presentation identifying or noting:

Program purpose; goal, rebate; participants; tree size(s); tree species; tree planting locations; proof of purchase; program duration; purchase/participation limits; and program funding.

Town Council and staff discussed:

Participation levels in other municipalities; funding levels; rebate reimbursement inclusions; timing of reimbursement; funding availability; point of contact for program; updated language regarding minimum purchase price; program

matching options; homesteaded property requirement; proof of planting; location of tree purchases; funding source; use of all funds; restrictiveness; residential use only; maximum reimbursement per tree; and recommended locations for tree purchases.

RESOLUTION NO. 16-25

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AUTHORIZING THE INITIATION OF A TREE REBATE PROGRAM FOR THE PURPOSE OF INCREASING TREE CANOPY WITHIN THE CORPORATE LIMITS OF THE TOWN; IDENTIFYING A FUNDING SOURCE FOR SAID PROGRAM; AND PROVIDING AN EFFECTIVE DATE.

ACTION: Ann Martin moved to approve K.1 ensuring the homesteaded property owner requirement, eliminating minimum purchase price per tree and updating language to reflect the maximum rebate per tree. Adam Schiestel seconded the motion.

AYES: Chris Drew, Adam Schiestel, Ann Martin, Janvier Werner

NAYS: None

ABSTAIN: None

RESULT: 4 : 0

Mayor Moore announced that the Town Council is convening into a closed meeting at 6:45 p.m., pursuant to Texas Government Code Chapter 551, including, but not limited to, Sections 551.071.

Mayor Moore reconvened the meeting at 7:33 p.m.

Mayor Moore opened both items K2 and K3 at the same time.

2. SP24-0013 - Flower Mound Hindu Temple - Public Hearing to consider a request for a Site Plan (SP24-0013 - Flower Mound Hindu Temple) to create a religious assembly/institution use with an exception to Section 82-302, Compatibility buffer, of the Code of Ordinances, and with a waiver to the roof pitch requirement pursuant to Section 98-1163, Exterior wall construction for nonresidential buildings, of the Code of Ordinances. The property is generally located west of Old Settlers Road and south of Peters Colony Road. (Planning & Zoning Commission recommended approval by a vote of 6 to 0 at its June 23, 2025, meeting)
3. TRP24-0014 - Flower Mound Hindu Temple - Public Hearing to consider an application for a tree removal permit (TRP24-0014) for three (3) specimen trees on the property known as Flower Mound Hindu Temple for the proposed development. The property is generally located west of Old Settlers Road and

south of Peters Colony Road. (The Environmental Conservation Commission recommended approval by a vote of 5 to 1 at their April 1, 2025, meeting.)

Staff Presentation

Lexin Murphy, Director of Development Services, gave a presentation identifying or noting:

Detailed location; current use and zoning; overall site plan; compatibility buffer exception; roof pitch waiver; phase one and phase two site plans, proposed buildings, building elevations; and landscape plan.

Applicant Presentation

Jason Kilpatrick, 550 S. Edmonds Ln, Lewisville, TX

Mr. Kilpatrick gave a presentation identifying or noting:

Aerial site plan; site plan; building elevations; religious exception to roof requirements (flat roof); ingress/egress; landscaping to include tree removal request; and project phasing.

Sandeep Sharma, 2504 Stillwater Ct., Flower Mound

Mr. Sharma presented information about the history of Temple; current location; hours of operation; community involvement; and parking.

Town Council, applicant and staff discussed shared use of driveway with Lewisville Independent School District; long-term plan of open space on property; fire lane modification to save trees; future membership growth needs; phase two timing; history of flat roof approvals; compatibility buffer with the property; zoning by right for religious organizations; consideration of offer to purchase the property; timing of engineering study for drainage; public safety access requirements; flag lot limitations; exemptions related to Religious Land Use and Institutionalized Persons act (RLUIPA); landscape buffer; and outdoor lighting.

Mayor Moore opened the Public Hearing on items K2 and K3 at 8:00 p.m.

Names listed below don't necessarily reflect the order in which each person spoke and all addresses are located in Flower Mound unless otherwise indicated. Some speaker forms were submitted and instead of speaking donated their time to others to speak on their behalf. All submitted public comment forms are below.

Speaker name and address	Subject (as written on the form)
1. Raul Castro, 3217 Walnut Grove Pl	Hindu Temple* (opposition)
2. Zecun Xia, 3208 Walnut Grove Pl	SP24-0013 (opposition)
3. James Foitek, 3212 Walnut Grove Pl	Church Construction * (opposition)

4. S Neurgaovka, 2101 Welch Ct K2,3, Flower Mound Hindu Temple *
(support)
5. Satyariarayana Vasireddy, 305 SP24-0013 * (support)
Bridgewater Place
6. Bindu Gujjarlapudj, 2617 SP24-0017 * (support)
Huntly Ln
7. Venugopal Annapureddy, 3413 SP24-0013 * (support)
Courtney Dr
8. D.D. Darke, 4501 Cassandra SP24-0013 * (support)
Dr
9. Manish Popli, 2231 Ellesworth SP24-0013 * (support)
Ave, Copper Canyon
10. Subbarau Ponnurn, 3410 SP24-0013 Flower Mound Hindu Temple *
Bently Ct, Highland Village (support)
11. Arvind Gudipati, 4101 Mark SP24-0013 * (support)
Twain Blvd
12. Rajashekar Badithela, 4001 SP24-0013 * (support)
Kenwood Dr
13. Anuradha Rajavarapu, 4001 SP24-0013 * (support)
Kenwood Dr
14. Rajan Arun, 2713 Meadow SP24-0013 * (support)
Wood Dr
15. Deepak Chebbi, 1205 Spring SP24-0013 * (support)
Ridge Ln
16. Nagarothna Chebbi, 1205 SP24-0013 * (support)
Spring Ridge Ln
17. Sireesha Vasireddy, 305 SP24-0013 * (support)
Bridgewater Pl
18. Yindira Annapureddy, 3413 SP24-0013 * (support)
Courtney Dr
19. Chhaya Gayee, 6945 SP24-0013 * FM Hindu Temple (support)
Broomsealy Dr
20. Vijay Gayee, 6945 SP24-0013 * (support)
Broomsedge Dr
21. Srinivas Pindi, 3305 Teresa Dr SP24-0013 * (did not indicate support or
opposition)
22. Jugal Agarwal, 1521 Johnson SP24-001 * (did not indicate support or
Pl opposition)
23. Rama Agarwal, 1521 Johnson SP24-001 * (did not indicate support or
Pl opposition)
24. Venlaaten Bodlopa, 2016 SP24-0013 * (did not indicate support or
Illegible, Lewisville opposition)
25. Susan Borella, 4109 Hideaway Hindu Temple (did not indicate support or
Ln opposition)
26. Asha Marla, 4101 Sandra Lynn SP24-0013 (support)
Dr

- | | |
|---|---|
| 27. Meenakshi Gujjalapudi, 2617 Huntly Ln | SP24-0017 (support) |
| 28. Ravi Siripurapa, 3800 Anne Cir | SP24-0013 (support) |
| 29. Sanjay Gupta, 4017 Bordeaux Cir | SP24-0013* (support) |
| 30. Ajay Jadeja, 3105 Jaclamo St | SP24-0013* (support) |
| 31. Saumya Sehga, 2617 Woodstone Ct | SP24-0013* (support) |
| 32. Ravi Kommera, 3004 Myrtice Dr | SP24-0013* (support) |
| 33. Larry Lipscomb, 950 Crestwood Cr | Hindu Temple (did not indicate support or opposition) |
| 34. Murthy Mantha, 4528 Cassandra Dr | K2,3 (support) |
| 35. Vincent Gallo, 3201 Walnut Grove Pl | Hindi Temple (opposition) |

** Indicates person did not wish to speak*

Mayor Moore closed the Public Hearing for items K.2 and K.3 at 8:36 p.m.

ACTION: Adam Schiestel moved to approve K.2. with exceptions. Ann Martin seconded the motion.
AYES: Chris Drew, Adam Schiestel, Ann Martin, Janvier Werner
NAYS: None
ABSTAIN: None
RESULT: 4 : 0

ACTION: Adam Schiestel moved to approve K.3. as presented in the agenda caption. Ann Martin seconded the motion.
AYES: Chris Drew, Adam Schiestel, Ann Martin, Janvier Werner
NAYS: None
ABSTAIN: None
RESULT: 4 : 0

4. TRP25-0004 - 4408 Overlook Ridge - Public Hearing to consider an application for a tree removal permit (TRP25-0004) for one (1) specimen tree on the property known as 4408 Overlook Ridge for the proposed development of a single-family dwelling. The property is generally located north of Cross Timbers Road, west of Kimball Crossing, and east of Overlook Ridge. (The Environmental Conservation Commission recommended approval by a vote of 6 to 0 at their June 3, 2025, meeting.)

Staff Presentation

Jake Speckhals, Environmental review Analyst gave a presentation identifying or noting:

Project overview; general and detailed location; tree survey; mitigation cost; and tree photo.

Councilmember Drew left the dais at 8:50 p.m.

Councilmember Drew returned to the dais at 8:52 p.m.

Applicant Presentation

Curt Debose, 1900 W. Kirkwood Blvd, Southlake, TX

Mr. Debose gave a presentation identifying or noting:

Town Council, applicant and staff discussed property tree density; architectural options to save the tree; drainage; and specimen trees.

Mayor Moore opened the Public Hearing at 8:53 p.m. No one spoke. Mayor Moore closed the Public Hearing at 8:53 p.m.

ACTION:	Ann Martin moved to approve K.4. as presented in the agenda caption. Adam Schiestel seconded the motion.
AYES:	Chris Drew, Adam Schiestel, Ann Martin, Janvier Werner
NAYS:	None
ABSTAIN:	None
RESULT:	4 : 0

L. CLOSED MEETING

The Town Council to convene into closed meeting pursuant to Texas Government Code Chapter 551, including, but not limited to, Sections 551.071, 551.072, 551.074, and 551.087 for consultation with Town Attorney, and to discuss matters relating to real property, personnel, and economic development negotiations, as indicated below. The Town Council may convene in executive session to conduct a private consultation with its attorney on any legally posted agenda item, when the Town Council seeks the advice of its attorney about pending or contemplated litigation, a settlement offer, or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the provisions of Chapter 551, including the below-referenced items.

Mayor Moore announced that the Town Council is convening into a closed meeting at 8:54 p.m., pursuant to Texas Government Code Chapter 551, including, but not limited to, Sections 551.071, 551.072, 551.074, and 551.087.

1. Consultation with Town Attorney.
 - a. Trinity Park - TRP25-0002
 - b. Board and Commission Liability Issues
2. Discuss and consider purchase, exchange, lease or value of real property for parks, cultural arts, public safety, public rights-of-way, and/or other municipal

purposes, including real property located north of FM 1171 and west of US 377, and all matters incident and related thereto.

3. Discuss and consider resignations, appointments, evaluations, reassignments, discipline, or dismissals for the following boards or commissions: Board of Adjustment/Oil & Gas Board of Appeals, and Planning and Zoning Commission.
4. Discuss and consider economic development incentives, including retail centers, grocers, corporate relocation/expansion/retention, hospitality projects, health care facilities, construction of public improvements, requests for incentive related proposals to develop real property, and Tax Increment Reinvestment Zone (TIRZ) #1, TIRZ #2, River Walk PID No. 1, Proposed PID, MMDs, and MUDs.

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M. RECONVENE

The Town Council reconvened into an open meeting at 10:09 p.m.; No action was required as a result of closed session.

N. ADJOURN

Mayor Moore adjourned the meeting at 10:10 p.m. and all were in favor.

TOWN OF FLOWER MOUND, TEXAS

CHERYL MOORE, MAYOR

ATTEST:

ANNE CARNES, DEPUTY TOWN SECRETARY



TOWN COUNCIL AGENDA I.2. CONSENT ITEM(S)

DATE: July 21, 2025
FROM: Manuel Palacios, Assistant Director of Public Works
ITEM: **Consider approval of a repair estimate with Zone Industries for the repair of the Wastewater Sequencing Batch Reactor pump through Buy Board contract number 672-22, in the amount of \$81,375.00; and authorization for the Mayor to execute same on behalf of the Town.**

BACKGROUND: The Town of Flower Mound's Wastewater Treatment Plant (WWTP) is a critical piece of infrastructure that plays a vital role in protecting both human health and the environment. By safely and effectively treating millions of gallons of wastewater each day, the facility prevents harmful pollutants from entering local waterways, helping to preserve natural ecosystems and safeguard public health.

A Sequencing Batch Reactor (SBR) is a type of wastewater treatment process that is utilized at the Town's WWTP. The SBR treats sewage in timed, sequential steps all within a single tank. This batch process allows for efficient removal of contaminants and nutrients while offering flexibility to adapt to changing flow conditions. The SBR (Sequencing Batch Reactor) recirculation pump is a critical component of the SBR, responsible for circulating wastewater during various stages of the treatment process. One of the SBR recirculation pumps has failed and it's critical to complete the repair as soon as possible. The failed SBR recirculation pump is over 20 years old. Repairing the pump is essential to maintaining system reliability, operational efficiency, and compliance with environmental standards.

Ozone Industries is a reputable company that specializes in pump repairs and other wastewater treatment equipment. They have experience working and repairing similar pumps at our WWTP. This purchase is through a Buy Board Cooperative Contract (#672-22) in the amount of \$81,375.00.

Due to the importance of this equipment to the Wastewater Treatment Plant process, an emergency purchase order to fast-track the purchase of the pump repairs was initiated with Ozone Industries. Town staff followed the Town's Emergency Purchase Order Policy that mirrors the State's criteria for an Emergency Purchase.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: Pump repairs are necessary for the Wastewater Treatment process to remain in compliance with TCEQ standards and permits.

FISCAL IMPACT: \$81,375.00

Proposed Expenditure/(Revenue)
\$81,375.00

Account Number(s):
200-690-92420-4308

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Pump Quote - Ozone

DRAFT MOTION: Move to approve as presented in the agenda caption.

ZONE INDUSTRIES, LLC
 PO Box 73149
 Houston, TX 77273
 817-912-5151



QUOTATION

Order Number	
10020667	
Order Date	Page
07/01/2025 14:35:02	1 of 7
Quote Number	
Inside Sales	Randy Key
Email	rkey@zoneindustries.com
Account Mgr	Brady Crabb
Email	

Quote Expires On: 07/31/2025

See below

Bill To:

Town of Flower Mound
 2121 Cross Timbers Rd.
 Flower Mound, TX 75028

Ship To:

Town of Flower Mound
 201 Spinks Road
 ATTN: Public Works Department
 Flower Mound, TX 75028

972-874-6000

Requested By: Clayton Norton

Customer ID:11307

Job Name:FM Pump Repair

PO Number					Ship Route	Inside Sales		
FM Pump Repair						RANDY.KEY		
Quantities					Item ID	Pricing	Unit	Extended
Ordered	Allocated	Remaining	UOM	Unit Size	Item Description	UOM	Price	Price
						Unit Size		

Delivery Instructions:

FREIGHT ALLOWED

1.00	0.00	1.00	EA		SHOP REPAIR	EA	81,375.00	81,375.00
				1.0	Shop Repair	1.0		
Cost to repair Fairbanks 20" C5741L pump. includes new bearings, shaft, shaft sleeve, wear rings, 442 5" split seal, machine work on bearing housing. New impeller. pull and install by city. **BuyBoard # 770-25 **								

Total Lines: 1

SUB-TOTAL: 81,375.00
TAX: 0.00

ZONE INDUSTRIES, LLC
PO Box 73149
Houston, TX 77273
817-912-5151



QUOTATION

Order Number	
10020667	
Order Date	Page
07/01/2025 14:35:02	2 of 7
Quote Number	
Inside Sales	Randy Key
Email	rkey@zoneindustries.com
Account Mgr	Brady Crabb
Email	

Quote Expires On: 07/31/2025

See below

Quantities					Item ID	Pricing		
Ordered	Allocated	Remaining	UOM	Unit Size	Item Description	UOM	Unit Price	Extended Price
						Unit Size		

AMOUNT DUE: 81,375.00

U.S. Dollars

As the situation remains highly volatile, Zone Industries reserves the right to adjust the surcharge amount with notice on both new and expired quotes. Zone Industries may increase or decrease the surcharge percentage in response to any future changes to U.S. tariffs. Additional major risks include potential tariff hikes on China, as well as the reinstatement of tariffs on Mexico, Canada, and/or Europe, should they be enforced.

ZONE INDUSTRIES LLC - TERMS AND CONDITIONS

1. Construction and Legal Effect: Zone Industries, LLC shall hereinafter be referred to as “ZONE”, and the applicant shall be referred to as “CUSTOMER.” The CUSTOMER desires to purchase goods and/or services (collectively, the “Goods”) from ZONE, and CUSTOMER agrees in consideration thereof to be bound by the terms and conditions stated in this agreement. ZONE's sales to CUSTOMER are limited to and expressly made conditional on CUSTOMER's assent to these Terms and Conditions (“Terms”). The issuance of a purchase order by CUSTOMER or CUSTOMER's acceptance of the Goods and/or services or payment for the Goods and/or services shall operate as acceptance by CUSTOMER of these Terms. ZONE hereby objects to any terms or conditions at variance with, different from or additional to the Terms stated herein unless such terms and conditions are hereafter set forth in a writing signed by ZONE. Anything herein to the contrary notwithstanding, no amendment to, or waiver, modification or deletion of, any of the terms and conditions stated herein shall be deemed effective unless any such amendment, waiver, modification or deletion, as the case may be, shall have been approved and accepted in writing by an officer of ZONE.

2. Credit: ZONE reserves the right to approve, approve with conditions or disapprove any request for extension of credit in its sole discretion. Credit will be extended by ZONE to CUSTOMER based on the information provided in this application. CUSTOMER agrees that any financial documents provided ZONE are true and correct. ZONE is authorized to check CUSTOMER's credit background. The amount of credit extended to CUSTOMER will be determined by ZONE and may vary from time to time. CUSTOMER waives notice of any change in CUSTOMER's credit limit. All amounts charged to the open account are CUSTOMER's responsibility. CUSTOMER agrees to pay any and all invoices, charges, fees and costs which CUSTOMER or any authorized person incurs on CUSTOMER's account. Unless CUSTOMER notifies ZONE in writing within five (5) days of any unauthorized use of CUSTOMER's credit account, CUSTOMER agrees that any other person who incurs charges on CUSTOMER's account is authorized to do so. Notwithstanding the foregoing, any and all contracts, certificates, invoices and other writings signed on behalf of CUSTOMER by any employee of CUSTOMER shall be deemed to have been executed on behalf of CUSTOMER with full authority.

3. Payments: Payment of amounts due hereunder shall be made by CUSTOMER to ZONE net thirty (30) days after shipment date. ZONE, at its sole discretion, may offer early payment discounts to customers based on the customer's credit history and payment history with ZONE. ZONE reserves the right at any time to alter or suspend credit, or to change credit terms provided herein, when in its sole opinion CUSTOMER's financial condition so warrants. ZONE further reserves the right to amend the timing of payments if necessary due to vendor payment requirements. All payments made by credit card shall be subject to a three percent (3%) processing fee. Failure to pay an invoice at due date, at ZONE's election, makes all subsequent invoices immediately due and payable, irrespective of terms, and ZONE may withhold all subsequent deliveries under all outstanding orders until full payment is received. Any payment not made when due shall be subject to interest to be paid by CUSTOMER at the lesser of 1.5% per month or the highest rate permissible under applicable law. CUSTOMER agrees to notify ZONE in writing, of any error in any invoice within ten (10) days after the date of that invoice. If not so noticed, the invoice shall be deemed to be correct, and accepted as rendered. In the event of insolvency of CUSTOMER, default in payment or repudiation by CUSTOMER, or any breach of the terms of this agreement, ZONE shall have the right to stop delivery of the Goods and CUSTOMER shall be liable to ZONE for any and all liabilities incurred by ZONE as a result thereof including, but not limited to liabilities to third parties, collection costs, attorneys' fees, and any associated costs incurred by ZONE.

4. Price: CUSTOMER shall purchase the Goods from ZONE at the price(s) (the “Price”) set forth in the purchase order or invoice issued by ZONE. All Prices are exclusive of all Federal, State or local sales, use and excise taxes, and any other similar taxes, duties and charges of any kind on any amounts payable by CUSTOMER. CUSTOMER shall be responsible for all such charges, costs, and taxes; provided, that, CUSTOMER shall not be responsible for any taxes imposed on, or with respect to, ZONE's income, revenue, gross receipts, or commercial activity.

5. Progress Billing: When the CUSTOMER has agreed in writing that payment for Goods shall be made periodically throughout a project, based on ZONE's completion of predefined milestones as defined in the purchase order, ZONE shall invoice CUSTOMER as the milestones are reached, and CUSTOMER shall pay the invoice within thirty (30) days after receipt of the invoice.

6. Tariffs: To the extent that any materials, equipment, or other components of the Goods are subject to any tariff that could materially affect cost or shipping time, ZONE shall solely bear the risk of all tariffs that have been imposed by any governmental body as of the date of CUSTOMER's execution of these Terms and Conditions. CUSTOMER shall bear the cost and schedule risks associated with tariffs that are adopted, increased, or imposed subsequent to the date of CUSTOMER's execution of these Terms and Conditions. With respect to any materials, equipment, or other components of the Work that may be impacted by tariffs, whether or not adopted as of the date of CUSTOMER's execution of these Terms and Conditions, ZONE shall investigate and advise the CUSTOMER regarding potentially acceptable alternatives. ZONE shall notify CUSTOMER of any cost or schedule changes made necessary by the adoption, increase, or imposition of any tariff through the issuance of an amended purchase order.

7. Action for Breach: Any action by CUSTOMER arising out of or relating to this agreement must be commenced within one (1) year after the cause of action has accrued.

8. Warranty and Limitation of Liability: ZONE warrants that all Goods delivered hereunder shall, for twelve (12) months from startup of the Goods or eighteen (18) months from the date of receipt of the Goods by CUSTOMER, whichever comes first (the "Warranty Period"), be (i) free from defects in workmanship and materials, (ii) free from defects in design except to the extent that such goods comply with the detailed designs provided by the CUSTOMER; (iii) suitable for the purposes, if any, which are stated on the face of the purchase order, and (iv) in conformity with all other requirements of the purchase order and the specifications for such Goods that have been provided to ZONE. Provided that CUSTOMER gives written notice to ZONE within the Warranty Period, if Goods sold hereunder are found to fail to meet the requirements set forth in this Article 8, demonstrated to ZONE's satisfaction to have existed at the time of departure from ZONE's plant, ZONE, reserving the right to inspect Goods, shall, at ZONE's option, repair or replace at ZONE's expense the Goods determined by ZONE to be non-conforming. ZONE shall not be obligated to repair or replace Goods that shall have been subjected to alteration, contamination, improper maintenance or storage, misapplication, misuse, negligence or accident during or after shipment from ZONE's plant or to Goods to which CUSTOMER's tests used an unrepresentative sample. The remedy set forth in this Article 8 shall be the sole and exclusive remedy available to CUSTOMER for breach of warranty.

No employee or agent of ZONE is authorized to make any warranty, statement, promise or understanding other than that which is specifically set forth in this Article 8. The provisions in any Technical Data sheet issued by ZONE or attached hereto are descriptive only and are not warranties or representations.

THE WARRANTIES SET FORTH IN THIS ARTICLE 8 ARE THE ONLY WARRANTIES APPLICABLE TO THE GOODS AND SERVICES SOLD HEREUNDER. ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE SPECIFICALLY DISCLAIMED AND SHALL NOT APPLY.

If the Goods sold hereunder are resold by CUSTOMER, without any alteration or processing by CUSTOMER or incorporation into any of CUSTOMER's products, CUSTOMER agrees to include in the agreement for resale provisions which limit recoveries against ZONE in accordance with this Article 8.

In no event shall ZONE be liable for any direct, indirect, special, consequential or incidental damages under this agreement (including but not limited to any such damages arising out of late, partial and/or non delivery, the sale, use, furnishing of Goods, or suitability for general or particular use). CUSTOMER is solely responsible for determining suitability for use and ZONE shall in no event be liable in this respect. The giving or failure to give advice, recommendations or safety warnings of any character by ZONE shall not impose any liability upon ZONE.

Upon transfer of title to the Goods, ZONE agrees to assign to CUSTOMER any and all manufacturers' warranties relating to materials and labor used in production of the Goods and further agrees produce the Goods in such manner so as to preserve any and all such warranties. ZONE further agrees to reasonably cooperate with CUSTOMER should ZONE's assistance be required in connection with the enforcement of such warranties.

Should CUSTOMER breach any of the duties and warranties set forth within this Article 8, CUSTOMER AGREES TO FULLY INDEMNIFY, DEFEND AND HOLD ZONE HARMLESS from and against any and all liability, claims, and suits of any third party including but not limited to employees or insurers of CUSTOMER, in any way, in whole or in part, alleged to have arisen out of exposure to or use of Goods supplied by ZONE. Further, upon acceptance of Goods and services supplied by ZONE or in the absence of any written notice of nonconformity of such Goods, CUSTOMER AGREES TO FULLY RELEASE, INDEMNIFY, DEFEND AND HOLD ZONE HARMLESS from and against any and all liability, claims, and suits it may possess or that may be asserted against ZONE by any third party (including but not limited to contractors, subcontractors or property owners who have purchased, installed or otherwise used products or services of CUSTOMER or have had such products incorporated into their property or products, or insurers of any of such parties or of the CUSTOMER) in any manner arising in whole or in part, out of the production, marketing, distribution, sale, installation, use or deficiencies of any products of the CUSTOMER produced using the Goods supplied by ZONE. The provisions of this Article 8 shall survive the expiration, or earlier termination as provided herein, of this agreement.

9. Indemnity: CUSTOMER will release, hold harmless, indemnify and defend ZONE from any liability (including without limitation liability for negligence or strict liability) claims, losses, suits and costs resulting from the design of Goods supplied by ZONE

10. Delivery: Delivery and shipment dates are estimated dates only and are not guaranteed. In estimating such dates, no allowance has been made nor shall ZONE be liable for any damages, losses, penalties, whether direct, indirect, special, incidental or consequential, resulting from ZONE's failure or delay in performing, carriers' failure or delay in performing or delays from labor difficulties, shortages, strikes or stoppages of any sort, fires, accidents, failure or delay in obtaining Goods, acts of government affecting ZONE directly or indirectly, bad weather, or any causes beyond ZONE's control, or causes designated as acts of God or force majeure by any statute or court of law. In the event any failure or delay to ship Goods continues for a period of ninety consecutive days, CUSTOMER may cancel its order for the subject Goods upon three days' written notice to ZONE.

11. Shipping: Unless CUSTOMER specifies otherwise in writing: (a) Goods will be shipped as ZONE may deem proper, and (b) routing and manner of shipment will be at ZONE's discretion. If special routing instructions are given, CUSTOMER agrees to pay additional handling and transportation charges, if any. Title and risk of loss passes to CUSTOMER upon delivery of the Goods to CUSTOMER or when the Goods otherwise leave the care, custody and control of ZONE. CUSTOMER shall be solely responsible for maintaining any insurance against loss or damage in shipment. ZONE shall not be liable for loss, damage, detention, delay or completion of an order due to acts of God, acts of terrorism, war, riots, civil insurrection, strikes, work stoppages, fires, accidents, acts of civil or military authority including governmental laws, embargoes, orders, priorities, or regulations, delay in transportation, shortages, delay by suppliers of materials, or any other causes whatsoever beyond the reasonable control of ZONE.

12. Security Interest: ZONE reserves a purchase money security interest in the Goods sold hereunder and the proceeds thereof, in the amount of the Price. In the event of default by CUSTOMER on any of its payment obligations to ZONE, ZONE will have the right to repossess the Goods sold hereunder that have not been paid for without liability to CUSTOMER or any third party in possession of such Goods, if not CUSTOMER. In such event, CUSTOMER agrees to make the Goods available to ZONE so that ZONE can repossess them without a breach of the peace. This security interest will be satisfied by payment in full. ZONE may file a financing statement to perfect ZONE's security interest, provided that ZONE terminates any such financing statements once the Goods are paid for. CUSTOMER shall cooperate fully with ZONE to execute such other documents and to accomplish such filings and/or recordings thereof as ZONE may deem necessary for the protection of ZONE's interests in the Goods furnished hereunder.

13. Termination: ZONE may by written notice to CUSTOMER terminate the whole or any part of this agreement in any one of the following circumstances: (1) if CUSTOMER fails to remit payment within the time specified herein or any extension thereof authorized by ZONE; or (2) if CUSTOMER fails to perform any of the other provisions of this agreement so as to endanger performance of this agreement in accordance with its terms; or (3) if CUSTOMER becomes insolvent, or engages in any act which reasonably causes the ZONE to deem itself insecure. ZONE shall not by reason of such termination be liable to CUSTOMER for any compensation, reimbursement, or damages including, in particular, but not limited to any direct, indirect, special, incidental or consequential damages or losses whatsoever, on account of expenditures, investments, or commitments.

14. Cancellations: CUSTOMER may not cancel any order of Goods without ZONE's express, written consent. Immediately upon the cancellation of an order, ZONE shall stop all performance hereunder and CUSTOMER must pay to ZONE an amount equal to those reasonable and documented costs incurred by ZONE prior to cancellation plus a cancellation fee equal to 25% of the purchase price; provided, however, that the above amount plus any prior payments shall in no event exceed the purchase price of the Goods. All Goods completed or partially completed prior to cancellation shall become the property of CUSTOMER, or at CUSTOMER's option, the salvage value of the Goods may be deducted from the amount due ZONE by reason of the cancellation. Unused Goods, processed material or specially manufactured Goods not normally carried in ZONE's inventory may not, under any circumstances, be returned for salvage value.

15. Assignment: The rights and obligations of CUSTOMER hereunder may not be assigned without the prior written consent of ZONE. Any purported assignment without ZONE's prior written consent shall be void and of no force and effect.

16. Non-Waiver: Any failure by ZONE to require full payment or strict performance by CUSTOMER of any of the provisions herein or to exercise any right or remedy hereunder, shall not waive or diminish ZONE's right thereafter to demand strict compliance therewith or with any other provision or to exercise any such right or remedy. Waiver of any default shall not waive any other default.

17. Applicable Law: This agreement shall be governed by and construed under the laws of the State of Texas, notwithstanding the principles, if any, that would otherwise govern the choice of applicable law. If legal action is brought to enforce this agreement, Harris County, Texas, shall be the exclusive jurisdiction and legal venue for said action, unless ZONE initiates said legal action is brought to enforce statutory remedies (such as mechanic's lien, stop notices, payment bonds, etc.) in connection with a debt incurred by CUSTOMER; in such case, the jurisdiction and legal venue will be determined by the requirements of the Texas Civil Code or Code of Civil Procedure in order for ZONE to enforce such statutory rights

18. Claims: It shall be the duty of CUSTOMER to thoroughly inspect the Goods purchased from ZONE. All claims of any nature relating to the Goods subject to this agreement, including but not limited to claims of defect in Goods, non-conformity or discrepancy in quantity or delivery date, shall be made in writing to ZONE within fifteen (15) days of receipt of such Goods by CUSTOMER. Failure to make any such written claim within the above-prescribed period shall constitute waiver of any such claims and shall be deemed acceptance of such Goods, quantities or delivery dates.

19. Nondisclosure: In consideration of the disclosure of Proprietary and Confidential information by the parties to each other, both parties agree that the information relating to requirements, processes, specifications, schedules, materials, financial data and pricing exchanged between parties is hereby designated as Proprietary and Confidential whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential" in connection with this Sales and may not be disclosed or copied unless authorized in advance by the other party in writing. Upon request, each party shall promptly return all Proprietary and Confidential materials received from the other party. Either party shall be entitled to injunctive relief for any violation of this Section. This Section does not apply to information that is: (a) in the public domain; (b) known to the other party at the time of disclosure; or (c) rightfully obtained by the other on a nonconfidential basis from a third party.

20. Force Majeure: ZONE will not be liable for failure in the performance of any of its obligations caused by accidents, labor disputes, shortages of labor, materials, fuel or power, or fires, floods or other acts of God, acts or omissions of CUSTOMER, priorities required, requested, or granted for the benefit of the national or any local government, restrictions imposed by national or local legislation or regulations, or any cause, whether similar or dissimilar to those enumerated in this section, including without limitation cease of production/operation by a vendor or other company due to economic hardship, which is beyond the control of ZONE.

21. Intellectual Property: ZONE shall retain sole ownership of all right, title, and interest in and to all its intellectual property, including, without limitation, ideas, methods, trademarks, service marks, trade names, symbols, logos, copyrights, patents, trade secrets, and know-how (collectively, the "Intellectual Property"), and no licenses to any Intellectual Property are created hereunder.

22. Relationship of the Parties: The relationship between ZONE and CUSTOMER is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment, or fiduciary relationship between the ZONE and CUSTOMER.

23. Authorized Representative: CUSTOMER hereby represents and warrants that its signatory to these Terms is a duly authorized representative with the authority to bind CUSTOMER to these Terms.

24. Electronic Signatures: An "electronic signature" is any electronic symbol or process attached to or logically associated with a document sent by electronic transmission and executed or adopted by a person with the intent to sign such document. The use of electronic signatures (including, without limitation, through DocuSign and Adobe Sign) to execute these Terms shall be of the same legal effect, validity and enforceability as a manually executed signature to the fullest extent permitted by Texas law or other applicable law, including, without limitation, any state law based on the Uniform Electronic Transactions Act or the Uniform Commercial Code.

25. Acceptance / Enforceability of Copies: CUSTOMER agrees that ZONE may, at ZONE'S sole discretion, accept, utilize and rely upon a facsimile copy or photocopy of this agreement and the foregoing Continuing Personal Guaranty or Corporate Guaranty, in lieu of an original document. CUSTOMER acknowledges that, by transmitting a facsimile copy, electronic copy or photocopy of this document to ZONE, CUSTOMER, and the Guarantor (if applicable), agree to be bound by the terms and conditions contained in this document to the same extent as if an original were transmitted to ZONE. CUSTOMER, and Guarantor (if applicable), consent to ZONE's use of this document and waive any right to object to the use of a copy in place of the original and any right to require Seller to subsequently produce an original document. This Credit Application and Agreement cannot be altered, amended, revised, or otherwise modified unless an officer of ZONE provides prior written consent thereto.

By signing and returning this Credit Application and Agreement, CUSTOMER certifies and agrees as follows: (i) The information contained herein is true and correct; (ii) CUSTOMER authorizes ZONE, at any time and from time to time so long as CUSTOMER does business with ZONE, to obtain credit reports about CUSTOMER and to obtain credit information from banks or others with whom CUSTOMER has dealt. CUSTOMER authorizes all references named herein to release credit information to ZONE. The authorized individual signing on behalf of CUSTOMER, recognizing that his or her individual credit history may be a factor in evaluation of the credit history of the CUSTOMER, hereby consents to and authorizes the use of a consumer credit report on such individual, from time to time, so long as CUSTOMER does business with ZONE; (iii) CUSTOMER agrees to furnish such additional information as ZONE may request to warrant future extensions of credit or to enable ZONE to perfect liens or to recover upon any bond issued for its protection; (iv) CUSTOMER agrees that all purchases will be made under the Terms and Conditions set out herein; and (v) CUSTOMER agrees that ZONE may, for any reason and at any time, elect to terminate any credit that is extended to the CUSTOMER or modify the conditions under which credit is to be extended. OFFICER, AUTHORIZED AGENT OR OWNER SIGNATURE IS REQUIRED.

CUSTOMER:

Print Name:

Signature:

Title:

Date:



TOWN COUNCIL AGENDA I.3. CONSENT ITEM(S)

DATE: July 21, 2025

FROM: Meg Jakubik, Director of Budget Services

ITEM: **Consider approval of a resolution of the Town of Flower Mound suspending the July 31, 2025, effective date of Oncor Electric Delivery Company's requested rate change to permit the Town time to study the request and to establish reasonable rates.**

BACKGROUND: Oncor Electric Delivery Company ("Oncor" or "the Company") filed an application on or about June 26, 2025 with cities retaining original jurisdiction seeking to increase system-wide transmission and distribution rates by about \$834 million or approximately 13% over present revenues. The Company asks the City to approve a 12.3% increase in residential rates and a 51.0% increase in street lighting rates. If approved, an average residential customer would see a bill increase of about \$7.90 per month.

The resolution suspends the July 31, 2025 effective date of the Company's rate increase for the maximum period permitted by law to allow the City, working in conjunction with the Steering Committee of Cities Served by Oncor, to evaluate the filing, determine whether the filing complies with law, and if lawful, to determine what further strategy, including settlement, to pursue.

The law provides that a rate request made by an electric utility cannot become effective until at least 35 days following the filing of the application to change rates. The law permits the City to suspend the rate change for 90 days after the date the rate change would otherwise be effective. **If the City fails to take some action regarding the filing before the effective date, Oncor's rate request is deemed administratively approved.**

BOARD REVIEW/CITIZEN FEEDBACK:

ALTERNATIVES:

FISCAL IMPACT: N/A

LEGAL REVIEW: The town is using the Steering Committee of Cities Served by Oncor documents created by Lloyd Gosselink Rochelle & Townsend, P.C.

ATTACHMENTS:

1. Attachment 1 - Oncor 2025 RC Suspension Resolution

DRAFT MOTION: Move to approve as presented in the agenda caption.

TOWN OF FLOWER MOUND

RESOLUTION NO. _____

**RESOLUTION OF THE TOWN OF FLOWER MOUND
SUSPENDING THE JULY 31, 2025 EFFECTIVE DATE OF
ONCOR ELECTRIC DELIVERY COMPANY'S
REQUESTED RATE CHANGE TO PERMIT THE CITY
TIME TO STUDY THE REQUEST AND TO ESTABLISH
REASONABLE RATES; APPROVING COOPERATION
WITH THE STEERING COMMITTEE OF CITIES SERVED
BY ONCOR TO HIRE LEGAL AND CONSULTING
SERVICES AND TO NEGOTIATE WITH THE COMPANY
AND DIRECT ANY NECESSARY LITIGATION AND
APPEALS; FINDING THAT THE MEETING AT WHICH
THIS RESOLUTION IS PASSED IS OPEN TO THE
PUBLIC AS REQUIRED BY LAW; REQUIRING NOTICE
OF THIS RESOLUTION TO THE COMPANY AND LEGAL
COUNSEL FOR THE STEERING COMMITTEE.**

WHEREAS, on or about June 26, 2025, Oncor Electric Delivery Company (Oncor), pursuant to PURA §§ 33.001 and 36.001 filed with the Town of Flower Mound a Statement of Intent to increase electric transmission and distribution rates in all municipalities exercising original jurisdiction within its service area effective July 31, 2025; and

WHEREAS, the Town of Flower Mound is a member of the Steering Committee of Cities Served by Oncor ("Steering Committee") and will cooperate with the 170 similarly situated city members and other city participants in conducting a review of the Company's application and to hire and direct legal counsel and consultants and to prepare a common response and to negotiate with the Company prior to getting reasonable rates and direct any necessary litigation; and

WHEREAS, PURA § 36.108 grants local regulatory authorities the right to suspend the effective date of proposed rate changes for ninety (90) days after the date the rate change would otherwise be effective; and

WHEREAS, PURA § 33.023 provides that costs incurred by Cities in ratemaking proceedings are to be reimbursed by the regulated utility.

**THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN
OF FLOWER MOUND, TEXAS:**

Section 1.

That the July 31, 2025 effective date of the rate request submitted by Oncor on or about June 26, 2025, be suspended for the maximum period allowed by law to permit adequate time to review the proposed changes and to establish reasonable rates.

Section 2.

As indicated in the City's resolution approving membership in the Steering Committee, the Executive Committee of Steering Committee is authorized to hire and direct legal counsel and consultants, negotiate with the Company, make recommendations regarding reasonable rates, and to intervene and direct any necessary administrative proceedings or court litigation associated with an appeal of a rate ordinance and the rate case filed with the City or Public Utility Commission.

Section 3.

That the City's reasonable rate case expenses shall be reimbursed by Oncor.

Section 4.

That it is hereby officially found and determined that the meeting at which this Resolution is passed is open to the public as required by law and the public notice of the time, place, and purpose of said meeting was given as required.

Section 5.

A copy of this Resolution shall be sent to Oncor Electric Delivery Company LLC, 1616 Woodall Rodgers Freeway, Dallas, Texas 75202 and to Thomas Brocato, Counsel to the Steering Committee, at Lloyd Gosselink Rochelle & Townsend, P.C., P.O. Box 1725, Austin, Texas 78767-1725.

DULY PASSED AND APROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF ____ TO _____. ON THIS 21st DAY OF JULY, 2025.

APPROVED:

Cheryl Moore, MAYOR

ATTEST:

Traci Henderson, TOWN SECRETARY



TOWN COUNCIL AGENDA I.4. CONSENT ITEM(S)

DATE: July 21, 2025

FROM: Chuck Dunn, Facilities Manager

ITEM: **Consider the approval for the purchase and installation of 4 new HVAC units from Trane at Fire Station 4 for the amount of \$84,762.00.**

BACKGROUND:

- The 4 HVAC systems that supplies Fire Station #4 are original and are reaching the end of their useful life. All systems are complete replacement consisting of replacement of the gas furnaces, cased evaporator coils and outdoor condensing units. Town Council approved this HVAC replacement project for the 24/25 budget year.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: \$84,762.00

Proposed Expenditure/(Revenue)
\$84,762.00

Account Number(s):
100-655-59200-4030

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Fire Station 4 Unit Replacement-quote

DRAFT MOTION: Move to approve as presented in the agenda caption.



Trane U.S. Inc.
1617 Hutton Drive
Carrollton, Texas 75006
Phone: (469) 758-3000
Fax: (972) 243-1398

July 2nd, 2025

Town Of Flowermound
2121 Cross Timber Road
Flower Mound, Texas 75028-7502

Site Address:
Fire Station 4
4601 Bridlewood Boulevard
Flower Mound, Texas 75028

ATTENTION:

PROJECT NAME: Town of Flower Mound Fire Station 4 Unit Replaceme
CO-OP QUOTE NUMBER: L3-02-10514-25-013 **CO-OP OR FEDERAL CONTRACT ID:** OMNIA Racine #3341

We are pleased to propose the following Trane services for the equipment listed. Services will be performed using Trane's exclusive service procedures provided by factory trained and experienced technicians. You receive the full benefit of our expertise derived from being Trane equipment's original manufacturer. Our procedures are environmentally and safety conscious while providing for the efficient delivery of these services.

SCOPE OF SERVICE

Electrical Installation:

- Disconnect/Reconnect existing conduit and terminate to the new split systems
- Existing breakers are to remain in place
- Install new disconnects as needed
- Check operation

Mechanical Installation:

- Provide delivery of the new Split systems to the jobsite
- Provide haul off and disposal of old split systems
- Shut off existing split systems and recover refrigerant
- Disconnect existing piping, drains and ductwork, flue pipe, gas lines
- Demo existing furnaces and coils and remove
- Demo existing condensers and remove
- Install furnaces and coils in existing locations
- Install condensers in existing locations
- Reconnect piping to new coils and condensers
- Reconnect gas lines per Trane IOM
- Reconnect flue pipe to new furnaces and adjust as needed
- Install drain lines per Trane IOM
- Reconnect ductwork and modify as needed
- Reconnect thermostats
- Perform start up on all four split systems and check operation
- Clean up any trash/debris

Product Data - Split System Air Conditioning Units (Small)

All Units

Touchscreen Programmable Thermostat, 4H/2C (Field Installed)
5 year parts and labor warranty – *refrigerant is excluded*

Item: A1 Qty: 2 Tag(s): SS-1, SS-2

5TTA4 - Split System Single Stage Cooling Outdoor Unit, Three Phase, R-454B
4 Ton Nominal Cooling Capacity
200-230/60/3
Gas Furnace, 90% Efficiency, 1 Stage, Multi-speed, 21" Wide
100,000 BTUH Heating Input
4-Way - Upflow, Horizontal Right, Horizontal Left or Downflow
4 Ton Airflow Capacity
Permanent Split Capacitor Two Speed Inducer
Standard 24 Volt Control
5TXC - Aluminum Cased Convertible Coil, R-454B
24.5" Coil Width
48 MBH Nominal Cooling Capacity
TXV-Non Bleed
Convertible Coil (Upflow/Downflow/Horizontal Left or Right)
SlimFit Filter and Insulated Frame (Field Installed)

Item: A2 Qty: 1 Tag(s): SS-3

5TTR4 - Split System Single Stage Cooling Outdoor Unit, R-454B
2.5 Ton Nominal Cooling Capacity
200/230/60/1
5TEM - Air Handler, R-454B
Multi-position upflow/downflow/horizontal left/horizontal right
23.5" Cabinet Width
30 MBH Cooling Capacity
Constant Torque Motor
208-230/60/1
24 Volt Controls
7.2 kW Htr w/Ckt Brk 208/1 (Field Installed)
External Filter Rack (Field Installed)

Item: A3 Qty: 1 Tag(s): SS-4

5TTA4 - Split System Single Stage Cooling Outdoor Unit, Three Phase, R-454B
3 Ton Nominal Cooling Capacity
200-230/60/3
Gas Furnace, 90% Efficiency, 1 Stage, Multi-speed, 21" Wide
60,000 BTUH Heating Input
Downflow
3 Ton Airflow Capacity
Permanent Split Capacitor Two Speed Inducer
Standard 24 Volt Control
5TXC - Aluminum Cased Convertible Coil, R-454B
21" Coil Width
36 MBH Nominal Cooling Capacity
TXV-Non Bleed
Convertible Coil (Upflow/Downflow/Horizontal Left or Right)
SlimFit Filter and Insulated Frame (Field Installed)

PRICING AND ACCEPTANCE

TOTAL PRICE:.....**\$84,762.00**

CLARIFICATIONS

1. Applicable taxes are not included and will be added to the invoice.
2. Any service not listed is not included.
3. Work will be performed during normal Trane business hours.
4. This proposal is valid for 30 days from July 2nd, 2025

I appreciate the opportunity to earn your business and look forward to helping you with all of your service needs. Please contact me if you have any questions or concerns.

Sincerely,

Nick Young

TARIFFS

Trane shall have the right, at its discretion, to pass along any related increases should (1) its costs related to the manufacture, supply, and shipping for any product or service materially increase. This includes, but is not limited to, cost increases in raw materials, supplier components, labor, utilities, freight, logistics, wages and benefits, regulatory compliance, or any other event beyond Company's control and/or (2) any tariffs, taxes, levies or fees affecting, placed on or related to any product or service materially increases.

This agreement is subject to Customer's acceptance of the attached Trane Terms and Conditions – Quoted Service.

CUSTOMER ACCEPTANCE

Authorized Representative

Printed Name

Title

Purchase Order

Acceptance Date
Trane's License Number: TACLA26742C

ACCOUNT CHECKLIST-QUOTED WORK



Customer, please complete the following information.

1. Does your company require a PO to schedule work? ☐ YES ☐ NO
 - a) If yes Provide PO Number here: Click or tap here to enter text.
 - b) If no please provide what you would like to use in place of a PO: Click or tap here to enter text.
2. Is there any specific documentation required with your invoice? ☐ YES ☐ NO
 - a) If Yes, Please specify: Click or tap here to enter text.
3. How would you like your invoice delivered? ☐ MAIL ☐ EMAIL ☐ EDI (Automatic)
☐ WEB 3rd Party System (Coupa, Corrigo, Ariba, Tungsten, etc....) :Click or tap here to enter text.
4. Please provide your Bill To Address:_Click or tap here to enter text.
5. For PAYMENT inquiries, please provide contact and details below:
 - a) Full Name: Click or tap here to enter text.
 - b) Direct Phone Number: Click or tap here to enter text.
 - c) Email Address: Click or tap here to enter text.
6. Is this site TAX EXEMPT? ☐ YES ☐ NO

If YES, please click link to upload a VALID exemption for the state where the work will be performed and provide a copy to your Trane contact.

****Please upload all Tax Exemption Certificates to <http://trane.certifytax.com/custportalas.aspx>***

****Please Note: Trane Payment Terms are Net 30 Days***

TERMS AND CONDITIONS – QUOTED SERVICE

“Company” shall mean Trane U.S. Inc..

To obtain repair service within the scope of Services as defined, contact your local Trane District office identified on the first page of the Agreement by calling the telephone number stated on that page. That Trane District office is responsible for Company's performance of this Agreement. Only Trane authorized personnel may perform service under this Agreement. For Service covered under this Agreement, Company will be responsible for the cost of transporting a part requiring service.

1. Agreement. These terms and conditions are an integral part of Company's offer and form the basis of any agreement (the “Agreement”) resulting from Company's proposal (the “Proposal”) for the services (the “Services”) on equipment listed in the Proposal (the “Covered Equipment”). **COMPANY'S TERMS AND CONDITIONS ARE SUBJECT TO PERIODIC CHANGE OR AMENDMENT.**

2. Connected Services. In addition to these terms and conditions, the Connected Services Terms of Service (“Connected Services Terms”), available at <https://www.trane.com/TraneConnectedServicesTerms>, as updated from time to time, are incorporated herein by reference and shall apply to the extent that Company provides Customer with Connected Services, as defined in the Connected Services Terms.

3. Acceptance. The Proposal is subject to acceptance in writing by the party to whom this offer is made or an authorized agent (“Customer”) delivered to Company within 30 days from the date of the Proposal. If Customer accepts the Proposal by placing an order, without the addition of any other terms and conditions of sale or any other modification, Customer's order shall be deemed acceptance of the Proposal subject to Company's terms and conditions. If Customer's order is expressly conditioned upon the Company's acceptance or assent to terms and/or conditions other than those expressed herein, return of such order by Company with Company's terms and conditions attached or referenced serves as Company's notice of objection to Customer's terms and as Company's counteroffer to provide Services in accordance with the Proposal. If Customer does not reject or object in writing to Company within 10 days, the Company's counteroffer will be deemed accepted. Customer's acceptance of the Services by Company will in any event constitute an acceptance by Customer of Company's terms and conditions. In the case of a dispute, the applicable terms and conditions will be those in effect at the time of delivery or acceptance of the Services. This Agreement is subject to credit approval by Company. Upon disapproval of credit, Company may delay or suspend performance or, at its option, renegotiate prices and/or terms and conditions with Customer. If Company and Customer are unable to agree on such revisions, this Agreement shall be cancelled without any liability, other than Customer's obligation to pay for Services rendered by Company to the date of cancellation.

4. Cancellation by Customer Prior to Services; Refund. If Customer cancels this Agreement within (a) thirty (30) days of the date this Agreement was mailed to Customer or (b) twenty (20) days of the date this Agreement was delivered to Customer, if it was delivered at the time of sale, and no Services have been provided by Company under this Agreement, the Agreement will be void and Company will refund to Customer, or credit Customer's account, the full Service Fee of this Agreement that Customer paid to Company, if any. A ten percent (10%) penalty per month will be added to a refund that is due but is not paid or credited within forty-five (45) days after return of this Agreement to Company. Customer's right to cancel this Agreement only applies to the original owner of this Agreement and only if no Services have been provided by Company under this Agreement prior to its return to Company.

5. Cancellation by Company. This Agreement may be cancelled by Company for any reason or no reason, upon written notice from Company to Customer no later than 30 days prior to performance of any Services hereunder and Company will refund to Customer, or credit Customer's account, that part of the Service Fee attributable to Services not performed by Company. Customer shall remain liable for and shall pay to Company all amounts due for Services provided by Company and not yet paid.

6. Services Fees and Taxes. Fees for the Services (the “Service Fee(s)”) shall be as set forth in the Proposal and are based on performance during regular business hours. Fees for outside Company's regular business hours and any after-hours services shall be billed separately according to the then prevailing overtime or emergency labor/labour rates. In addition to the stated Service Fee, Customer shall pay all taxes not legally required to be paid by Company or, alternatively, shall provide Company with acceptable tax exemption certificates. Customer shall pay all costs (including attorneys' fees) incurred by Company in attempting to collect amounts due.

7. Payment. Payment is due upon receipt of Company's invoice. Company reserves the right to add to any account outstanding for more than 30 days a service charge equal to the lesser of the maximum allowable legal interest rate or 1.5% of the principal amount due at the end of each month. Customer shall pay all costs (including attorneys' fees) incurred by Company in attempting to collect amounts due or otherwise enforcing these terms and conditions.

8. Customer Breach. Each of the following events or conditions shall constitute a breach by Customer and shall give Company the right, without an election of remedies, to terminate this Agreement or suspend performance by delivery of written notice: (1) Any failure by Customer to pay amounts when due; or (2) any general assignment by Customer for the benefit of its creditors, or if Customer becomes bankrupt or insolvent or takes the benefit of any statute for bankrupt or insolvent debtors, or makes or proposes to make any proposal or arrangement with creditors, or if any steps are taken for the winding up or other termination of Customer or the liquidation of its assets, or if a trustee, receiver, or similar person is appointed over any of the assets or interests of Customer; (3) Any representation or warranty furnished by Customer in connection with this Agreement is false or misleading in any material respect when made; or (4) Any failure by Customer to perform or comply with any material provision of this Agreement. Customer shall be liable to the Company for all Services furnished to date and all damages sustained by Company (including lost profit and overhead).

9. Performance. Company shall perform the Services in accordance with industry standards generally applicable in the state or province where the Services are performed under similar circumstances as of the time Company performs the Services. Company is not liable for any claims, damages, losses, or expenses, arising from or related to work done by or services provided by individuals or entities that are not employed by or hired by Company. Company may refuse to perform any Services or work where working conditions could endanger property or put at risk the safety of people. Parts used for any repairs made will be those selected by Company as suitable for the repair and may be parts not manufactured by Company. Customer must reimburse Company for services, repairs, and/or replacements performed by Company at Customer's request beyond the scope of Services or otherwise excluded under this Agreement. The reimbursement shall be at the then prevailing applicable regular, overtime, or holiday rates for labor/labour and prices for materials. Prior to Company performing the additional services, repairs, and/or replacements, Customer may request a separate written quote stating the work to be performed and the price to be paid by Customer for the work.

10. Customer Obligations. Customer shall: (a) provide Company reasonable and safe access to the Covered Equipment and areas where Company is to work; and (b) unless otherwise agreed by Customer and Company, at Customer's expense and before the Services begin, Customer will provide any necessary access platforms, catwalks to safely perform the Services in compliance with OSHA, state, or provincial industrial safety regulations or any other applicable industrial safety standards or guidelines.

11. Exclusions. Unless expressly included in the Proposal, the Services do not include, and Company shall not be responsible for or liable to the Customer for, any claims, losses, damages or expenses suffered by the Customer in any way connected with, relating to or arising from any of the following:

- (a) Any guarantee of room conditions or system performance;
- (b) Inspection, operation, maintenance, repair, replacement or performance of work or services outside the Services;
- (c) Damage, repairs or replacement of parts made necessary as a result of the acts or omission of Customer or any Event of Force Majeure;
- (d) Any claims, damages, losses, or expenses, arising from or related to conditions that existed in, on, or upon the premises before the effective date of this Agreement (“Pre-Existing Conditions”) including, without limitation, damages, losses, or expenses involving a Pre-Existing Condition of building envelope issues, mechanical issues, plumbing issues, and/or indoor air quality issues involving mold/mould, bacteria, microbial growth, fungi or other contaminants or airborne biological agents; and
- (e) Replacement of refrigerant is excluded, unless replacement of refrigerant is expressly stated as included with the Proposal.

12. Limited Warranty. Company warrants that: (a) the material manufactured by Company and provided to the Customer in performance of the Services is free from defects in material and manufacture for a period of 12 months from the earlier of the date of equipment start-up or replacement and (b) the labor/labour portion of the Services is warranted to have been properly performed for a period of 90 days from date of completion (the “Limited Warranty”). Company obligations of equipment start-up, if any are stated in the Proposal, are coterminous with the Limited Warranty period. Defects must be reported to Company within the Limited Warranty period. Company's obligation under the Limited Warranty is limited to repairing or replacing the defective part at its option and to correcting any improperly performed labor/labour. No liability whatsoever shall attach to Company until the Services have been paid for in full. Exclusions from this Limited Warranty include claims, losses, damages, and expenses in any way connected with, related to, or arising from failure or malfunction of equipment due to the following: wear and tear; end of life failure; corrosion; erosion; deterioration; Customer's failure to follow the Company-provided maintenance plan; unauthorized or improper maintenance; unauthorized or improper parts or material; refrigerant not supplied by Company; and modifications made by others to Company's equipment. Company shall not be obligated to pay for the cost of lost refrigerant or lost product. Some components of Company equipment may be warranted directly from the component supplier, in which case this Limited Warranty shall not apply to those components and any warranty of such components shall be the warranty given by the component supplier. Notwithstanding the foregoing, all warranties provided herein terminate upon termination or cancellation of this Agreement. Equipment, material and/or parts that are not manufactured by Company (“Third-Party Product(s)”) are not warranted by Company and have such warranties as may be extended by the respective manufacturer. **CUSTOMER UNDERSTANDS THAT COMPANY IS NOT THE MANUFACTURER OF ANY THIRD-PARTY PRODUCT(S) AND ANY WARRANTIES, CLAIMS, STATEMENTS, REPRESENTATIONS, OR SPECIFICATIONS ARE THOSE OF THE THIRD-PARTY**

MANUFACTURER, NOT COMPANY AND CUSTOMER IS NOT RELYING ON ANY WARRANTIES, CLAIMS, STATEMENTS, REPRESENTATIONS, OR SPECIFICATIONS REGARDING THE THIRD-PARTY PRODUCT THAT MAY BE PROVIDED BY COMPANY OR ITS AFFILIATES, WHETHER ORAL OR WRITTEN.

THE REMEDIES SET FORTH IN THIS LIMITED WARRANTY ARE THE SOLE AND EXCLUSIVE REMEDIES FOR WARRANTY CLAIMS PROVIDED BY COMPANY TO CUSTOMER UNDER THIS AGREEMENT AND ARE IN LIEU OF ALL OTHER WARRANTIES AND LIABILITIES, LIABILITIES, CONDITIONS AND REMEDIES, WHETHER IN CONTRACT, WARRANTY, STATUTE, OR TORT (INCLUDING NEGLIGENCE), EXPRESS OR IMPLIED, IN LAW OR IN FACT, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE OR FITNESS FOR A PARTICULAR PURPOSE AND/OR OTHERS ARISING FROM COURSE OF DEALING OR TRADE. COMPANY EXPRESSLY DISCLAIMS ANY REPRESENTATIONS OR WARRANTIES, ENDORSEMENTS OR CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF QUALITY, FITNESS, MERCHANTABILITY, DURABILITY AND/OR OTHERS ARISING FROM COURSE OF DEALING OR TRADE OR REGARDING PREVENTION BY THE SCOPE OF SERVICES, OR ANY COMPONENT THEREOF. COMPANY MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, INCLUDING WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE. ADDITIONALLY, COMPANY MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND REGARDING PREVENTING, ELIMINATING, REDUCING OR INHIBITING ANY MOLD, FUNGUS, BACTERIA, VIRUS, MICROBIAL GROWTH, OR ANY OTHER CONTAMINANTS (INCLUDING COVID-19 OR ANY SIMILAR VIRUS) (COLLECTIVELY, "CONTAMINANTS"), WHETHER INVOLVING OR IN CONNECTION WITH EQUIPMENT, ANY COMPONENT THEREOF, SERVICES OR OTHERWISE. IN NO EVENT SHALL COMPANY HAVE ANY LIABILITY FOR THE PREVENTION, ELIMINATION, REDUCTION OR INHIBITION OF THE GROWTH OR SPREAD OF SUCH CONTAMINANTS INVOLVING OR IN CONNECTION WITH ANY EQUIPMENT, THIRD-PARTY PRODUCT, OR ANY COMPONENT THEREOF, SERVICES OR OTHERWISE AND CUSTOMER HEREBY SPECIFICALLY ACKNOWLEDGES AND AGREES THERETO

13. Indemnity. To the maximum extent permitted by law, Company and Customer shall indemnify and hold harmless each other from any and all claims, actions, costs, expenses, damages and liabilities, including reasonable attorneys' fees, resulting from death or bodily injury or damage to real or personal property, to the extent caused by the negligence or misconduct of the indemnifying party, and/or its respective employees or authorized agents in connection with their activities within the scope of this Agreement. Neither party shall indemnify the other against claims, damages, expenses, or liabilities to the extent attributable to the acts or omissions of the other party or third parties. If the parties are both at fault, the obligation to indemnify shall be proportional to their relative fault. The duty to indemnify and hold harmless will continue in full force and effect, notwithstanding the expiration or early termination of this Agreement, with respect to any claims based on facts or conditions that occurred prior to expiration or termination of this Agreement.

14. Limitation of Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY, NEITHER PARTY SHALL BE LIABLE FOR SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL LOSSES OR DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION REFRIGERANT LOSS, PRODUCT LOSS, LOST REVENUE OR PROFITS, OR LIABILITY TO THIRD PARTIES), INCLUDING CONTAMINANTS LIABILITIES, OR PUNITIVE DAMAGES WHETHER BASED IN CONTRACT, WARRANTY, STATUTE, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, INDEMNITY OR ANY OTHER LEGAL THEORY OR FACTS. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, THE TOTAL AND AGGREGATE LIABILITY OF THE COMPANY TO THE CUSTOMER WITH RESPECT TO ANY AND ALL CLAIMS CONNECTED WITH, RELATED TO OR ARISING FROM THE PERFORMANCE OR NON-PERFORMANCE OF THIS AGREEMENT, WHETHER BASED IN CONTRACT, WARRANTY, STATUTE, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, INDEMNITY OR ANY OTHER LEGAL THEORY OR FACTS, SHALL NOT EXCEED THE COMPENSATION RECEIVED BY COMPANY UNDER THIS AGREEMENT. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY DAMAGES (WHETHER DIRECT OR INDIRECT) RESULTING FROM MOLD, FUNGUS, BACTERIA, MICROBIAL GROWTH, OR OTHER CONTAMINATES OR AIRBORNE BIOLOGICAL AGENTS. TO THE MAXIMUM EXTENT ALLOWED BY LAW, COMPANY SHALL NOT BE LIABLE FOR ANY OF THE FOLLOWING IN CONNECTION WITH PROVIDING THE ENERGY AND BUILDING PERFORMANCE SERVICES: INTERRUPTION, DELETION, DEFECT, DELAY IN OPERATION OR TRANSMISSION; CUSTOMER'S NETWORK SECURITY; COMPUTER VIRUS; COMMUNICATION FAILURE; THEFT OR DESTRUCTION OF DATA; GAPS IN DATA COLLECTED; AND UNAUTHORIZED ACCESS TO CUSTOMER'S DATA OR COMMUNICATIONS NETWORK.

15. CONTAMINANTS LIABILITY

The transmission of COVID-19 may occur in a variety of ways and circumstances, many of the aspects of which are currently not known. HVAC systems, products, services and other offerings have not been tested for their effectiveness in reducing the spread of COVID-19, including through the air in closed environments. IN NO EVENT WILL COMPANY BE LIABLE UNDER THIS AGREEMENT OR OTHERWISE FOR ANY INDEMNIFICATION, ACTION OR CLAIM, WHETHER BASED ON WARRANTY, CONTRACT, TORT OR OTHERWISE, FOR ANY BODILY INJURY (INCLUDING DEATH), DAMAGED TO PROPERTY, OR ANY OTHER LIABILITIES, DAMAGES OR COSTS RELATED TO CONTAMINANTS (INCLUDING THE SPREAD, TRANSMISSION MITIGATION, ELIMINATION, OR CONTAMINATION THEREOF) (COLLECTIVELY, "CONTAMINANTS LIABILITIES") AND CUSTOMER HEREBY EXPRESSLY RELEASES COMPANY FROM ANY SUCH CONTAMINANT LIABILITIES.

16. Asbestos and Hazardous Materials. The Services expressly exclude any identification, abatement, cleanup, control, disposal, removal or other work connected with asbestos or other hazardous materials (collectively, "Hazardous Materials"). Should Company become aware of or suspect the presence of Hazardous Materials, Company may immediately stop work in the affected area and shall notify Customer. Customer will be responsible for taking any and all action necessary to correct the condition in accordance with all applicable laws and regulations. Customer shall be exclusively responsible for any claims, liability, fees and penalties, and the payment thereof, arising out of or relating to any Hazardous Materials on or about the premises, not brought onto the premises by Company. Company shall be required to resume performance of the Services only when the affected area has been rendered harmless.

17. Insurance. Company agrees to maintain the following insurance during the term of the contract with limits not less than shown below and will, upon request from Customer, provide a Certificate of evidencing the following coverage:

Commercial General Liability	\$2,000,000 per occurrence
Automobile Liability	\$2,000,000 CSL
Workers Compensation	Statutory Limits

If Customer has requested to be named as an additional insured under Company's insurance policy, Company will do so but only subject to Company's manuscript additional insured endorsement under its primary Commercial General Liability policies. In no event does Company or its insurer waive its right of subrogation

18. Force Majeure. Company's duty to perform under this Agreement is contingent upon the non-occurrence of an Event of Force Majeure. If Company shall be unable to carry out any material obligation under this Agreement due to an Event of Force Majeure, this Agreement shall at Company's election (i) remain in effect but Company's obligations shall be suspended until the uncontrollable event terminates or (ii) be terminated upon ten (10) days' notice to Customer, in which event Customer shall pay Company for all parts of the Services furnished to the date of termination. An "Event of Force Majeure" shall mean any cause or event beyond the control of Company. Without limiting the foregoing, "Event of Force Majeure" includes: acts of God; acts of terrorism, war or the public enemy; flood; earthquake; lightning; tornado; storm; fire; civil disobedience; pandemic insurrections; riots; labor disputes; labor or material shortages; sabotage; restraint by court order or public authority (whether valid or invalid), and action or non-action by or inability to obtain or keep in force the necessary governmental authorizations, permits, licenses, certificates or approvals if not caused by Company and the requirements of any applicable government in any manner that diverts either the material or the finished product to the direct or indirect benefit of the government.

19. General. Except as provided below, to the maximum extent provided by law, this Agreement is made and shall be interpreted and enforced in accordance with the laws of the state or province in which the Services are performed without regard to choice of law principles which might otherwise call for the application of a different state's or province's law. Any dispute arising under or relating to this Agreement that is not disposed of by agreement shall be decided by litigation in a court of competent jurisdiction located in the state or province in which the Services are performed. To the extent the premises are owned and/or operated by any agency of the United States Federal Government, determination of any substantive issue of law shall be according to the United States Federal common law of Government contracts as enunciated and applied by Federal judicial bodies and boards of contract appeals of the Federal Government. This Agreement contains all of the agreements, representations and understandings of the parties and supersedes all previous understandings, commitments or agreements, oral or written, related to the Services. No documents shall be incorporated herein by reference except to the extent Company is a signatory thereon. If any term or condition of this Agreement is invalid, illegal or incapable of being enforced by any rule of law, all other terms and conditions of this Agreement will nevertheless remain in full force and effect as long as the economic or legal substance of the transaction contemplated hereby is not affected in a manner adverse to any party hereto. Customer may not assign, transfer, or convey this Agreement, or any part hereof, without the written consent of Company. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties hereto and their permitted successors and assigns. This Agreement may be executed in several counterparts, each of which when executed shall be deemed to be an original, but all together shall constitute but one and the same Agreement. A fully executed facsimile copy hereof or the several counterparts shall suffice as an original. No modifications, additions or changes may be made to this Agreement except in a writing signed by Company. No failure or delay by the Company in enforcing any right or exercising any remedy under this Agreement shall be deemed to be a waiver by the Company of any right or remedy.

20. Federal Requirements. The Parties shall comply with all United States federal labor law obligations under 29 CFR part 471, appendix A to subpart A. THE FOLLOWING PROVISIONS ARE INCORPORATED HEREIN BY REFERENCE: Executive Order 11701 and 41 CFR §§ 60-250.5(a), 60-300.5; Executive Order

11758 and 41 CFR § 60-741.5(a); U.S. immigration laws, including the L-1 Visa Reform Act of 2004 and the H-1B Visa Reform Act of 2004; and Executive Order 13496. The Parties shall abide by the requirements of 41 CFR 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to protected veteran status or disability. The Parties certify that they do not operate any programs promoting DEI that violate any applicable United States anti-discrimination laws and acknowledge and agree that their compliance with all applicable federal anti-discrimination laws is material to the federal government's payment decisions. The Parties acknowledge and agree that their employment, procurement, and contracting practices shall not consider race, color, sex, sexual preference, religion, or national origin in ways that violate United States federal civil rights laws.

21. U.S. Government Contracts.

The following provision applies only to direct sales by Company to the US Government. The Parties acknowledge that all items or services ordered and delivered under this Agreement / Purchase Order are Commercial Items as defined under Part 12 of the Federal Acquisition Regulation (FAR). In particular, Company agrees to be bound only by those Federal contracting clauses that apply to "commercial" suppliers and that are contained in FAR 52.212-5(e)(1). Company complies with 52.219-8 or 52.219-9 in its service and installation contracting business. **The following provision applies only to indirect sales by Company to the US Government.** As a Commercial Item Subcontractor, Company accepts only the following mandatory flow down provisions: 52.219-8; 52.222-26; 52.222-35; 52.222-36; 52.222-39; 52.247-64. If the Services are in connection with a U.S. government contract, Customer agrees and hereby certifies that it has provided and will provide current, accurate, and complete information, representations and certifications to all government officials, including but not limited to the contracting officer and officials of the Small Business Administration, on all matters related to the prime contract, including but not limited to all aspects of its ownership, eligibility, and performance. Anything herein notwithstanding, Company will have no obligations to Customer unless and until Customer provides Company with a true, correct and complete executed copy of the prime contract. Upon request, Customer will provide copies to Company of all requested written communications with any government official related to the prime contract prior to or concurrent with the execution thereof, including but not limited to any communications related to contractor's Customer's ownership, eligibility or performance of the prime contract. Customer will obtain written authorization and approval from Company prior to providing any government official any information about Company's performance of the Services that are the subject of this offer or agreement, other than the Proposal or this Agreement.

22. Limited Waiver of Sovereign Immunity. If Customer is an Indian tribe (in the U.S.) or a First Nation or Band Council (in Canada), Customer, whether acting in its capacity as a government, governmental entity, a duly organized corporate entity or otherwise, for itself and for its agents, successors, and assigns: (1) hereby provides this limited waiver of its sovereign immunity as to any damages, claims, lawsuit, or cause of action (herein "Action") brought against Customer by Company and arising or alleged to arise out of the furnishing by Company of any product or service under this Agreement, whether such Action is based in contract, tort, strict liability, civil liability or any other legal theory; (2) agrees that jurisdiction and venue for any such Action shall be proper and valid (a) if Customer is in the U.S., in any state or United States court located in the state in which Company is performing this Agreement or (b) if Customer is in Canada, in the superior court of the province or territory in which the work was performed; (3) expressly consents to such Action, and waives any objection to jurisdiction or venue; (4) waives any requirement of exhaustion of tribal court or administrative remedies for any Action arising out of or related to this Agreement; and (5) expressly acknowledges and agrees that Company is not subject to the jurisdiction of Customer's tribal court or any similar tribal forum, that Customer will not bring any action against Company in tribal court, and that Customer will not avail itself of any ruling or direction of the tribal court permitting or directing it to suspend its payment or other obligations under this Agreement. The individual signing on behalf of Customer warrants and represents that such individual is duly authorized to provide this waiver and enter into this Agreement and that this Agreement constitutes the valid and legally binding obligation of Customer, enforceable in accordance with its terms.

1-10.48 (0225)
Supersedes 1-10.48 (1024)

SECURITY ADDENDUM

This Addendum shall be applicable to the sale, installation and use of Trane equipment and the sale and provision of Trane services. "Trane" shall mean Trane U.S. Inc. for sales and services in the United States, or Trane Canada ULC for sales and services in Canada.

1. **Definitions.** All terms used in this Addendum shall have the meaning specified in the Agreement unless otherwise defined herein. For the purposes of this Addendum, the following terms are defined as follows:

"Customer Data" means Customer account information as related to the Services only and does not include HVAC Machine Data or personal data. Trane does not require, nor shall Customer provide personal data to Trane under the Agreement. Such data is not required for Trane to provide its Equipment and/or Services to the Customer.

"Equipment" shall have the meaning set forth in the Agreement.

"HVAC Machine Data" means data generated and collected from the product or furnished service without manual entry. HVAC Machine Data is data relating to the physical measurements and operating conditions of a HVAC system, such as but not limited to, temperatures, humidity, pressure, HVAC equipment status. HVAC Machine Data does not include Personal Data and, for the purposes of this agreement, the names of users of Trane's controls products or hosted applications shall not be Personal Data, if any such user chooses to use his/her name(s) in the created accounts within the controls product (e.g., firstname.lastname@address.com). HVAC Machine Data may be used by Trane: (a) to provide better support services and/or products to users of its products and services; (b) to assess compliance with Trane terms and conditions; (c) for statistical or other analysis of the collective characteristics and behaviors of product and services users; (d) to backup user and other data or information and/or provide remote support and/or restoration; (e) to provide or undertake: engineering analysis; failure analysis; warranty analysis; energy analysis; predictive analysis; service analysis; product usage analysis; and/or other desirable analysis, including, but not limited to, histories or trends of any of the foregoing; and (f) to otherwise understand and respond to the needs of users of the product or furnished service. **"Personal Data"** means data and/or information that is owned or controlled by Customer, and that names or identifies, or is about a natural person, such as: (i) data that is explicitly defined as a regulated category of data under any data privacy laws applicable to Customer; (ii) non-public personal information ("NPI") or personal information ("PI"), such as national identification number, passport number, social security number, social insurance number, or driver's license number; (iii) health or medical information, such as insurance information, medical prognosis, diagnosis information, or genetic information; (iv) financial information, such as a policy number, credit card number, and/or bank account number; (v) personally identifying technical information (whether transmitted or stored in cookies, devices, or otherwise), such as IP address, MAC address, device identifier, International Mobile Equipment Identifier ("IMEI"), or advertising identifier; (vi) biometric information; and/or (vii) sensitive personal data, such as, race, religion, marital status, disability, gender, sexual orientation, geolocation, or mother's maiden name.

"Security Incident" shall refer to (i) a compromise of any network, system, application or data in which Customer Data has been accessed or acquired by an unauthorized third party; (ii) any situation where Trane reasonably suspects that such compromise may have occurred; or (iii) any actual or reasonably suspected unauthorized or illegal Processing, loss, use, disclosure or acquisition of or access to any Customer Data.

"Services" shall have the meaning set forth in the Agreement.

2. **HVAC Machine Data; Access to Customer Extranet and Third Party Systems.** If Customer grants Trane access to HVAC Machine Data via web portals or other non-public websites or extranet services on Customer's or a third party's website or system (each, an "Extranet"), Trane will comply with the following:
- Accounts.** Trane will ensure that Trane's personnel use only the Extranet account(s) designated by Customer and will require Trane personnel to keep their access credentials confidential.
 - Systems.** Trane will access the Extranet only through computing or processing systems or applications running operating systems managed by Trane that include: (i) system network firewalls; (ii) centralized patch management; (iii) operating system appropriate anti-malware software; and (iv) for portable devices, full disk encryption.
 - Restrictions.** Unless otherwise approved by Customer in writing, Trane will not download, mirror or permanently store any HVAC Machine Data from any Extranet on any medium, including any machines, devices or servers.
 - Account Termination.** Trane will terminate the account of each of Trane's personnel in accordance with Trane's standard practices after any specific Trane personnel who has been authorized to access any Extranet (1) no longer needs access to HVAC Machine Data or (2) no longer qualifies as Trane personnel (e.g., the individual leaves Trane's employment).
 - Third Party Systems.** Trane will provide Customer prior notice before it uses any third party system that stores or may otherwise have access to HVAC Machine Data, unless (1) the data is encrypted and (2) the third party system will not have access to the decryption key or unencrypted "plain text" versions of the HVAC Machine Data.

3. Customer Data; Confidentiality. Trane shall keep confidential, and shall not access or use any Customer Data and information that is marked confidential or by its nature is considered confidential ("Customer Confidential Information") other than for the purpose of providing the Equipment and Services, and will disclose Customer Confidential Information only: (i) to Trane's employees and agents who have a need to know to perform the Services, (ii) as expressly permitted or instructed by Customer, or (iii) to the minimum extent required to comply with applicable law, provided that Trane (1) provides Customer with prompt written notice prior to any such disclosure, and (2) reasonably cooperate with Customer to limit or prevent such disclosure.
4. Customer Data; Compliance with Laws. Trane agrees to comply with laws, regulations governmental requirements and industry standards and practices relating to Trane's processing of Customer Confidential Information (collectively, "**Laws**").
5. Customer Data; Information Security Management. Trane agrees to establish and maintain an information security and privacy program, consistent with applicable HVAC equipment industry practices that complies with this Addendum and applicable Laws ("**Information Security Program**"). The Information Security Program shall include appropriate physical, technical and administrative safeguards, including any safeguards and controls agreed by the Parties in writing, sufficient to protect Customer systems, and Customer's Confidential Information from unauthorized access, destruction, use, modification or disclosure. The Information Security Program shall include appropriate, ongoing training and awareness programs designed to ensure that Trane's employees and agents, and others acting on Trane's, behalf are aware of and comply with the Information Security Program's policies, procedures, and protocols.
6. Monitoring. Trane shall monitor and, at regular intervals consistent with HVAC equipment industry practices, test and evaluate the effectiveness of its Information Security Program. Trane shall evaluate and promptly adjust its Information Security Program in light of the results of the testing and monitoring, any material changes to its operations or business arrangements, or any other facts or circumstances that Trane knows or reasonably should know may have a material impact on the security of Customer Confidential Information, Customer systems and Customer property.
7. Audits. Customer acknowledges and agrees that the Trane SOC2 audit report will be used to satisfy any and all audit/inspection requests/requirements by or on behalf of Customer. Trane will make its SOC2 audit report available to Customer upon request and with a signed nondisclosure agreement.
8. Information Security Contact. Trane's information security contact is Local Sales Office.
9. Security Incident Management. Trane shall notify Customer after the confirmation of a Security Incident that affects Customer Confidential Information, Customer systems and Customer property. The written notice shall summarize the nature and scope of the Security Incident and the corrective action already taken or planned.
10. Threat and Vulnerability Management. Trane regularly performs vulnerability scans and addresses detected vulnerabilities on a risk basis. Periodically, Trane engages third-parties to perform network vulnerability assessments and penetration testing. Vulnerabilities will be reported in accordance with Trane's cybersecurity vulnerability reported process. Trane periodically provides security updates and software upgrades.
11. Security Training and Awareness. New employees are required to complete security training as part of the new hire process and receive annual and targeted training (as needed and appropriate to their role) thereafter to help maintain compliance with Security Policies, as well as other corporate policies, such as the Trane Code of Conduct. This includes requiring Trane employees to annually re-acknowledge the Code of Conduct and other Trane policies as appropriate. Trane conducts periodic security awareness campaigns to educate personnel about their responsibilities and provide guidance to create and maintain a secure workplace.
12. Secure Disposal Policies. Trane will maintain policies, processes, and procedures regarding the disposal of tangible and intangible property containing Customer Confidential Information so that wherever possible, Customer Confidential Information cannot be practicably read or reconstructed.
13. Logical Access Controls. Trane employs internal monitoring and logging technology to help detect and prevent unauthorized access attempts to Trane's corporate networks and production systems. Trane's monitoring includes a review of changes affecting systems' handling authentication, authorization, and auditing, and privileged access to Trane production systems. Trane uses the principle of "least privilege" (meaning access denied unless specifically granted) for access to customer data.
14. Contingency Planning/Disaster Recovery. Trane will implement policies and procedures required to respond to an emergency or other occurrence (i.e. fire, vandalism, system failure, natural disaster) that could damage Customer Data or any system that contains Customer Data. Procedures include the following
 - (i) Data backups; and
 - (ii) Formal disaster recovery plan. Such disaster recovery plan is tested at least annually.

15. Return of Customer Data. If Trane is responsible for storing or receiving Customer Data, Trane shall, at Customer's sole discretion, deliver Customer Data to Customer in its preferred format within a commercially reasonable period of time following the expiration or earlier termination of the Agreement or, such earlier time as Customer requests, securely destroy or render unreadable or undecipherable each and every original and copy in every media of all Customer's Data in Trane's possession, custody or control no later than [90 days] after receipt of Customer's written instructions directing Trane to delete the Customer Data.
16. Background Checks Trane shall take reasonable steps to ensure the reliability of its employees or other personnel having access to the Customer Data, including the conducting of appropriate background and/or verification checks in accordance with Trane policies.
17. DISCLAIMER OF WARRANTIES. EXCEPT FOR ANY APPLICABLE WARRANTIES IN THE AGREEMENT, THE SERVICES ARE PROVIDED "AS IS", WITH ALL FAULTS, AND THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY AND EFFORT AS TO SUCH SERVICES SHALL BE WITH CUSTOMER. TRANE DISCLAIMS ANY AND ALL OTHER EXPRESS OR IMPLIED REPRESENTATIONS AND WARRANTIES WITH RESPECT TO THE SERVICES AND THE SERVICES PROVIDED HEREUNDER, INCLUDING ANY EXPRESS OR IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR THAT THE SERVICES WILL OPERATE ERROR-FREE OR UNINTERRUPTED OR RETURN/RESPONSE TO INQUIRIES WITHIN ANY SPECIFIC PERIOD OF TIME.

October 2024
Supersedes: November 2023v2

APPENDIX

SAFETY

Since 2003, U.S. Bureau of Labor Statistics records have consistently shown the Total Recordable Incident Rate (TRIR) and Days Away From Work (DAFW) for Trane have been significantly lower than those for HVAC repair and maintenance contractors and specialty trade contractors (construction). The company's safety culture in America is unparalleled in the building service industry, with proven results in the continuous reduction of injury rates. Trane incident rates (OSHA) are consistently 50 to 70 percent below the industry average.

A wide range of safety training and resources are available to Trane technicians, including:

- Safety training—20 hours per year
- Electrical safety—NFPA 70E compliant, electrical PPE
- Fall protection
- Ergonomics
- USDOT compliance
- Refrigerant management training

ENVIRONMENTAL PRACTICES

Trane policies and procedures are compliant with all federal and state regulations. Refrigerant (and substitutes) handling, storage and leak repair processes are compliant with Environmental Protection Agency regulation 40 CFR Part 82. Service technicians are Universal-certified and use only certified recovery equipment.

Refrigerant Management Software (RMS) captures, manages and reports all refrigerant activity at your site. Upon request, Trane can send you an annual report documenting all refrigerant activity that we performed for each piece of equipment during the past 12 months.

Trane adheres to all environmental regulations when removing used oil from refrigeration units.

CONSISTENCY

Nationwide, Trane technicians follow documented, formal processes that ensure uniform service delivery. As an OEM, Trane has developed exclusive service procedures which provide the most reliable outcomes, and extended equipment longevity, at the most cost-effective price.

- Exclusive service work flow processes provide detailed steps and information encompassing parts, materials, tools and sequence of execution
- Additional steps addressing safety, quality control, work validation and environmental compliance
- Technicians must consistently reference documented processes to ensure no critical steps are skipped or omitted
- Applicable service processes meet or exceed ASHRAE 180-2008 Standard Practice for Inspection and Maintenance of Commercial Building HVAC Systems





TOWN COUNCIL AGENDA I.5. CONSENT ITEM(S)

DATE: July 21, 2025

FROM: Chuck Dunn, Facilities Manager

ITEM: Consider the approval for the purchase and installation of 4 new HVAC units from Trane at Fire Station 5 for the amount of \$76,246.00.

BACKGROUND:

- The 4 HVAC systems that supplies Fire Station #5 are original and are reaching the end of their useful life. All systems are complete replacement consisting of replacement of the gas furnaces, cased evaporator coils and outdoor condensing units. Town Council approved this HVAC replacement project for the 24/25 budget year.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: \$76,246.00

Proposed Expenditure/(Revenue)
\$76,246.00

Account Number(s):
100-655-59200-4030

LEGAL REVIEW: N/A

ATTACHMENTS:

1. Fire Station 5 Unit Replacement-quote

DRAFT MOTION: Move to approve as presented in the agenda caption.



Trane U.S. Inc.
1617 Hutton Drive
Carrollton, Texas 75006
Phone: (469) 758-3000
Fax: (972) 243-1398

July 2, 2025

Town Of Flowermound
2121 Cross Timber Road
Flower Mound, Texas 75028-7502

Site Address:
Fire Station 5
800 Spinks Road
Flower Mound, Texas 75028

ATTENTION:

PROJECT NAME: Town of Flower Mound Fire Station 5 unit replacement

CO-OP QUOTE NUMBER: L3-02-10514-25-009 **CO-OP OR FEDERAL CONTRACT ID:** OMNIA Racine #3341

We are pleased to propose the following Trane services for the equipment listed. Services will be performed using Trane's exclusive service procedures provided by factory trained and experienced technicians. You receive the full benefit of our expertise derived from being Trane equipment's original manufacturer. Our procedures are environmentally and safety conscious while providing for the efficient delivery of these services.

EQUIPMENT LIST

Product Data - Split System Air Conditioning Units (Small)

All Units

Touchscreen Programmable Thermostat, 4H/2C (Field Installed)
5 year parts and labor warranty – *refrigerant is excluded*

Item: A1 Qty: 2 Tag(s): SS-1, SS-2

5TTA4 - Split System Single Stage Cooling Outdoor Unit, Three Phase, R-454B
4 Ton Nominal Cooling Capacity
200-230/60/3

Gas Furnace, 90% Efficiency, 1 Stage, Multi-speed, 21" Wide
100,000 BTUH Heating Input
4-Way - Upflow, Horizontal Right, Horizontal Left or Downflow
5 Ton Airflow Capacity
Permanent Split Capacitor Two Speed Inducer
Standard 24 Volt Control

5TXC - Aluminum Cased Convertible Coil, R-454B
24.5" Coil Width
48 MBH Nominal Cooling Capacity
TXV-Non Bleed
Convertible Coil (Upflow/Downflow/Horizontal Left or Right)
SlimFit Filter and Insulated Frame (Field Installed)

Item: A2 Qty: 1 Tag(s): SS-3

5TTR4 - Split System Single Stage Cooling Outdoor Unit, R-454B
2.5 Ton Nominal Cooling Capacity
200/230/60/1
5TEM - Air Handler, R-454B
Multi-position upflow/downflow/horizontal left/horizontal right
23.5" Cabinet Width
24 - 42 MBH Cooling Capacity
Constant Torque Motor
3 Tons
208-230/60/1
24 Volt Controls
10.80/14.40 kW Htr w/Ckt Brk 208/240/1 (Field Installed)
External Filter Rack (Field Installed)

Item: A3 Qty: 1 Tag(s): SS-4

5TTA4 - Split System Single Stage Cooling Outdoor Unit, Three Phase, R-454B
3 Ton Nominal Cooling Capacity
200-230/60/3
Gas Furnace, 90% Efficiency, 1 Stage, Multi-speed, 21" Wide
80,000 BTUH Heating Input
4-Way - Upflow, Horizontal Right, Horizontal Left or Downflow
5 Ton Airflow Capacity
Permanent Split Capacitor Two Speed Inducer
Standard 24 Volt Control
5TXC - Aluminum Cased Convertible Coil, R-454B
21" Coil Width
36 MBH Nominal Cooling Capacity
TXV-Non Bleed
Convertible Coil (Upflow/Downflow/Horizontal Left or Right)
SlimFit Filter and Insulated Frame (Field Installed)

SCOPE OF SERVICE

- This project consists of the replacement of four system. Two systems on the second floor mezzanine machine room, One system in the attic space accessible via man hole and ladder, and one on the second floor storage in the garage.
- All systems are complete replacement consisting of replacement of the gas furnaces, cased evaporator coils and outdoor condensing units.
- System one located on the second-floor mezzanine will also include the replacement of the supply air ducting. With highlighted changed to non-lined radius elbows and straight duct and will include wrapped insulation.
- Due to the change from R-410a refrigerant to R-454b, all line sets will be flushed with RX-11 flush.
- Existing controls and electrical disconnects will be reused.
- New equipment will be reconnected to existing utility (Gas / electric / drains)
- All old equipment will be removed and disposed of after work is completed.

PRICING AND ACCEPTANCE

EQUIPMENT AND INSTALL PRICE:.....**\$76,246.00**

CLARIFICATIONS

1. Applicable taxes are not included and will be added to the invoice.
2. Any service not listed is not included.
3. Work will be performed during normal Trane business hours.
4. This proposal is valid for 30 days from July 2nd, 2025.

I appreciate the opportunity to earn your business and look forward to helping you with all of your service needs. Please contact me if you have any questions or concerns.

Sincerely,

Nick

TARIFFS

Trane shall have the right, at its discretion, to pass along any related increases should (1) its costs related to the manufacture, supply, and shipping for any product or service materially increase. This includes, but is not limited to, cost increases in raw materials, supplier components, labor, utilities, freight, logistics, wages and benefits, regulatory compliance, or any other event beyond Company's control and/or (2) any tariffs, taxes, levies or fees affecting, placed on or related to any product or service materially increases.

This agreement is subject to Customer's acceptance of the attached Trane Terms and Conditions – Quoted Service.

CUSTOMER ACCEPTANCE

Authorized Representative

Printed Name

Title

Purchase Order

Acceptance Date

Trane's License Number: TACLA139379C

ACCOUNT CHECKLIST-QUOTED WORK



Customer, please complete the following information.

1. Does your company require a PO to schedule work? ☐ YES ☐ NO
 - a) If yes Provide PO Number here: Click or tap here to enter text.
 - b) If no please provide what you would like to use in place of a PO: Click or tap here to enter text.
2. Is there any specific documentation required with your invoice? ☐ YES ☐ NO
 - a) If Yes, Please specify: Click or tap here to enter text.
3. How would you like your invoice delivered? ☐ MAIL ☐ EMAIL ☐ EDI (Automatic)
☐ WEB 3rd Party System (Coupa, Corrigo, Ariba, Tungsten, etc....) :Click or tap here to enter text.
4. Please provide your Bill To Address: Click or tap here to enter text.
5. For PAYMENT inquiries, please provide contact and details below:
 - a) Full Name: Click or tap here to enter text.
 - b) Direct Phone Number: Click or tap here to enter text.
 - c) Email Address: Click or tap here to enter text.
6. Is this site TAX EXEMPT? ☐ YES ☐ NO

If YES, please click link to upload a VALID exemption for the state where the work will be performed and provide a copy to your Trane contact.

****Please upload all Tax Exemption Certificates to <http://trane.certifytax.com/custportals.aspx>***

****Please Note: Trane Payment Terms are Net 30 Days***

TERMS AND CONDITIONS – QUOTED SERVICE

“Company” shall mean Trane U.S. Inc..

To obtain repair service within the scope of Services as defined, contact your local Trane District office identified on the first page of the Agreement by calling the telephone number stated on that page. That Trane District office is responsible for Company's performance of this Agreement. Only Trane authorized personnel may perform service under this Agreement. For Service covered under this Agreement, Company will be responsible for the cost of transporting a part requiring service.

1. Agreement. These terms and conditions are an integral part of Company's offer and form the basis of any agreement (the “Agreement”) resulting from Company's proposal (the “Proposal”) for the services (the “Services”) on equipment listed in the Proposal (the “Covered Equipment”). **COMPANY'S TERMS AND CONDITIONS ARE SUBJECT TO PERIODIC CHANGE OR AMENDMENT.**

2. Connected Services. In addition to these terms and conditions, the Connected Services Terms of Service (“Connected Services Terms”), available at <https://www.trane.com/TraneConnectedServicesTerms>, as updated from time to time, are incorporated herein by reference and shall apply to the extent that Company provides Customer with Connected Services, as defined in the Connected Services Terms.

3. Acceptance. The Proposal is subject to acceptance in writing by the party to whom this offer is made or an authorized agent (“Customer”) delivered to Company within 30 days from the date of the Proposal. If Customer accepts the Proposal by placing an order, without the addition of any other terms and conditions of sale or any other modification, Customer's order shall be deemed acceptance of the Proposal subject to Company's terms and conditions. If Customer's order is expressly conditioned upon the Company's acceptance or assent to terms and/or conditions other than those expressed herein, return of such order by Company with Company's terms and conditions attached or referenced serves as Company's notice of objection to Customer's terms and as Company's counteroffer to provide Services in accordance with the Proposal. If Customer does not reject or object in writing to Company within 10 days, the Company's counteroffer will be deemed accepted. Customer's acceptance of the Services by Company will in any event constitute an acceptance by Customer of Company's terms and conditions. In the case of a dispute, the applicable terms and conditions will be those in effect at the time of delivery or acceptance of the Services. This Agreement is subject to credit approval by Company. Upon disapproval of credit, Company may delay or suspend performance or, at its option, renegotiate prices and/or terms and conditions with Customer. If Company and Customer are unable to agree on such revisions, this Agreement shall be cancelled without any liability, other than Customer's obligation to pay for Services rendered by Company to the date of cancellation.

4. Cancellation by Customer Prior to Services; Refund. If Customer cancels this Agreement within (a) thirty (30) days of the date this Agreement was mailed to Customer or (b) twenty (20) days of the date this Agreement was delivered to Customer, if it was delivered at the time of sale, and no Services have been provided by Company under this Agreement, the Agreement will be void and Company will refund to Customer, or credit Customer's account, the full Service Fee of this Agreement that Customer paid to Company, if any. A ten percent (10%) penalty per month will be added to a refund that is due but is not paid or credited within forty-five (45) days after return of this Agreement to Company. Customer's right to cancel this Agreement only applies to the original owner of this Agreement and only if no Services have been provided by Company under this Agreement prior to its return to Company.

5. Cancellation by Company. This Agreement may be cancelled by Company for any reason or no reason, upon written notice from Company to Customer no later than 30 days prior to performance of any Services hereunder and Company will refund to Customer, or credit Customer's account, that part of the Service Fee attributable to Services not performed by Company. Customer shall remain liable for and shall pay to Company all amounts due for Services provided by Company and not yet paid.

6. Services Fees and Taxes. Fees for the Services (the “Service Fee(s)”) shall be as set forth in the Proposal and are based on performance during regular business hours. Fees for outside Company's regular business hours and any after-hours services shall be billed separately according to the then prevailing overtime or emergency labor/labour rates. In addition to the stated Service Fee, Customer shall pay all taxes not legally required to be paid by Company or, alternatively, shall provide Company with acceptable tax exemption certificates. Customer shall pay all costs (including attorneys' fees) incurred by Company in attempting to collect amounts due.

7. Payment. Payment is due upon receipt of Company's invoice. Company reserves the right to add to any account outstanding for more than 30 days a service charge equal to the lesser of the maximum allowable legal interest rate or 1.5% of the principal amount due at the end of each month. Customer shall pay all costs (including attorneys' fees) incurred by Company in attempting to collect amounts due or otherwise enforcing these terms and conditions.

8. Customer Breach. Each of the following events or conditions shall constitute a breach by Customer and shall give Company the right, without an election of remedies, to terminate this Agreement or suspend performance by delivery of written notice: (1) Any failure by Customer to pay amounts when due; or (2) any general assignment by Customer for the benefit of its creditors, or if Customer becomes bankrupt or insolvent or takes the benefit of any statute for bankrupt or insolvent debtors, or makes or proposes to make any proposal or arrangement with creditors, or if any steps are taken for the winding up or other termination of Customer or the liquidation of its assets, or if a trustee, receiver, or similar person is appointed over any of the assets or interests of Customer; (3) Any representation or warranty furnished by Customer in connection with this Agreement is false or misleading in any material respect when made; or (4) Any failure by Customer to perform or comply with any material provision of this Agreement. Customer shall be liable to the Company for all Services furnished to date and all damages sustained by Company (including lost profit and overhead)

9. Performance. Company shall perform the Services in accordance with industry standards generally applicable in the state or province where the Services are performed under similar circumstances as of the time Company performs the Services. Company is not liable for any claims, damages, losses, or expenses, arising from or related to work done by or services provided by individuals or entities that are not employed by or hired by Company. Company may refuse to perform any Services or work where working conditions could endanger property or put at risk the safety of people. Parts used for any repairs made will be those selected by Company as suitable for the repair and may be parts not manufactured by Company. Customer must reimburse Company for services, repairs, and/or replacements performed by Company at Customer's request beyond the scope of Services or otherwise excluded under this Agreement. The reimbursement shall be at the then prevailing applicable regular, overtime, or holiday rates for labor/labour and prices for materials. Prior to Company performing the additional services, repairs, and/or replacements, Customer may request a separate written quote stating the work to be performed and the price to be paid by Customer for the work.

10. Customer Obligations. Customer shall: (a) provide Company reasonable and safe access to the Covered Equipment and areas where Company is to work; and (b) unless otherwise agreed by Customer and Company, at Customer's expense and before the Services begin, Customer will provide any necessary access platforms, catwalks to safely perform the Services in compliance with OSHA, state, or provincial industrial safety regulations or any other applicable industrial safety standards or guidelines.

11. Exclusions. Unless expressly included in the Proposal, the Services do not include, and Company shall not be responsible for or liable to the Customer for, any claims, losses, damages or expenses suffered by the Customer in any way connected with, relating to or arising from any of the following:

- (a) Any guarantee of room conditions or system performance;
- (b) Inspection, operation, maintenance, repair, replacement or performance of work or services outside the Services;
- (c) Damage, repairs or replacement of parts made necessary as a result of the acts or omission of Customer or any Event of Force Majeure;
- (d) Any claims, damages, losses, or expenses, arising from or related to conditions that existed in, on, or upon the premises before the effective date of this Agreement (“Pre-Existing Conditions”) including, without limitation, damages, losses, or expenses involving a Pre-Existing Condition of building envelope issues, mechanical issues, plumbing issues, and/or indoor air quality issues involving mold/mould, bacteria, microbial growth, fungi or other contaminants or airborne biological agents; and
- (e) Replacement of refrigerant is excluded, unless replacement of refrigerant is expressly stated as included with the Proposal.

12. Limited Warranty. Company warrants that: (a) the material manufactured by Company and provided to the Customer in performance of the Services is free from defects in material and manufacture for a period of 12 months from the earlier of the date of equipment start-up or replacement and (b) the labor/labour portion of the Services is warranted to have been properly performed for a period of 90 days from date of completion (the “Limited Warranty”). Company obligations of equipment start-up, if any are stated in the Proposal, are coterminous with the Limited Warranty period. Defects must be reported to Company within the Limited Warranty period. Company's obligation under the Limited Warranty is limited to repairing or replacing the defective part at its option and to correcting any improperly performed labor/labour. No liability whatsoever shall attach to Company until the Services have been paid for in full. Exclusions from this Limited Warranty include claims, losses, damages, and expenses in any way connected with, related to, or arising from failure or malfunction of equipment due to the following: wear and tear; end of life failure; corrosion; erosion; deterioration; Customer's failure to follow the Company-provided maintenance plan; unauthorized or improper maintenance; unauthorized or improper parts or material; refrigerant not supplied by Company; and modifications made by others to Company's equipment. Company shall not be obligated to pay for the cost of lost refrigerant or lost product. Some components of Company equipment may be warranted directly from the component supplier, in which case this Limited Warranty shall not apply to those components and any warranty of such components shall be the warranty given by the component supplier. Notwithstanding the foregoing, all warranties provided herein terminate upon termination or cancellation of this Agreement. Equipment, material and/or parts that are not manufactured by Company (“Third-Party Product(s)”) are not warranted by Company and have such warranties as may be extended by the respective manufacturer. **CUSTOMER UNDERSTANDS THAT COMPANY IS NOT THE MANUFACTURER OF ANY THIRD-PARTY PRODUCT(S) AND ANY WARRANTIES, CLAIMS, STATEMENTS, REPRESENTATIONS, OR SPECIFICATIONS ARE THOSE OF THE THIRD-PARTY**

MANUFACTURER, NOT COMPANY AND CUSTOMER IS NOT RELYING ON ANY WARRANTIES, CLAIMS, STATEMENTS, REPRESENTATIONS, OR SPECIFICATIONS REGARDING THE THIRD-PARTY PRODUCT THAT MAY BE PROVIDED BY COMPANY OR ITS AFFILIATES, WHETHER ORAL OR WRITTEN.

THE REMEDIES SET FORTH IN THIS LIMITED WARRANTY ARE THE SOLE AND EXCLUSIVE REMEDIES FOR WARRANTY CLAIMS PROVIDED BY COMPANY TO CUSTOMER UNDER THIS AGREEMENT AND ARE IN LIEU OF ALL OTHER WARRANTIES AND LIABILITIES, LIABILITIES, CONDITIONS AND REMEDIES, WHETHER IN CONTRACT, WARRANTY, STATUTE, OR TORT (INCLUDING NEGLIGENCE), EXPRESS OR IMPLIED, IN LAW OR IN FACT, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE OR FITNESS FOR A PARTICULAR PURPOSE AND/OR OTHERS ARISING FROM COURSE OF DEALING OR TRADE. COMPANY EXPRESSLY DISCLAIMS ANY REPRESENTATIONS OR WARRANTIES, ENDORSEMENTS OR CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF QUALITY, FITNESS, MERCHANTABILITY, DURABILITY AND/OR OTHERS ARISING FROM COURSE OF DEALING OR TRADE OR REGARDING PREVENTION BY THE SCOPE OF SERVICES, OR ANY COMPONENT THEREOF. COMPANY MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, INCLUDING WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE. ADDITIONALLY, COMPANY MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND REGARDING PREVENTING, ELIMINATING, REDUCING OR INHIBITING ANY MOLD, FUNGUS, BACTERIA, VIRUS, MICROBIAL GROWTH, OR ANY OTHER CONTAMINANTS (INCLUDING COVID-19 OR ANY SIMILAR VIRUS) (COLLECTIVELY, "CONTAMINANTS"), WHETHER INVOLVING OR IN CONNECTION WITH EQUIPMENT, ANY COMPONENT THEREOF, SERVICES OR OTHERWISE. IN NO EVENT SHALL COMPANY HAVE ANY LIABILITY FOR THE PREVENTION, ELIMINATION, REDUCTION OR INHIBITION OF THE GROWTH OR SPREAD OF SUCH CONTAMINANTS INVOLVING OR IN CONNECTION WITH ANY EQUIPMENT, THIRD-PARTY PRODUCT, OR ANY COMPONENT THEREOF, SERVICES OR OTHERWISE AND CUSTOMER HEREBY SPECIFICALLY ACKNOWLEDGES AND AGREES THERETO

13. Indemnity. To the maximum extent permitted by law, Company and Customer shall indemnify and hold harmless each other from any and all claims, actions, costs, expenses, damages and liabilities, including reasonable attorneys' fees, resulting from death or bodily injury or damage to real or personal property, to the extent caused by the negligence or misconduct of the indemnifying party, and/or its respective employees or authorized agents in connection with their activities within the scope of this Agreement. Neither party shall indemnify the other against claims, damages, expenses, or liabilities to the extent attributable to the acts or omissions of the other party or third parties. If the parties are both at fault, the obligation to indemnify shall be proportional to their relative fault. The duty to indemnify and hold harmless will continue in full force and effect, notwithstanding the expiration or early termination of this Agreement, with respect to any claims based on facts or conditions that occurred prior to expiration or termination of this Agreement.

14. Limitation of Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY, NEITHER PARTY SHALL BE LIABLE FOR SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL LOSSES OR DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION REFRIGERANT LOSS, PRODUCT LOSS, LOST REVENUE OR PROFITS, OR LIABILITY TO THIRD PARTIES), INCLUDING CONTAMINANTS LIABILITIES, OR PUNITIVE DAMAGES WHETHER BASED IN CONTRACT, WARRANTY, STATUTE, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, INDEMNITY OR ANY OTHER LEGAL THEORY OR FACTS. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, THE TOTAL AND AGGREGATE LIABILITY OF THE COMPANY TO THE CUSTOMER WITH RESPECT TO ANY AND ALL CLAIMS CONNECTED WITH, RELATED TO OR ARISING FROM THE PERFORMANCE OR NON-PERFORMANCE OF THIS AGREEMENT, WHETHER BASED IN CONTRACT, WARRANTY, STATUTE, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, INDEMNITY OR ANY OTHER LEGAL THEORY OR FACTS, SHALL NOT EXCEED THE COMPENSATION RECEIVED BY COMPANY UNDER THIS AGREEMENT. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY DAMAGES (WHETHER DIRECT OR INDIRECT) RESULTING FROM MOLD, FUNGUS, BACTERIA, MICROBIAL GROWTH, OR OTHER CONTAMINATES OR AIRBORNE BIOLOGICAL AGENTS. TO THE MAXIMUM EXTENT ALLOWED BY LAW, COMPANY SHALL NOT BE LIABLE FOR ANY OF THE FOLLOWING IN CONNECTION WITH PROVIDING THE ENERGY AND BUILDING PERFORMANCE SERVICES: INTERRUPTION, DELETION, DEFECT, DELAY IN OPERATION OR TRANSMISSION; CUSTOMER'S NETWORK SECURITY; COMPUTER VIRUS; COMMUNICATION FAILURE; THEFT OR DESTRUCTION OF DATA; GAPS IN DATA COLLECTED; AND UNAUTHORIZED ACCESS TO CUSTOMER'S DATA OR COMMUNICATIONS NETWORK.

15. CONTAMINANTS LIABILITY

The transmission of COVID-19 may occur in a variety of ways and circumstances, many of the aspects of which are currently not known. HVAC systems, products, services and other offerings have not been tested for their effectiveness in reducing the spread of COVID-19, including through the air in closed environments. IN NO EVENT WILL COMPANY BE LIABLE UNDER THIS AGREEMENT OR OTHERWISE FOR ANY INDEMNIFICATION, ACTION OR CLAIM, WHETHER BASED ON WARRANTY, CONTRACT, TORT OR OTHERWISE, FOR ANY BODILY INJURY (INCLUDING DEATH), DAMAGED TO PROPERTY, OR ANY OTHER LIABILITIES, DAMAGES OR COSTS RELATED TO CONTAMINANTS (INCLUDING THE SPREAD, TRANSMISSION MITIGATION, ELIMINATION, OR CONTAMINATION THEREOF) (COLLECTIVELY, "CONTAMINANTS LIABILITIES") AND CUSTOMER HEREBY EXPRESSLY RELEASES COMPANY FROM ANY SUCH CONTAMINANT LIABILITIES.

16. Asbestos and Hazardous Materials. The Services expressly exclude any identification, abatement, cleanup, control, disposal, removal or other work connected with asbestos or other hazardous materials (collectively, "Hazardous Materials"). Should Company become aware of or suspect the presence of Hazardous Materials, Company may immediately stop work in the affected area and shall notify Customer. Customer will be responsible for taking any and all action necessary to correct the condition in accordance with all applicable laws and regulations. Customer shall be exclusively responsible for any claims, liability, fees and penalties, and the payment thereof, arising out of or relating to any Hazardous Materials on or about the premises, not brought onto the premises by Company. Company shall be required to resume performance of the Services only when the affected area has been rendered harmless.

17. Insurance. Company agrees to maintain the following insurance during the term of the contract with limits not less than shown below and will, upon request from Customer, provide a Certificate of evidencing the following coverage:

Commercial General Liability	\$2,000,000 per occurrence
Automobile Liability	\$2,000,000 CSL
Workers Compensation	Statutory Limits

If Customer has requested to be named as an additional insured under Company's insurance policy, Company will do so but only subject to Company's manuscript additional insured endorsement under its primary Commercial General Liability policies. In no event does Company or its insurer waive its right of subrogation

18. Force Majeure. Company's duty to perform under this Agreement is contingent upon the non-occurrence of an Event of Force Majeure. If Company shall be unable to carry out any material obligation under this Agreement due to an Event of Force Majeure, this Agreement shall at Company's election (i) remain in effect but Company's obligations shall be suspended until the uncontrollable event terminates or (ii) be terminated upon ten (10) days' notice to Customer, in which event Customer shall pay Company for all parts of the Services furnished to the date of termination. An "Event of Force Majeure" shall mean any cause or event beyond the control of Company. Without limiting the foregoing, "Event of Force Majeure" includes: acts of God; acts of terrorism, war or the public enemy; flood; earthquake; lightning; tornado; storm; fire; civil disobedience; pandemic insurrections; riots; labor disputes; labor or material shortages; sabotage; restraint by court order or public authority (whether valid or invalid), and action or non-action by or inability to obtain or keep in force the necessary governmental authorizations, permits, licenses, certificates or approvals if not caused by Company and the requirements of any applicable government in any manner that diverts either the material or the finished product to the direct or indirect benefit of the government.

19. General. Except as provided below, to the maximum extent provided by law, this Agreement is made and shall be interpreted and enforced in accordance with the laws of the state or province in which the Services are performed without regard to choice of law principles which might otherwise call for the application of a different state's or province's law. Any dispute arising under or relating to this Agreement that is not disposed of by agreement shall be decided by litigation in a court of competent jurisdiction located in the state or province in which the Services are performed. To the extent the premises are owned and/or operated by any agency of the United States Federal Government, determination of any substantive issue of law shall be according to the United States Federal common law of Government contracts as enunciated and applied by Federal judicial bodies and boards of contract appeals of the Federal Government. This Agreement contains all of the agreements, representations and understandings of the parties and supersedes all previous understandings, commitments or agreements, oral or written, related to the Services. No documents shall be incorporated herein by reference except to the extent Company is a signatory thereon. If any term or condition of this Agreement is invalid, illegal or incapable of being enforced by any rule of law, all other terms and conditions of this Agreement will nevertheless remain in full force and effect as long as the economic or legal substance of the transaction contemplated hereby is not affected in a manner adverse to any party hereto. Customer may not assign, transfer, or convey this Agreement, or any part hereof, without the written consent of Company. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties hereto and their permitted successors and assigns. This Agreement may be executed in several counterparts, each of which when executed shall be deemed to be an original, but all together shall constitute but one and the same Agreement. A fully executed facsimile copy hereof or the several counterparts shall suffice as an original. No modifications, additions or changes may be made to this Agreement except in a writing signed by Company. No failure or delay by the Company in enforcing any right or exercising any remedy under this Agreement shall be deemed to be a waiver by the Company of any right or remedy.

20. Federal Requirements. The Parties shall comply with all United States federal labor law obligations under 29 CFR part 471, appendix A to subpart A. THE FOLLOWING PROVISIONS ARE INCORPORATED HEREIN BY REFERENCE: Executive Order 11701 and 41 CFR §§ 60-250.5(a), 60-300.5; Executive Order

11758 and 41 CFR § 60-741.5(a); U.S. immigration laws, including the L-1 Visa Reform Act of 2004 and the H-1B Visa Reform Act of 2004; and Executive Order 13496. The Parties shall abide by the requirements of 41 CFR 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to protected veteran status or disability. The Parties certify that they do not operate any programs promoting DEI that violate any applicable United States anti-discrimination laws and acknowledge and agree that their compliance with all applicable federal anti-discrimination laws is material to the federal government's payment decisions. The Parties acknowledge and agree that their employment, procurement, and contracting practices shall not consider race, color, sex, sexual preference, religion, or national origin in ways that violate United States federal civil rights laws.

21. U.S. Government Contracts.

The following provision applies only to direct sales by Company to the US Government. The Parties acknowledge that all items or services ordered and delivered under this Agreement / Purchase Order are Commercial Items as defined under Part 12 of the Federal Acquisition Regulation (FAR). In particular, Company agrees to be bound only by those Federal contracting clauses that apply to "commercial" suppliers and that are contained in FAR 52.212-5(e)(1). Company complies with 52.219-8 or 52.219-9 in its service and installation contracting business. **The following provision applies only to indirect sales by Company to the US Government.** As a Commercial Item Subcontractor, Company accepts only the following mandatory flow down provisions: 52.219-8; 52.222-26; 52.222-35; 52.222-36; 52.222-39; 52.247-64. If the Services are in connection with a U.S. government contract, Customer agrees and hereby certifies that it has provided and will provide current, accurate, and complete information, representations and certifications to all government officials, including but not limited to the contracting officer and officials of the Small Business Administration, on all matters related to the prime contract, including but not limited to all aspects of its ownership, eligibility, and performance. Anything herein notwithstanding, Company will have no obligations to Customer unless and until Customer provides Company with a true, correct and complete executed copy of the prime contract. Upon request, Customer will provide copies to Company of all requested written communications with any government official related to the prime contract prior to or concurrent with the execution thereof, including but not limited to any communications related to contractor's Customer's ownership, eligibility or performance of the prime contract. Customer will obtain written authorization and approval from Company prior to providing any government official any information about Company's performance of the Services that are the subject of this offer or agreement, other than the Proposal or this Agreement.

22. Limited Waiver of Sovereign Immunity. If Customer is an Indian tribe (in the U.S.) or a First Nation or Band Council (in Canada), Customer, whether acting in its capacity as a government, governmental entity, a duly organized corporate entity or otherwise, for itself and for its agents, successors, and assigns: (1) hereby provides this limited waiver of its sovereign immunity as to any damages, claims, lawsuit, or cause of action (herein "Action") brought against Customer by Company and arising or alleged to arise out of the furnishing by Company of any product or service under this Agreement, whether such Action is based in contract, tort, strict liability, civil liability or any other legal theory; (2) agrees that jurisdiction and venue for any such Action shall be proper and valid (a) if Customer is in the U.S., in any state or United States court located in the state in which Company is performing this Agreement or (b) if Customer is in Canada, in the superior court of the province or territory in which the work was performed; (3) expressly consents to such Action, and waives any objection to jurisdiction or venue; (4) waives any requirement of exhaustion of tribal court or administrative remedies for any Action arising out of or related to this Agreement; and (5) expressly acknowledges and agrees that Company is not subject to the jurisdiction of Customer's tribal court or any similar tribal forum, that Customer will not bring any action against Company in tribal court, and that Customer will not avail itself of any ruling or direction of the tribal court permitting or directing it to suspend its payment or other obligations under this Agreement. The individual signing on behalf of Customer warrants and represents that such individual is duly authorized to provide this waiver and enter into this Agreement and that this Agreement constitutes the valid and legally binding obligation of Customer, enforceable in accordance with its terms.

1-10.48 (0225)
Supersedes 1-10.48 (1024)

SECURITY ADDENDUM

This Addendum shall be applicable to the sale, installation and use of Trane equipment and the sale and provision of Trane services. "Trane" shall mean Trane U.S. Inc. for sales and services in the United States, or Trane Canada ULC for sales and services in Canada.

1. **Definitions.** All terms used in this Addendum shall have the meaning specified in the Agreement unless otherwise defined herein. For the purposes of this Addendum, the following terms are defined as follows:

"Customer Data" means Customer account information as related to the Services only and does not include HVAC Machine Data or personal data. Trane does not require, nor shall Customer provide personal data to Trane under the Agreement. Such data is not required for Trane to provide its Equipment and/or Services to the Customer.

"Equipment" shall have the meaning set forth in the Agreement.

"HVAC Machine Data" means data generated and collected from the product or furnished service without manual entry. HVAC Machine Data is data relating to the physical measurements and operating conditions of a HVAC system, such as but not limited to, temperatures, humidity, pressure, HVAC equipment status. HVAC Machine Data does not include Personal Data and, for the purposes of this agreement, the names of users of Trane's controls products or hosted applications shall not be Personal Data, if any such user chooses to use his/her name(s) in the created accounts within the controls product (e.g., firstname.lastname@address.com). HVAC Machine Data may be used by Trane: (a) to provide better support services and/or products to users of its products and services; (b) to assess compliance with Trane terms and conditions; (c) for statistical or other analysis of the collective characteristics and behaviors of product and services users; (d) to backup user and other data or information and/or provide remote support and/or restoration; (e) to provide or undertake: engineering analysis; failure analysis; warranty analysis; energy analysis; predictive analysis; service analysis; product usage analysis; and/or other desirable analysis, including, but not limited to, histories or trends of any of the foregoing; and (f) to otherwise understand and respond to the needs of users of the product or furnished service. **"Personal Data"** means data and/or information that is owned or controlled by Customer, and that names or identifies, or is about a natural person, such as: (i) data that is explicitly defined as a regulated category of data under any data privacy laws applicable to Customer; (ii) non-public personal information ("NPI") or personal information ("PI"), such as national identification number, passport number, social security number, social insurance number, or driver's license number; (iii) health or medical information, such as insurance information, medical prognosis, diagnosis information, or genetic information; (iv) financial information, such as a policy number, credit card number, and/or bank account number; (v) personally identifying technical information (whether transmitted or stored in cookies, devices, or otherwise), such as IP address, MAC address, device identifier, International Mobile Equipment Identifier ("IMEI"), or advertising identifier; (vi) biometric information; and/or (vii) sensitive personal data, such as, race, religion, marital status, disability, gender, sexual orientation, geolocation, or mother's maiden name.

"Security Incident" shall refer to (i) a compromise of any network, system, application or data in which Customer Data has been accessed or acquired by an unauthorized third party; (ii) any situation where Trane reasonably suspects that such compromise may have occurred; or (iii) any actual or reasonably suspected unauthorized or illegal Processing, loss, use, disclosure or acquisition of or access to any Customer Data.

"Services" shall have the meaning set forth in the Agreement.

2. **HVAC Machine Data; Access to Customer Extranet and Third Party Systems.** If Customer grants Trane access to HVAC Machine Data via web portals or other non-public websites or extranet services on Customer's or a third party's website or system (each, an "Extranet"), Trane will comply with the following:
- Accounts.** Trane will ensure that Trane's personnel use only the Extranet account(s) designated by Customer and will require Trane personnel to keep their access credentials confidential.
 - Systems.** Trane will access the Extranet only through computing or processing systems or applications running operating systems managed by Trane that include: (i) system network firewalls; (ii) centralized patch management; (iii) operating system appropriate anti-malware software; and (iv) for portable devices, full disk encryption.
 - Restrictions.** Unless otherwise approved by Customer in writing, Trane will not download, mirror or permanently store any HVAC Machine Data from any Extranet on any medium, including any machines, devices or servers.
 - Account Termination.** Trane will terminate the account of each of Trane's personnel in accordance with Trane's standard practices after any specific Trane personnel who has been authorized to access any Extranet (1) no longer needs access to HVAC Machine Data or (2) no longer qualifies as Trane personnel (e.g., the individual leaves Trane's employment).
 - Third Party Systems.** Trane will provide Customer prior notice before it uses any third party system that stores or may otherwise have access to HVAC Machine Data, unless (1) the data is encrypted and (2) the third party system will not have access to the decryption key or unencrypted "plain text" versions of the HVAC Machine Data.

3. Customer Data; Confidentiality. Trane shall keep confidential, and shall not access or use any Customer Data and information that is marked confidential or by its nature is considered confidential ("Customer Confidential Information") other than for the purpose of providing the Equipment and Services, and will disclose Customer Confidential Information only: (i) to Trane's employees and agents who have a need to know to perform the Services, (ii) as expressly permitted or instructed by Customer, or (iii) to the minimum extent required to comply with applicable law, provided that Trane (1) provides Customer with prompt written notice prior to any such disclosure, and (2) reasonably cooperate with Customer to limit or prevent such disclosure.
4. Customer Data; Compliance with Laws. Trane agrees to comply with laws, regulations governmental requirements and industry standards and practices relating to Trane's processing of Customer Confidential Information (collectively, "**Laws**").
5. Customer Data; Information Security Management. Trane agrees to establish and maintain an information security and privacy program, consistent with applicable HVAC equipment industry practices that complies with this Addendum and applicable Laws ("**Information Security Program**"). The Information Security Program shall include appropriate physical, technical and administrative safeguards, including any safeguards and controls agreed by the Parties in writing, sufficient to protect Customer systems, and Customer's Confidential Information from unauthorized access, destruction, use, modification or disclosure. The Information Security Program shall include appropriate, ongoing training and awareness programs designed to ensure that Trane's employees and agents, and others acting on Trane's, behalf are aware of and comply with the Information Security Program's policies, procedures, and protocols.
6. Monitoring. Trane shall monitor and, at regular intervals consistent with HVAC equipment industry practices, test and evaluate the effectiveness of its Information Security Program. Trane shall evaluate and promptly adjust its Information Security Program in light of the results of the testing and monitoring, any material changes to its operations or business arrangements, or any other facts or circumstances that Trane knows or reasonably should know may have a material impact on the security of Customer Confidential Information, Customer systems and Customer property.
7. Audits. Customer acknowledges and agrees that the Trane SOC2 audit report will be used to satisfy any and all audit/inspection requests/requirements by or on behalf of Customer. Trane will make its SOC2 audit report available to Customer upon request and with a signed nondisclosure agreement.
8. Information Security Contact. Trane's information security contact is Local Sales Office.
9. Security Incident Management. Trane shall notify Customer after the confirmation of a Security Incident that affects Customer Confidential Information, Customer systems and Customer property. The written notice shall summarize the nature and scope of the Security Incident and the corrective action already taken or planned.
10. Threat and Vulnerability Management. Trane regularly performs vulnerability scans and addresses detected vulnerabilities on a risk basis. Periodically, Trane engages third-parties to perform network vulnerability assessments and penetration testing. Vulnerabilities will be reported in accordance with Trane's cybersecurity vulnerability reported process. Trane periodically provides security updates and software upgrades.
11. Security Training and Awareness. New employees are required to complete security training as part of the new hire process and receive annual and targeted training (as needed and appropriate to their role) thereafter to help maintain compliance with Security Policies, as well as other corporate policies, such as the Trane Code of Conduct. This includes requiring Trane employees to annually re-acknowledge the Code of Conduct and other Trane policies as appropriate. Trane conducts periodic security awareness campaigns to educate personnel about their responsibilities and provide guidance to create and maintain a secure workplace.
12. Secure Disposal Policies. Trane will maintain policies, processes, and procedures regarding the disposal of tangible and intangible property containing Customer Confidential Information so that wherever possible, Customer Confidential Information cannot be practicably read or reconstructed.
13. Logical Access Controls. Trane employs internal monitoring and logging technology to help detect and prevent unauthorized access attempts to Trane's corporate networks and production systems. Trane's monitoring includes a review of changes affecting systems' handling authentication, authorization, and auditing, and privileged access to Trane production systems. Trane uses the principle of "least privilege" (meaning access denied unless specifically granted) for access to customer data.
14. Contingency Planning/Disaster Recovery. Trane will implement policies and procedures required to respond to an emergency or other occurrence (i.e. fire, vandalism, system failure, natural disaster) that could damage Customer Data or any system that contains Customer Data. Procedures include the following
 - (i) Data backups; and
 - (ii) Formal disaster recovery plan. Such disaster recovery plan is tested at least annually.

15. Return of Customer Data. If Trane is responsible for storing or receiving Customer Data, Trane shall, at Customer's sole discretion, deliver Customer Data to Customer in its preferred format within a commercially reasonable period of time following the expiration or earlier termination of the Agreement or, such earlier time as Customer requests, securely destroy or render unreadable or undecipherable each and every original and copy in every media of all Customer's Data in Trane's possession, custody or control no later than [90 days] after receipt of Customer's written instructions directing Trane to delete the Customer Data.
16. Background Checks Trane shall take reasonable steps to ensure the reliability of its employees or other personnel having access to the Customer Data, including the conducting of appropriate background and/or verification checks in accordance with Trane policies.
17. DISCLAIMER OF WARRANTIES. EXCEPT FOR ANY APPLICABLE WARRANTIES IN THE AGREEMENT, THE SERVICES ARE PROVIDED "AS IS", WITH ALL FAULTS, AND THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY AND EFFORT AS TO SUCH SERVICES SHALL BE WITH CUSTOMER. TRANE DISCLAIMS ANY AND ALL OTHER EXPRESS OR IMPLIED REPRESENTATIONS AND WARRANTIES WITH RESPECT TO THE SERVICES AND THE SERVICES PROVIDED HEREUNDER, INCLUDING ANY EXPRESS OR IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR THAT THE SERVICES WILL OPERATE ERROR-FREE OR UNINTERRUPTED OR RETURN/RESPONSE TO INQUIRIES WITHIN ANY SPECIFIC PERIOD OF TIME.

October 2024
Supersedes: November 2023v2

APPENDIX

SAFETY

Since 2003, U.S. Bureau of Labor Statistics records have consistently shown the Total Recordable Incident Rate (TRIR) and Days Away From Work (DAFW) for Trane have been significantly lower than those for HVAC repair and maintenance contractors and specialty trade contractors (construction). The company's safety culture in America is unparalleled in the building service industry, with proven results in the continuous reduction of injury rates. Trane incident rates (OSHA) are consistently 50 to 70 percent below the industry average.

A wide range of safety training and resources are available to Trane technicians, including:

- Safety training—20 hours per year
- Electrical safety—NFPA 70E compliant, electrical PPE
- Fall protection
- Ergonomics
- USDOT compliance
- Refrigerant management training

ENVIRONMENTAL PRACTICES

Trane policies and procedures are compliant with all federal and state regulations. Refrigerant (and substitutes) handling, storage and leak repair processes are compliant with Environmental Protection Agency regulation 40 CFR Part 82. Service technicians are Universal-certified and use only certified recovery equipment.

Refrigerant Management Software (RMS) captures, manages and reports all refrigerant activity at your site. Upon request, Trane can send you an annual report documenting all refrigerant activity that we performed for each piece of equipment during the past 12 months.

Trane adheres to all environmental regulations when removing used oil from refrigeration units.

CONSISTENCY

Nationwide, Trane technicians follow documented, formal processes that ensure uniform service delivery. As an OEM, Trane has developed exclusive service procedures which provide the most reliable outcomes, and extended equipment longevity, at the most cost-effective price.

- Exclusive service work flow processes provide detailed steps and information encompassing parts, materials, tools and sequence of execution
- Additional steps addressing safety, quality control, work validation and environmental compliance
- Technicians must consistently reference documented processes to ensure no critical steps are skipped or omitted
- Applicable service processes meet or exceed ASHRAE 180-2008 Standard Practice for Inspection and Maintenance of Commercial Building HVAC Systems





TOWN COUNCIL AGENDA I.6. CONSENT ITEM(S)

DATE: July 21, 2025
FROM: David Coulon, Police Chief
ITEM: **Consider the approval for the Interlocal Cooperation Agreement for Law Enforcement Services for a portion of Canyon Falls Municipal Utility District in Argyle ETJ.**

BACKGROUND: This Interlocal agreement is for the Town of Flower Mound to provide police services to the portion of Canyon Falls MUD that is part of Canyon Falls Development. In exchange, the MUD will pay the town \$27 per completed single-family home per month. There are currently 298 completed homes in this area, with a build-out of 340 homes.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: If not approved, they will continue to use Denton County Sheriff for police services.

FISCAL IMPACT: N/A

Proposed Expenditure/(Revenue)	Account Number(s):
(\$96,555.00)	100-4605

LEGAL REVIEW: Brennan Lafferty, of Taylor, Olson, Adkins, Sralla, & Elam L.L.P., has reviewed the agreement as to form and legality.

ATTACHMENTS:

1. Interlocal Agreement MUD Water District

DRAFT MOTION: Move to approve as presented in the agenda caption.

INTERLOCAL COOPERATION AGREEMENT FOR LAW ENFORCEMENT SERVICES

THIS AGREEMENT (the “Agreement”) is made and entered into by and between the Town of Flower Mound, Texas, a home-rule municipal corporation located in Denton County, Texas (the “Town”), and the Canyon Falls Municipal Utility District No. 1 of Denton County, a conservation and reclamation district created under Article XVI, Section 59 of the Texas Constitution and located in Denton County, Texas (the “District”) (each individually, a “Party,” and collectively, the “Parties”).

RECITALS

WHEREAS, the District, which is depicted on the attached map (Attachment A), lies within the extraterritorial jurisdiction of the Town of Argyle, is authorized to contract with peace officers to provide law enforcement services within its boundaries by Section 49.216 of the Texas Water Code, and desires to provide its residents in the Canyon Falls Development with full-time law enforcement protection and services to the extent authorized by Chapter 341, Texas Local Government Code; and

WHEREAS, the Town, by and through its Police Department, is willing to provide such law enforcement services within the portion of the Canyon Falls Development located in the District; and

WHEREAS, each Party paying for the performance of governmental functions or services under this Agreement shall make those payments from current revenues available to the paying Party; and

WHEREAS, the governing body of each Party has provided all necessary approvals in order to enter into this Agreement; and

WHEREAS, this Agreement is entered into pursuant to and in conformance with Chapter 791 of the Texas Government Code, also known as the Interlocal Cooperation Act; and

WHEREAS, the Parties find that this Agreement fairly compensates the Town for the services rendered and is in the best interest of both Parties;

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, the Parties agree as follows:

SECTION 1. Preamble. The foregoing recitals are true and correct and are incorporated herein by reference.

SECTION 2. Term. This Agreement shall commence on the later of July 1, 2025, or the date executed by both Parties (the “Effective Date”), and shall continue for a term of ten (10) years, unless earlier terminated pursuant to Section 11.

SECTION 3. Scope of Services. The Town shall provide full-time law enforcement services (“Police Services”) within the portion of the Canyon Falls Development located within the District (the “Service Area”), to the same extent that such services are provided to Town residents, including but not limited to:

- (a) Routine patrols and traffic enforcement;
- (b) Emergency and non-emergency response on a 24-hour basis;
- (c) Arrest and detention coordination;
- (d) Investigations and evidence gathering;
- (e) Crime prevention and monitoring using appropriate technologies;
- (f) Community event support, subject to officer availability;
- (g) Employee recruitment, training, supervision, and discipline;
- (h) Insurance and liability coverage; and
- (i) Annual crime reports and attendance at District board meetings at least once per calendar year by the Chief of Police or designee.

SECTION 4. Liaison and Communications. To facilitate communication and coordination, each Party shall appoint a liaison as follows:

- (a) Town Liaison: the Chief of Police of the Town, or their designee.
- (b) District Liaison: the President of the District, or their designee.

Each Party may change its liaison by written notice to the other Party.

SECTION 5. Compensation.

- (a) The District shall pay the Town \$27.00 per completed single family residential unit per month for Police Services. Beginning on the first anniversary of the Effective Date and each year thereafter, the monthly rate shall increase by three percent (3%).
- (b) The District shall, within thirty (30) days of the Effective Date, provide a written report stating the number of completed single family residential units in the Service Area. On a quarterly basis in conjunction with payments made under this Agreement, the District shall provide the Town with a report reflecting any update

to the number of completed single family residential units. Future invoices from the Town shall reflect the updated report.

- (c) Payments shall be made quarterly, within thirty (30) days after receiving an invoice from the Town. A sample payment schedule is attached (Attachment B).

SECTION 6. Vehicles and Equipment. The Town shall allocate a portion of the funds received under this Agreement toward the purchase, maintenance, and operation of vehicles and equipment used in providing services to the District, including but not limited to the following:

- (a) Radios, lights, markings, cages, cameras, and MDC units;
- (b) Fuel, tires, oil changes, and other maintenance and repair costs.

SECTION 7. Supervision and Control. The Town's Chief of Police shall retain full authority over the assignment, discipline, and supervision of all police personnel providing Police Services under this Agreement. The District shall have no control over such personnel.

SECTION 8. Legal Jurisdiction and Enforcement. The District grants the Town full authority and jurisdiction to enforce state law within the Service Area. To the extent a conflict arises between Town ordinances and District rules, the Parties shall consult to resolve such conflicts. If such conflict remains unresolved within thirty (30) days, the Town may elect not to enforce the conflicting provisions.

SECTION 9. Revenues and Fines. All fines, fees, or other revenues generated by Town personnel while performing Police Services under this Agreement shall be retained by the Town.

SECTION 10. Indemnification and Immunity. Each Party shall be responsible for its own acts of negligence and those of its employees, officers, or agents. In accordance with Section 49.216 of the Texas Water Code, Town personnel performing Police Services shall be independent contractors of the District, and the District is responsible for the acts or omissions of such personnel to the extent provided by law for other independent contractors. Nothing in this Agreement waives any governmental immunity, defense, or limitation of liability available under Texas law.

SECTION 11. Termination.

- (a) Either Party may terminate this Agreement by giving at least eighteen (18) months' written notice to the other Party.
- (b) If the District fails to make timely payments and does not cure such failure within thirty (30) days after written notice, the Town may immediately terminate this Agreement and cease services.
- (c) If the Town fails to perform its obligations and does not cure within thirty (30) days of written notice, the District may terminate the Agreement.

- (d) The Parties acknowledge that the District boundaries lie within the extraterritorial jurisdiction of the Town of Argyle, Texas and the possibility exists that in the future the District may be formally annexed into Argyle's corporate boundaries. Should such annexation happen, the District and Town shall have no further obligations under this Agreement and this Agreement shall terminate.

SECTION 12. Notices. All notices must be in writing, sent by certified mail, return receipt requested (CM/RRR) or other tracked mail or courier service, and delivered to the following addresses or other addresses as may be identified in writing from time to time. A notice shall be deemed given following the expiration of three (3) days after such notice is sent in accordance with this section.

Town of Flower Mound

Attn: James Childers, Town Manager
2121 Cross Timbers Road
Flower Mound, Texas 75028

With a copy to:

Taylor, Olson, Adkins, Sralla & Elam, LLP
Attn: Bryn Meredith, Town Attorney
6000 Western Place, Suite 200
Fort Worth, Texas 76107

Canyon Falls Municipal Utility District No. 1

Attn: Lauren Goodman, President
Email: lgoodman@canyonfallsmud.com

With a copy to:

Allen Boone Humphries Robinson LLP
Attn: Jonathan Finke, District Attorney

4514 Cole Avenue, Suite 1450

Dallas, Texas 75205

Email: jfinke@abhr.com

SECTION 13. Venue and Governing Law. This Agreement shall be governed by the laws of the State of Texas. Venue for any legal action shall be in Denton County, Texas.

SECTION 14. Miscellaneous.

- (a) This Agreement may only be modified or amended by executing a written modification or amendment to be signed by both Parties.

- (b) If any provision of this Agreement is found to be invalid, unconstitutional, or otherwise unenforceable, the remaining provisions shall remain in effect.
- (c) This Agreement is not assignable without prior written consent.
- (d) The failure of either Party to notify the other Party of a breach or otherwise insist upon strict adherence to any term of this Agreement on any occasion shall not be considered a waiver thereof or deprive that Party of the right thereafter to insist upon strict adherence to that term or any other term of this Agreement.
- (e) This Agreement constitutes the entire understanding between the Parties and supersedes all prior oral or written agreements.
- (f) Nothing herein shall be construed to create a joint enterprise or third-party beneficiary.

IN WITNESS WHEREOF, the Parties have executed this Agreement in duplicate originals to be effective as of the Effective Date.

TOWN OF FLOWER MOUND, TEXAS

By: _____
Name: Cheryl Moore
Title: Mayor

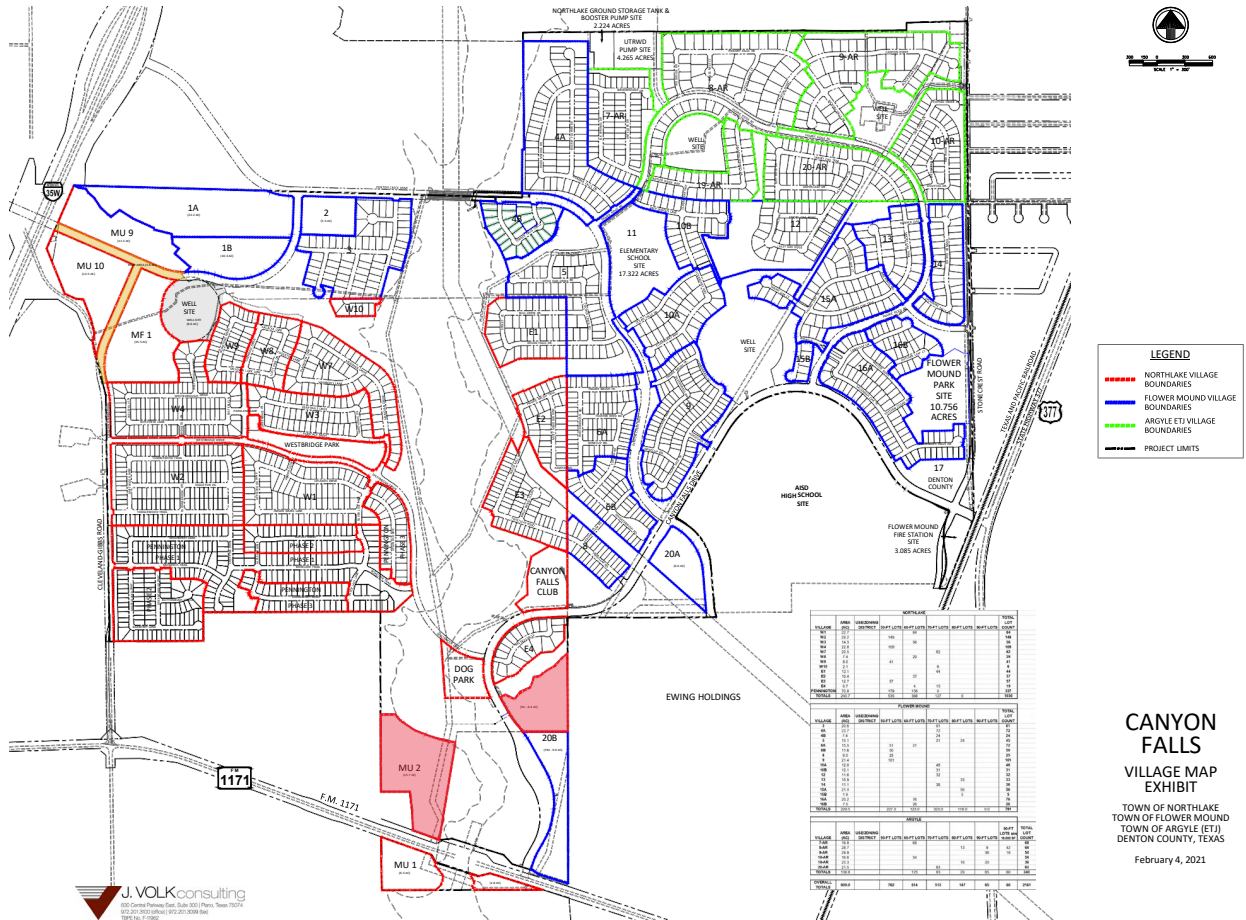
Date: _____

CANYON FALLS MUNICIPAL UTILITY DISTRICT NO. 1 OF DENTON COUNTY

By: _____
Name: Lauren Goodman
Title: President

Date: _____

ATTACHMENT A



ATTACHMENT B

Example Payment Schedule

Contract Year	Monthly Rate	Annual Increase	Payment Dates
Year 1	\$27.00	—	Oct 1, Jan 1, Apr 1, Jul 1
Year 2	\$27.81	3%	Oct 1, Jan 1, Apr 1, Jul 1
Year 3	\$28.64	3%	Oct 1, Jan 1, Apr 1, Jul 1
Year 4	\$29.50	3%	Oct 1, Jan 1, Apr 1, Jul 1
Year 5	\$30.39	3%	Oct 1, Jan 1, Apr 1, Jul 1
Year 6	\$31.30	3%	Oct 1, Jan 1, Apr 1, Jul 1
Year 7	\$32.24	3%	Oct 1, Jan 1, Apr 1, Jul 1
Year 8	\$33.21	3%	Oct 1, Jan 1, Apr 1, Jul 1
Year 9	\$34.21	3%	Oct 1, Jan 1, Apr 1, Jul 1
Year 10	\$35.24	3%	Oct 1, Jan 1, Apr 1, Jul 1



TOWN COUNCIL AGENDA J.1. REGULAR ITEM(S)

DATE: July 21, 2025
FROM: Maxine Musuqua, Economic Development Specialist
ITEM: **Public Hearing to consider approval of a Chapter 380 Agreement with HF Silveron Land, LP for the economic development of Flower Mound, and authorization for the Mayor to execute same on behalf of Town.**

BACKGROUND: The subject request relates to the proposed Chapter 380 Agreement between the Town of Flower Mound and HF Silveron Land, LP. HF Silveron Land, LP proposes to make an approximately \$13 million capital investment in the construction of a 62,000-square-foot Class A office building. The property subject to the agreement is located within a 2.53-acre tract of land in the Town of Flower Mound.

The proposed Chapter 380 Agreement provides for a 6-year real property tax grant, a business personal property (BPP) tax rebate totaling approximately \$17,719, a new business grant equal to 100% of impact fees (\$270,147), and building permit fee waivers estimated at \$29,229. The agreement also includes a 5-year debt service guarantee not to exceed \$1,353,600. A 15-year cost-benefit analysis indicates a total cost to the Town of approximately \$2,000,049 and a minimum net benefit of over \$3.7 million. The payback period to the Town is approximately five years, with the full recovery of the Town's investment projected by Year 12.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: Real and business personal property grants (6-year period), estimated annually at \$49,000 - \$62,000, dependent on annual property value, 100% Impact Fee Grant estimated to be \$270,147, and debt service guarantee (5-year period), in an amount not to exceed \$338,400 within any fiscal year (or not to exceed \$1,353,600 cumulatively over 5 years).

Proposed Expenditure/(Revenue)	Account Number(s):
Real & Business Personal Property Grants (6-year est.): \$347,072	100-600-81000-5320
Impact Fee Grant (100%): \$270,147	100-600-81000-5320
Debt Service Guarantee (5-year max of \$338,400/year): \$1,353,600	100-680-81000-5360
Total Payout: \$2,000,819	

LEGAL REVIEW: Betsy Elam, of Taylor, Olson, Adkins, Sralla, & Elam L.L.P., has reviewed the agreement as to form and legality.

ATTACHMENTS:

1. HF Silveron Land, LP Chapter 380 Agreement - 07.16.2025 FINAL

DRAFT MOTION: Move to approve as presented in the agenda caption.

**CHAPTER 380 AGREEMENT
BETWEEN THE TOWN OF FLOWER MOUND
AND
HF SILVERON LAND, LP**

This Chapter 380 Agreement (“**Agreement**”) is made and entered into by and between the Town of Flower Mound, Texas (“**Town**”), and, HF Silveron Land, LP a Texas limited partnership company (“**Developer**”), for the purposes and considerations stated below. Town and Developer may sometimes hereafter be referred to individually as a “**Party**” or collectively as the “**Parties**.”

WITNESSETH:

WHEREAS, Developer owns, or is under contract to purchase, an approximate 2.53-acre tract located within the Town; and

WHEREAS, Developer intends to construct an approximate 62,000 square foot Class A Office Building within the Town; and

WHEREAS, the Town seeks to incentivize the development; and

WHEREAS, the Town possesses the legal and statutory authority under Chapter 380 of the Texas Local Government Code to create programs to promote local economic development and to stimulate business and commercial activity within the Town; and

WHEREAS, the Town has determined that the incentives set forth in this Agreement will serve the public purpose of promoting local economic development, will diversify the economy of the Town, will eliminate unemployment and underemployment in the state and Town, and will enhance business and commercial activity within the Town; and

WHEREAS, the Town has concluded and hereby finds that this Agreement promotes economic development in the Town of Flower Mound, Texas, and, as such, meets the requirements of Article III, Section 52-a of the Texas Constitution, by assisting in the development and diversification of the economy of the State, by eliminating unemployment or underemployment in the State, and by the development or expansion of commerce within the State.

NOW THEREFORE, for and in consideration of the agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**ARTICLE 1
DEFINITIONS**

The following words shall have the following meanings when used in this Agreement:

The terms “Agreement”, “Town”, “Developer”, “Parties”, and “Party”, shall have the meanings provided above.

“Affiliate” shall be strictly construed to mean a corporation, joint venture, partnership, or other entity in which Developer owns more than ten percent (10%) of the outstanding voting interest.

“Building Final” means the approval of the final inspection issued by the Town certifying the Office Building’s compliance with applicable building codes and other laws. “Building Final” shall be deemed to have occurred when a certificate of occupancy for the shell of the Building has been issued by the Town

“Building Final Date” means the date the Office Building receives a Building Final.

“Base Year Taxes” means the Town ad valorem taxes assessed against the Real Property and collected by Town for Tax Year 2024.

“Capital Investment” means the actual costs attributable to the construction of the Office Building and related infrastructure, site preparation, structures, infrastructure, utilities, landscaping, on-site and off-site improvements (including labor and materials, engineering costs, surveying costs, fees of consultants, permit and inspection fees). It does not include insurance costs, marketing costs or any interest paid to finance the cost of Capital Investment.

“Cessation in Construction” means the amount of time between two approved Town required inspections has lapsed 180 days or more.

“Class A Office Building,” for the purposes of this Agreement only, means an office building characterized by high quality design, use of high-end building materials, and state of the art technology for voice and data. The building is distinctive and classic design, concrete and steel construction, landmark quality, with superior exterior finishes for the curtain wall and superior interior quality finishes in main lobby and common areas, including elevators and washrooms.

A Class “A” Office Building must, at a minimum, contain all of the following:

1. Minimum of 3 stories;
2. Minimum of 10,000 square feet per floor with a minimum of 62,000 square feet structure overall;
3. Central, interior lobby;
4. Access to suites shall be from inside the building;
5. On-site support services/maintenance;
6. 24/7 Security;
7. Steel frame and concrete construction; and
8. Meet or exceed the Town’s Urban Design Plan or qualify as a Meritorious Project.

Notwithstanding anything to the contrary contained herein, it is agreed that the Building, if it is constructed materially in accordance with Exhibit A and Exhibit B attached to this Agreement, will be deemed to be a Class “A” Office Building.

“Commencement of Construction” means that: (i) the construction plans for the Office Building have been prepared and all approvals thereof required by applicable governmental authorities have been obtained; (ii) all necessary permits permitting construction of the Office Building have been issued by all applicable governmental authorities; and (iii) mobilization and grading or excavation of the Real Property has begun.

“Debt Service” means the payment owed by the Developer to the lender for the principal and interest on the outstanding loan for the Office Building.

“Developer Records” has the meaning assigned to such term in Section 3.6.

“Development” means the development as shown on the attached Exhibit “A.”

“Effective Date” shall mean the last date this Agreement is executed by the Parties.

“Expiration Date” shall mean the date of payment of the last of the Grants, unless sooner terminated as provided herein.

“Event of Bankruptcy or Insolvency” means the dissolution or termination of a Party’s existence as a going business, insolvency, appointment of receiver for any part of such Party’s property and such appointment is not terminated within ninety (90) days after such appointment is initially made, any general assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against such Party and such proceeding is not dismissed within ninety (90) days after the filing thereof.

“Fiscal Year” means October 1st through September 30th.

“Force Majeure” means any contingency or cause beyond the reasonable control of a Party including, without limitation, acts of God or the public enemy, war, riot, civil commotion, insurrection, supply chain disruptions, government or de facto governmental action including disruptions caused by tariffs (unless caused by the intentionally wrongful acts or omissions of the Party), fires, explosions, floods, strikes, slowdowns or work stoppages, an epidemic or pandemic declared by a governmental entity with jurisdiction to do so that materially affect performance under this Agreement, and shortages in labor and/or material, not under the control of Developer.

“Grant Year Taxes” means the ad valorem taxes assessed by Town against the Real Property and collected by Town for the applicable Tax Year.

“Grants” shall collectively mean the Real Property Grants, Impact Fee Grant, , and Annual Debt Service Guarantee.

“Impact Fee Grants” means the grants from Town in an amount equal to 100% of the Town impact fees (water, wastewater, and roadway) paid by Developer and received by Town, which are attributable to the construction of the Improvements.

“Impositions” means all taxes, assessments, use and occupancy taxes, charges, excises, license and permit fees, and other charges by public or governmental authority, general and special, ordinary and extraordinary, foreseen and unforeseen, which are or may be assessed, charged, levied, or imposed by any public or governmental authority on the Developer or any property or any business owned by the Developer within the Town.

“Improvements” means an Office Building identified on Exhibit “A,” and the infrastructure, driveways, parking, landscaping and other improvements reasonably required to be constructed on the Real Property. Improvements does not include any residential buildings.

“Monthly Debt Service Guarantee” means an incentive paid on an as-needed basis for the first five years from the Building Final Date, in the event the monthly Debt Service obligations on the Office Building exceed the Developer’s monthly Net Operating Income.

“Net Operating Income” means, for a particular time period, the net amount Developer actually receives from tenant(s) who have executed leases for office space within Office Building. Developer’s operating expenses for items such as common area maintenance (which includes a market rate property management fee), property taxes, and insurance will be deducted from Developer’s gross income to calculate Net Operating Income. Gross income shall include the fair market value of the free rent that is granted by Developer to tenants of the Building pursuant to leases that are entered into by Developer and its tenants.

“Net Leasable Area” ” means the actual square-unit of a building that may be leased or rented to tenants, the area upon which the lease or rental payments are computed. Net Leasable Area excludes common areas, elevator shafts, stairways, and space devoted to cooling, heating, or other equipment.

“NNN” means triple net lease, where the tenant or lessee agrees to pay its proportionate share of all real estate taxes, building insurance, and maintenance (the three “nets”) on the Building in addition to any normal fees that are expected under the lease agreement (rent, utilities, etc.).

“Occupancy Rate” means the ratio of the Net Leasable Area of leased space in the Office Building under leases pursuant to which tenants have taken occupancy of their premises, compared to the entire Net Leasable Area in the Building.

“Office Building” means a Class “A” Office Building to be built on the Real Property by Developer in accordance with Exhibits A and B.

“Payment Request” means a written request from Developer to Town for payment of the Real Property Grants, Impact Fee Grant, and Annual Debt Service Guarantee, as the case may be, which request shall be accompanied by evidence reasonably satisfactory to Town to establish that Developer is in compliance with this Agreement. The Payment Request must be submitted in accordance with the notice provisions of this Agreement.

“Real Property” shall collectively mean the approximate 2.53 acres of land located on the south side of Long Prairie Road, east of Lakeside Village Parkway, Flower Mound, Texas,

depicted on the attached Exhibit “A” and described by metes and bounds description in Exhibit “C,” hereto.

“Real Property Grants” shall mean six (6) consecutive annual economic development grants to be provided by Town to Developer, each in an amount equal to fifty percent (50%) of the Grant Year Taxes for the applicable Grant Year in excess of the Base Year Taxes calculated as follows: (Grant Year Taxes - Base Year Taxes) x (50%), to be paid as set forth herein. Each individual annual payment shall be referred to as a “Real Property Grant.”

“Related Agreement” means any agreement (other than this Agreement) by and between Town and Developer.

“Tax Year” shall have the meaning assigned to such term in Section 1.04 of the Texas Tax Code (i.e., the calendar year).

“Term” shall have the meaning assigned to such term in Section 2.2.

ARTICLE 2 PROGRAM AND TERM

2.1 Program. A program authorized under Chapter 380 of the Texas Local Government Code is hereby established to bring the Development to the Town. The terms of this Agreement shall implement the Program.

2.2 Term. The Term of this Agreement (“Term”) will commence on the Effective Date and will continue until the Expiration Date, unless sooner terminated as provided herein.

ARTICLE 3 DEVELOPER OBLIGATIONS

The obligation of the Town to pay the Grants shall be conditioned upon the compliance and satisfaction by Developer of the terms and conditions of this Agreement and each of the conditions set forth in this Article 3.

3.1 Zoning, Final Plat and Site Plan Approval.

(a) The Town, by providing written notice to Developer pursuant to Section 6.5, may immediately terminate this Agreement if any of the following deadlines have not been satisfied by Developer:

1. An application for Planned Development zoning of the Real Property that fully permits development of the Property in the manner contemplated herein is submitted to the Town – has been completed; and

2. Planned Development zoning that fully permits development of the Real Property in the manner contemplated herein must be finally approved by the Town Council - has been completed ; and
3. An application for a Final Plat and a Site Plan for the Real Property must be submitted to the Town - has been completed ; and
4. Both a Final Plat and a Site Plan of the Real Property must be finally approved by the Town – no later than September 30, 2025 .

(b) For the purposes of this section, the phrase, “fully permits development,” shall mean that the Planned Development zoning unconditionally permits construction of the Improvements and use of the Office Building for commercial, non-residential purposes, in full compliance with the terms and conditions set forth herein, without further zoning approval or amendment of this Agreement.

(c) The right of the Town to terminate this Agreement in accordance with this Section 3.1 shall be limited to sixty (60) days following any missed deadline. In addition, the Town’s right to terminate this Agreement pursuant to this Section 3.1 is independent of and shall not be subject to the requirements of Section 5.1 hereof, regarding termination.

(d) Notwithstanding anything to the contrary contained herein, it is agreed that the conditions and requirements set forth in this Section 3.1(a)(1), (2) and (3) have been met and satisfied prior to the execution of this Agreement.

3.2 Construction of Improvements. Developer agrees to design and construct, or cause to be designed and constructed, the Improvements. Developer must (i) submit a full and complete building permit application for construction of the Improvements, as deemed acceptable by the Town, by September 30, 2025; and (ii) receive all necessary permits permitting construction of the Improvements from all applicable governmental authorities no later than December 31, 2025; and (iii) subject to events of Force Majeure, achieve a Building Final Date on or before July 1, 2027. Each of the dates set forth in this Section 3.2 and in Section 3.1 above shall be extended day-for-day by the period of time during which (A) the Town is reviewing and providing comments to Developer’s applications for a Site Plan permit or a building permit for the Office Building, and (B) Developer is working to satisfy the Town’s comments.

3.3 Documentation of Capital Investment. Developer agrees to make a Capital Investment of at least \$13 million in the Improvements. Developer agrees to provide Town with documentation evidencing a minimum Capital Investment of \$13 million no later than ninety (90) days from the Building Final Date. Such documentation must contain a breakdown of costs paid by Developer and proof of payment in the form of contractor and/or subcontractor paid invoices and receipts.

3.4 Compliance with Laws. Developer agrees to construct the Development and the Improvements in general accordance with the concept site plan and elevations attached hereto as Exhibits “A” and “B,” and all applicable federal, state and local laws, codes, and regulations (or valid waiver thereof).

3.5 Good Standing. Developer shall not have an uncured breach or default of this Agreement or a Related Agreement.

3.6 Audit. Developer shall grant access to Town, or such other persons or entities designated by Town for the purposes of inspecting, at Developer's office, during Developer's normal business hours, paper and electronic records, books, documents, tangible accounting procedures, tangible practices or any other items related to Developer's performance of this Agreement ("**Developer Records**"), provided that Town has provided five (5) business days prior notice, and Town or its representatives shall not unduly disrupt Developer's operations. The foregoing notwithstanding, all records, books, documents, accounting procedures, practices or any other items relevant to the performance of this Agreement shall be subject to examination or audit by Town, or such other persons or entities designated by Town in accordance with state and federal laws, regulations or directives applicable to Developer's performance of this Agreement. Town agrees, to the extent allowed by law, to maintain the confidentiality of the Developer Records.

3.7 Quarterly Reports. Upon issuance by Town of a building permit for the Office Building, Developer shall submit to Town, pursuant to Section 6.5 hereof, quarterly written status reports detailing all marketing and leasing efforts made by Developer for the Office Building and including any additional information requested by the Town related thereto. Developer shall not be required to include any information Developer determines, in good faith, to be proprietary information, the release of which may reasonably cause competitive harm to any third party prospective or actual tenant. For the purpose of this Section 3.7, "quarterly" shall mean delivered no later than the three-month anniversary of the prior report.

3.8 Sales Tax. For purposes of this Agreement, Developer shall use reasonable efforts to have the Town designated as the point of sale for all commercial-retail construction project purposes and applicable sales and use taxes related to said construction. "Sales and Use Tax" shall mean the Town's one percent (1%) sales and use tax imposed pursuant to Chapter 321 of the Texas Tax Code for purchases of Taxable Items consummated in the Town in connection with the construction of all commercial-retail buildings and structures to be built on the Real Property.

ARTICLE 4 TOWN OBLIGATIONS

Subject to Developer's continued satisfaction of its obligations as required by this Agreement, and subject to the provisions of this section, Town will be obligated to do the following:

4.1 Real and Business Personal Property Grants. For a period of six (6) years commencing on January 1 following the Building Final Date, the Town will provide an annual Real Property Grant to Developer. Each annual Real Property Grant is due and payable by the Town forty-five (45) days after the Town receives the latter of (i) payment of the Grant Year Taxes; and (ii) a Payment Request. It is agreed that although the amount of Real Property Grant hereunder is measured with reference to ad valorem taxes, the Real Property Grant shall be paid by the Town from funds that are legally available to the Town (regardless of the sources of such funds).

4.2 Impact Fee Grant. The Town agrees to pay Developer an Impact Fee Grant for the Development within forty-five (45) days after: (i) the Building Final Date; and (ii) the Town's receipt of a Payment Request. It is agreed that although the amount of Impact Fee Grant hereunder is measured with reference to Town's impact fees, the Impact Fee Grant shall be paid by the Town from funds that are legally available to the Town (regardless of the sources of such funds).

4.3 Permit Fee Waiver. The Town agrees to waive the following specific permit fees for initial construction of the Development: development permit fees, building permit fees, electrical permit fees, mechanical permit fees, plumbing permit fees, lighting plan review fees, any and all inspection or re-inspection fees, screening wall fees, retaining wall fees, and re-stamp fees. Any fees not referenced herein as being waived are specifically deemed not to be waived by the Town. Pass-through fees assessed by third-party consultants engaged by the Town for the review of the above-referenced permit applications shall not be waived. In addition, no fees associated with development plan, platting, zoning and site plan applications, where applicable, shall be waived.

4.4 Monthly Debt Service Guarantee. The Town agrees to provide Monthly Debt Service Guarantee to Developer for a period that does not exceed five (5) years from the Building Final Date in an amount not to exceed Three Hundred Thirty Eight Thousand Four Hundred (\$338,400.00) Dollars within any Fiscal Year of the Town, or a total of One Million Three Hundred and Fifty Three Thousand six Hundred (\$1,353,600) Dollars cumulatively over five years. The five-year period for the Monthly Debt Service Guarantee shall commence on the first month following the Building Final Date and, notwithstanding anything to the contrary contained herein, shall end on the sixty (60) month anniversary thereof. Payment of the Monthly Debt Service Guarantee is due and payable by the Town directly to Developer's lender within thirty-five (35) days after the Town receives a (Quarterly) Payment Request that is mailed and date-stamped within the five-year period described above. The Developer shall include the lender payment instructions with each Payment Request. A Payment Request under this Section 4.5 shall be accompanied by documentation evidencing the prior month's Debt Service and Net Operating Income for the Office Building, clearly denoting the difference between the two. For example (a) if the monthly Debt Service for the Office Building is One Hundred Thousand (\$100,000.00) Dollars, (b) if the Office Building has 60,000 square feet of Net Leasable Area and the Office Building is 40% leased and occupied (based on Net Leasable Area) at \$23.00 per square foot per annum, plus \$7.50 per square foot per annum NNN for an annual Net Operating Income of \$732,000.00, and (c) the annual operating expenses for the Office Building are \$450,000.00 (i.e., 60,000 square feet of Net Leasable Area x \$7.50 per square foot), then the annual Net Operating Income shall be equal to \$282,000.00 (i.e., \$732,000.00, less \$450,000.00) or a monthly Net Operating Income of \$23,500.00, and the Town's Monthly Debt Service Guarantee payment would equal \$76,500.00 .

4.5 Marketing Efforts. Developer shall diligently market the available space within the Office Building by utilizing methods agreed upon by the Town and Developer, such as hiring of professional listing agent, personal solicitation, direct and/or electronic mail, brochure and advertisements. Documentation of these methods shall be provided to the Town's Economic Development Director upon request.

4.6 Grants Prohibited for Residential Development. Irrespective of nature of the development of the Real Property no Grants shall be made for residential development. Grants are reserved exclusively for the construction of the Improvements in accordance with the terms and conditions of this Agreement.

ARTICLE 5 TERMINATION; REPAYMENT; OFFSET

5.1 Termination. This Agreement terminates on the Expiration Date, and may, prior to the Expiration Date, be terminated upon any one or more of the following:

- (a) by mutual written agreement of the Parties;
- (b) upon written notice by either Party, if the other Party defaults or breaches any of the terms or conditions of this Agreement and such default or breach is not cured within thirty (30) days after written notice thereof (provided, however, if the default or breach is not capable of being cured through the exercise of reasonably diligent efforts within such 30-day period, the Party who defaults or breaches shall have such additional time as is reasonably necessary to cure such default or breach provided such Party commences its curative efforts within such 30-day period and diligently prosecutes same to completion);
- (c) upon written notice by Town, if any Impositions owed to Town or the State of Texas by Developer shall have become delinquent (provided, however, Developer retains the right to timely and properly protest and contest any such taxes or Impositions);
- (d) upon written notice by Town, if Developer suffers an event of Bankruptcy or Insolvency;
- (e) upon written notice by Town, if after Commencement of Construction, a Cessation in Construction of any element or component of the Improvements occurs; or
- (f) upon written notice by either Party if any subsequent Federal or State legislation or any decision of a court of competent jurisdiction declares or renders this Agreement invalid, illegal or unenforceable.

5.2 Repayment. In the event this Agreement is terminated by Town pursuant to Section 5.1 (b), (c), (d), (e) or Section 3.1, Developer shall immediately refund to Town an amount equal to the amount of all of the Grants that have been provided by Town to Developer prior to the date of such termination, plus interest at the rate of interest periodically announced by the Wall Street Journal as the prime or base commercial lending rate, or if the Wall Street Journal shall ever cease to exist or cease to announce a prime or base lending rate, then at the annual rate of interest from time to time announced by Citibank, N.A. (or by any other New York money center bank selected by Town) as its prime or base commercial lending rate, from the Effective Date until paid. The repayment obligation of Developer set forth in this Section 5.2 hereof shall survive termination of this Agreement.

5.3 Offsets. Town may at its option, offset any amounts due and payable under this Agreement against any debt (including taxes) lawfully due to Town from Developer, regardless of whether the amount due arises pursuant to the terms of this Agreement, a Related Agreement or otherwise, and regardless of whether or not the debt due Town has been reduced to judgment by a court.

ARTICLE 6 MISCELLANEOUS

6.1 Binding Agreement. The terms and conditions of this Agreement are binding upon the successors and assigns of the Parties.

6.2 Limitation on Liability. It is understood and agreed between the Parties that Developer, in satisfying the conditions of this Agreement, is deemed to have acted independently, and Town assumes no responsibilities or liabilities to third parties in connection with these actions.

6.3 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 a partnership or joint venture among the Parties.

6.4 Authorization. Each Party represents that (i) it has full capacity and authority to grant all rights and assume all obligations that are granted and assumed under this Agreement, and (ii) this Agreement constitutes valid, binding and enforceable obligation of the representing Party.

6.5 Notice. Any notice required or permitted to be delivered hereunder shall be deemed received three (3) days thereafter if sent by United States Mail, postage prepaid, certified mail, return receipt requested, addressed to the Party at the address set forth below (or such other address as such Party may subsequently designate in writing) or on the day actually received if sent by courier or otherwise hand delivered.

If intended for Town, to:

Town of Flower Mound, Texas
Attn: Economic Development Director
2121 Cross Timbers Rd.
Flower Mound, TX 75028

With a copy to:

Flower Mound Town Attorney
Taylor, Olson, Adkins, Sralla & Elam, LLP
6000 Western Place, Suite 200
Fort Worth, Texas 76107

If intended for Developer, to:

HF Silveron Land, LP
1600 North Collins BLVD, Suite 3000
Richardson, TX 75080
Attn: Taylor Field

With a copy to:

Dykema Gossett, PLLC
1717 Main Street, Suite 4200

Dallas, Texas 75201
Attn: Bob Feroze

6.6 Entire Agreement. This Agreement is the entire agreement between the Parties with respect to the subject matter covered in this Agreement. There is no other collateral oral or written agreement between the Parties that in any manner relates to the subject matter of this Agreement, except as provided in any exhibits attached hereto.

6.7 Governing Law. This Agreement shall be governed by the laws of the State of Texas, and exclusive venue for any action concerning this Agreement shall be in a State District Court of Denton County, Texas.

6.8 Amendment. This Agreement may only be amended by the mutual written agreement of the Parties.

6.9 Legal Construction. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions, and it is the intention of the Parties to this Agreement that in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision shall be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

6.10 Counterparts. This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

6.11 Exhibits. All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

6.12 Successors and Assigns. Except for an assignment to an Affiliate of Developer, this Agreement may not be assigned without the prior written consent of the Town.

6.13 Survival of Covenants. Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the Parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

6.14 Limitation of Damages. The Parties agree that no Party will be liable to the other under this Agreement for consequential damages (including lost profits) or exemplary damages.

6.15 Legislative or Judicial Changes. In the event of any legislative or judicial interpretation that limits or restricts Town's ability to pay the Impact Fee Grant or otherwise extracts or imposes any penalty or other restriction upon the payment of the Impact Fee Grant, the Town will notify the Developer within thirty (30) days, and such payment will cease as of the effective date of such limitation or restriction and be of no further force, effect, or consequence in which event Town shall be under no further obligation to Developer as of the effective date of such limitation or restriction and Developer shall not be obligated to repay or compensate Town for any prior benefits

provided to Developer, unless required to do so by law or court order. Town shall not take any action to seek a legislative interpretation or a judicial interpretation which would limit or restrict Town's ability to pay the Impact Fee Grant or otherwise extract or impose any penalty or other restriction upon the payment of the Impact Fee Grant. In any suit brought by a person not a Party to this Agreement, Developer shall have a reasonable time period to appeal any such judicial interpretation at its sole cost and expense and Town shall reasonably cooperate with any such appeals; provided, however, that Town is not obligated to become a party in any suit or expend any funds in cooperating with Developer.

6.16 Undocumented Workers. Developer certifies that Developer and its branches, divisions and departments, do not and will not knowingly employ an undocumented worker in accordance with Chapter 2264 of the Texas Government Code, as amended. If during the Term of this Agreement, Developer or any of their branches, divisions or departments is convicted of a violation under 8 U.S.C. § 1324a(f), Developer shall repay the amount of the public subsidy provided under this Agreement plus interest, at the rate of six percent (6%), not later than the 120th day after the date Town notifies Developer of the violation.

6.17 Governmental Function. The Parties agree that this Agreement concerns tax collection and serves the public purpose of contributing to the retention or expansion of primary employment or to attraction of major investment in the Zone that would be a benefit to the Real Property. The Parties further agree this Agreement serves the public purpose of assisting in the development and diversification of the economy of the Town and the State of Texas, eliminating unemployment or underemployment of the State, and developing and expanding commerce in the State, and is for all purposes a governmental function of the Town for the benefit of the citizens of Town and the State of Texas. The Parties further agree that this Agreement is entered into for the purpose of carrying out governmental functions which are enjoined on the Town by law and given to it by the State of Texas as part of the State's sovereignty.

6.18 Attorney's Fees. If either Party employs an attorney or attorneys to enforce any of the provisions hereof, or to recover damages for the breach of this Agreement, the non-prevailing Party in any final judgment or award agrees to pay the other Party all reasonable costs, charges and expenses, including reasonable attorneys' fees and costs of court, expended or incurred in connection therewith.

6.19 Texas Government Code Verifications. Developer verifies and certifies that it does not and during the duration of this Agreement will not:

- (a) do business with Iran, Sudan, or a foreign terrorist organization, as defined in Texas Government Code Chapter 2270, as amended;
- (b) boycott Israel as that term is defined in Texas Government Code Section 808.001 and Chapter 2271, as amended;
- (c) discriminate against a firearm entity or firearm trade association as defined in Texas Government Code Chapter 2274, as amended;

(d) operate as a foreign owned or controlled company in connection with a critical infrastructure project as defined in Texas Government Code Chapter 2275, as amended; or

(e) boycott energy companies as defined in Texas Government Code Section 809.001 and Chapter 2276, as amended.

[Signatures on following page]

**PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF
FLOWER MOUND, TEXAS, on this ____ day of _____, 2025.**

TOWN:

TOWN OF FLOWER MOUND, TEXAS

Cheryl Moore, Mayor

Date: _____

STATE OF TEXAS §
 §
COUNTY OF _____ §

Before me on this day personally appeared _____, the _____
_____ of Town of Flower Mound, Texas, a Texas home rule municipality, known
to me to be the person whose name is subscribed to the foregoing instrument and acknowledged
to me that he executed the same for the purposes and consideration therein expressed, and in the
capacity therein stated.

Given under my hand and seal of office this ____ day of _____, 2025.

SEAL

Notary Public in and for the State of Texas

My Commission Expires:

OWNER:

HF SILVERON LAND, LP,
a Texas limited partnership

By: GLENWOOD SILVERON LAND, LP,
a Texas limited partnership,
its General Partner

By: GLENWOOD VENTURES GP, LLC,
a Texas limited liability company,
its General Partner

By: _____
W. T. Field, President

STATE OF _____)
_____)
COUNTY OF _____)

This instrument was acknowledged before me on the ____ day of _____, 2025,
by _____, the _____ of HF SILVERON LAND, LP, a Texas limited
partnership.

Notary Public, State of Texas

EXHIBIT "A"

Concept Site Plan

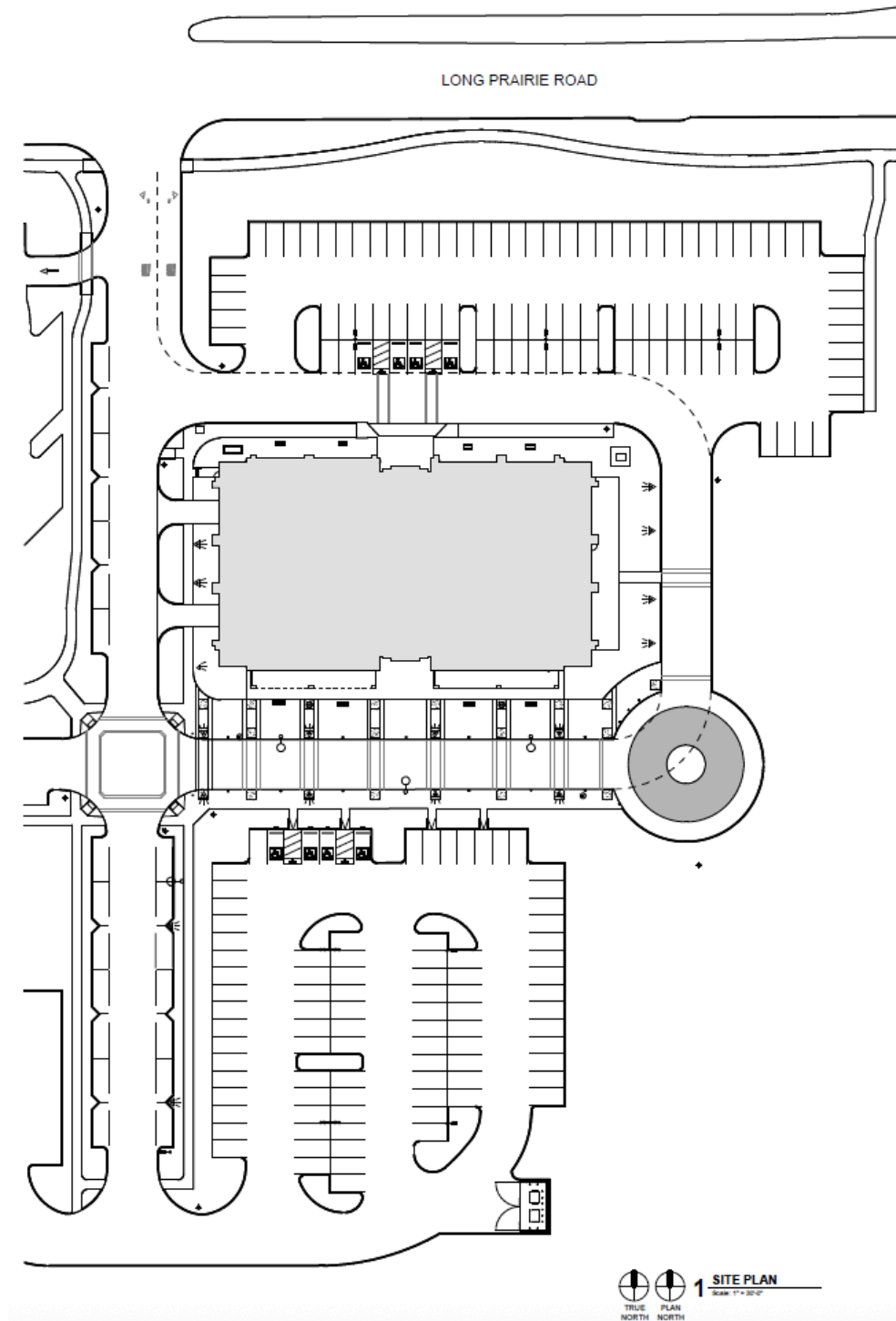


EXHIBIT “B”

Concept Renderings & Elevations

Front Exterior



Rear Exterior



East Exterior



West Exterior



EXHIBIT “C”

Property Survey/Legal Description

Lot 5, Block A of Silveron Park an addition to the Town of Flower Mound; Tarrant County; Texas according to the plat thereof recorded in instrument number D225067676, plat records of Tarrant County, Texas.

EXHIBIT “D”

Debt Service Layout

Year 1: UP TO	\$338,400
Year 2: UP TO	\$338,400
Year 3: UP TO	\$296,100
Year 4: UP TO	\$211,500
Year 5: UP TO	\$169,200

*Not to exceed \$1,353,600 in total Debt Service

*Debt Service Payments sunset at the point the building is 70% (+) leased



TOWN COUNCIL AGENDA J.2. REGULAR ITEM(S)

DATE: July 21, 2025
FROM: Maxine Musuqua, Economic Development Specialist
ITEM: **Public Hearing to consider approval of (1) a Chapter 380 Agreement with AAB Venture Capital and (2) a Purchase and Sale Agreement (PSA) for the sale of approximately 22 acres of Town-owned land along Denton Creek Road between FM 1171 and Canyon Falls Drive, for \$7,978,014.00; and to authorize the Mayor to execute both agreements on behalf of the Town.**

BACKGROUND: The subject request involves a proposed Chapter 380 Agreement and Purchase and Sale Agreement (PSA) between the Town of Flower Mound and AAB Venture Capital for the development of approximately 22.2 acres of Town-owned land (Parcel 7) located along Denton Creek Road between FM 1171 and Canyon Falls Drive. These agreements aim to promote commercial development that aligns with the Town's long-term land use and economic goals.

Under the Chapter 380 Agreement, the developer must invest at least \$10 million in a Hill Country-style commercial project that may include up to three restaurants and either a grocery store, convenience store, or entertainment venue. Construction is required to begin within 90 days of roadway infrastructure completion and must be finished within 36 months. The property must maintain a taxable value of \$10 million or more for at least 10 years.

The PSA sets the land price at \$8.25 per square foot, totaling about \$7.98 million. Closing depends on the developer getting approval for the plans and the Town finishing the needed infrastructure. The agreement includes protections like design standards, easements, and the Town's right to buy the land back if the developer does not meet the requirements.

Together, these agreements help guide the project, protect the Town's investment, and support quality development along Denton Creek Road between FM 1171 and Canyon Falls Drive.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: The Town expects to gain nearly \$8 million from the land sale and long-term tax revenue from a \$10 million commercial project, with some infrastructure costs required upfront.

Proposed Expenditure/(Revenue)

Revenue: \$7,978,014.00

Account Number(s):

100-4735

LEGAL REVIEW: Dean Roggia, of Taylor, Olson, Adkins, Sralla, & Elam L.L.P., has reviewed the agreement as to form and legality.

ATTACHMENTS:

1. AAB Venture Capital Chapter 380 Agreement - 7.15.2025 FINAL
2. AAB Venture Capital Purchase and Sale Agreement (PSA) - 7.15.2025 FINAL

DRAFT MOTION: Move to approve as presented in the agenda caption.

**ECONOMIC DEVELOPMENT AGREEMENT
BETWEEN
AAB VENTURE CAPITAL
AND THE
TOWN OF FLOWER MOUND, TEXAS**

This Economic Development Agreement (“**Agreement**”) is made and entered into by and between the Town of Flower Mound, a Texas home-rule municipal corporation (the “**Town**”), and AAB Venture Capital, a Texas Limited Liability Company (LLC) and/or assigns (“**Company**”). The Town and Company may sometimes hereafter be referred to individually as a “party” or collectively as the “parties.”

RECITALS

WHEREAS, the Town owns an approximately 22.2± acre tract of undeveloped land located at the corner of Cross Timbers Road where it intersects with the Union Pacific Railroad in the Town of Flower Mound, Texas, as generally depicted on the survey attached as **Exhibit A** (the “**Property**”); and

WHEREAS, the Company is seeking an economic development incentive to develop the Property in accordance with this Agreement, which constitutes a program under Chapter 380 of the Texas Local Gov’t Code; and

WHEREAS, the Town is authorized by Article III, Section 52-a of the Texas Constitution and Chapter 380 of the Texas Local Gov’t Code to provide economic development grants and incentives to promote state and local economic development and to stimulate business and commercial activity in the Town; and

WHEREAS, pursuant to this Agreement, the Company agrees to fully develop the Property for commercial and retail purposes and deliver a specific level of quality and amenities as presented to the Town, including a “Hill Country” feel, in a manner acceptable to the Town, but with no more than three (3) restaurants (collectively the “**Project**”), and in accordance with the Conceptual Plan(s) submitted to the Town, as generally shown on the attached **Exhibit B** (the “**Conceptual Plan**”) and the final Approved Plans for the Project; and

WHEREAS, the Project shall also include the option for the Company to (1) construct an upscale entertainment venue similar to Andretti or High Five Entertainment, as generally shown on **Exhibit C** (subject to approval of a specific use permit by the Town); or (2) to construct a Convenience Store, as generally shown on **Exhibit C** (Subject to approval of a specific use permit by the Town); or (3) to construct a neighborhood grocery store, as generally shown on **Exhibit D**; and

WHEREAS, the parties desire to solidify the goal of the overall development of the Project and enter into this Agreement to ensure certain development obligations of the Company, including, but not limited to, the requirement for the Company to deliver a specific level of quality

of the Project as presented to the Town and that certain amenities are delivered to enhance the Project, and

WHEREAS, on April 19, 2024, the Town approved R2 Zoning on the Property for the Project, which established zoning for the development of the Project in accordance with the Town's Ordinances (the "Code"); and

WHEREAS, the Town desires to convey the Property to the Company, as described in this Agreement, pursuant to Chapters 253 and 380 of the Texas Local Gov't Code in consideration of the Company bringing the Project to the Town; and

WHEREAS, the Town and the Company have entered into a "Purchase and Sale Agreement" dated July 21, 2025, that addresses various development requirements related to the Project and provides for the purchase price of the Property and dictates the parties' objectives for the Project, among other matters; and

WHEREAS, the Town has concluded and hereby finds that this Agreement promotes the public purposes of the Town, including, but not limited to, economic development in the Town, and, as such, meets the requirements of Article III, Section 52-a of the Texas Constitution, by assisting in the development and diversification of the economy of the State of Texas and Town, by eliminating unemployment or underemployment in the State of Texas and Town, and will enhance the Town's real property, sales tax, and will enhance business and commercial activity within the State of Texas and Town.

NOW, THEREFORE, in consideration of the recitals above, and the mutual covenants and promises contained herein, and for other good and valuable consideration the sufficiency and receipt of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1 **DEFINITIONS**

For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires, the terms defined in this Article have the meanings assigned to them in the Recitals or this Article, and all such terms include the plural as well as the singular.

"Affiliate" of Company means any other person directly controlling, or directly controlled by or under direct common control with the Company. As used in this definition, the term "control," "controlling" or "controlled by" shall mean the possession, directly, of the power either to (a) vote fifty percent (50%) or more of the securities or interests having ordinary voting power for the election of directors (or other comparable controlling body) of the Company, or (b) direct or cause the direction of management or policies of the Company, whether through the ownership of voting securities or interests, by contract or otherwise, excluding in each case, any lender of the Company or any affiliate of such lender.

"Approved Plans" means the plans and specifications relating to the design, construction, and materials of the Project, inclusive of any change orders thereto, which comply with all Town rules and regulations, and are approved by the Town Council.

“Building Final” means the approval of the final inspection issued by the Town certifying a building’s compliance with applicable building codes and other laws, and indicating it to be in condition suitable for further construction of interior finish-out for Company, or for its tenant(s).

“Capital Investment” shall mean Company’s capitalized costs for the design and construction of the Project (inclusive of all hard and soft costs). Capital Investment does not include the cost of the land or rights-of-way, if any.

“Certificate of Occupancy” means the document issued by the Town certifying that a building complies with applicable building codes and other laws, and indicating it to be in a condition suitable for occupation.

“Commencement of Construction” shall mean (i) the Approved Plans have been prepared and all approvals thereof required by applicable governmental authorities have been obtained for construction of the Project; (ii) all necessary permits for the construction of Project have been issued by the applicable governmental authorities; and (iii) construction of vertical elements of buildings within the Project has commenced.

“Effective Date” means the date this Agreement is fully executed by the parties.

“Event of Bankruptcy or Insolvency” means the dissolution or termination of a party’s existence as a going business, insolvency, appointment of receiver for any part of such party’s property and such appointment is not terminated within ninety (90) days after such appointment is initially made, any general assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against such party and such proceeding is not dismissed within ninety (90) days after the filing thereof.

“Force Majeure” means any act that (i) materially and adversely affects the affected party’s ability to perform the relevant obligations under this Agreement or delays such affected party’s ability to do so, (ii) is beyond the reasonable control of the affected party, (iii) is not due to the affected party’s fault or negligence, and (iv) could not be avoided, by the party who suffers it, by the exercise of commercially reasonable efforts. “Force Majeure” shall include: (a) natural phenomena, such as storms, floods, lightning and earthquakes; (b) wars, civil disturbances, revolts, insurrections, terrorism, sabotage and threats of sabotage or terrorism; (c) transportation disasters, whether by ocean, rail, land or air; (d) strikes or other labor disputes that are not due to the breach of any labor agreement by the affected party; (e) fires; (f) epidemics or pandemics where shut-down of residential construction or the manufacturing of supplies relating thereto has been ordered by a governmental authority; and (g) actions or omissions of a governmental authority (including the actions of the Town in its capacity as a governmental authority) that were not voluntarily induced or promoted by the affected party, or brought about by the breach of its obligations under this Agreement or any applicable law or failure to comply with Town regulations; provided, however, that under no circumstances shall Force Majeure include any of the following events: (g) economic hardship; (h) changes in market condition; (i) any strike or labor dispute involving the employees of the Company or any Affiliate of the Company, other than industry or nationwide strikes or labor disputes; (j) during construction, weather conditions which could reasonably be

anticipated by experienced contractors operating the relevant location; (k) the occurrence of any manpower, material or equipment shortages except as set forth in (f) above; or (l) any delay, default or failure (financial or otherwise) of the general contractor or any subcontractor, vendor or supplier of the Company, or any construction contracts for the Project.

“Impositions” mean all taxes, assessments, use and occupancy taxes, charges, excises, license and permit fees, and other charges by public or governmental authority, general and special, ordinary and extraordinary, foreseen and unforeseen, which are or may be assessed, charged, levied, or imposed by any public or governmental authority on Company or the Property, or any property or any business owned by Company or within the Town.

“Tax Year” shall have the meaning assigned to such term in Section 1.04 of the Texas Tax Code (i.e., the calendar year).

“Taxable Value” shall mean the appraised value of the Property as certified by the Denton Appraisal District, or its successor, for a given Tax Year.

“Term” means the term of this Agreement as described in Article 2 of this Agreement.

ARTICLE 2 **TERM**

The term of this Agreement shall commence on the Effective Date and shall continue until the parties have fully satisfied all terms and conditions of this Agreement unless sooner terminated as provided herein, but shall automatically terminate upon the expiration of ten (10) years from the Effective Date.

ARTICLE 3 **COMPANY OBLIGATIONS**

3.1 **Compliance with Laws.** Construction of the Project must be done in accordance with the Approved Plans and all applicable federal, state and local laws, codes, and regulations. Company agrees that before platting the Property it will obtain approval of concept and site plans and any other requirements of the applicable zoning district.

3.2 **Regulations Regarding Building Products, Materials, or Methods.** The parties find that the Project constitutes an area of architectural importance and significance, and the Town Council of Town hereby designates it as an area of architectural importance and significance for purposes of Chapter 3000 of the Texas Gov’t Code (the “**Code**”). In consideration for the mutual covenants and conditions contained herein and pursuant to §3000.002(d) of the Code, Company voluntarily consents to the application of all Town rules, charter provisions, ordinances, orders, building codes, and other regulations existing as of the Effective Date, including the applicable zoning district (the “**Regulations**”) that govern the use or installation of a building product or material in the construction, renovation, maintenance, or other alteration of a residential or commercial building for the Project, regardless of whether a different building product or material is approved for use by a national model code published within the last three code cycles that applies to the

construction, renovation, maintenance, or other alteration of the building. In addition, Company voluntarily consents to the application of the Regulations that establish a standard for a building product, material, or aesthetic method in construction, renovation, maintenance, or other alteration of a residential or commercial building, regardless of whether the standard is more stringent than a standard for the product, material, or aesthetic method under a national model code published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of the building. The parties agree that: (a) the Town will not issue any permits for the Project in violation of this section; (b) the covenants contained within this section constitute a material term of this Agreement; (c) Company's voluntary consent to the application of the Regulations to the Property, as described in this section, constitutes a material inducement for the Town to authorize the payments to Company described herein; (d) the covenants contained herein shall run with the land and shall bind Company and all successors and assigns; and (e) this section shall survive termination or expiration of this Agreement.

3.3 Commencement of Construction. Company must achieve Commencement of Construction of the Project no later than Ninety (90) calendar days after HEB located at the northeast corner of Hwy 377 and FM 1171 receives certificate of occupancy.

3.4 Building Final and Certificate of Occupancy. No later than Forty-Eight (48) months from the Effective Date of this Agreement, the Company must receive a Building Final and Certificate of Occupancy for the upscale entertainment venue "Entertainment Anchor" (**Exhibit C**), or the neighborhood grocery store "Grocer Anchor" (**Exhibit D**), as applicable.

3.5 Property Maintenance. Company, or its Affiliates or assigns, agrees to be responsible for the continuous and perpetual operation and maintenance of the Property and the Company's Property in accordance with all applicable federal, state and local laws, codes, and regulations during the Term of this Agreement.

3.6 Rough Proportionality. The Parties agree that all conveyances, dedications, construction costs and other payments, if any, made by the Company related to the Project are roughly proportional to the need for such improvements created by the development of the Project and Company hereby waives any claim therefore that it may have. The Company further acknowledges and agrees that all prerequisites to such a determination of rough proportionality have been met, and that any costs incurred relative to the conveyance, dedication, construction costs and other payments, if any, for the Project and any public improvements are related both in nature and extent to the impact of the Project. The Company waives and releases all claims against the Town related to any and all rough proportionality and individual determination requirements mandated by Section 212.904, Texas Local Government Code, or the Texas or U.S. constitutions, as well as other requirements of a nexus between development conditions and the projected impact of the Project.

ARTICLE 4

TAXABLE VALUE AND CAPITAL INVESTMENT

4.1 Minimum Taxable Value. The Company's development of the Project must result in a Taxable Value of at least **Ten-Million Dollars (\$10,000,000)** for the 2029 Tax Year and for every

Tax Year thereafter during the Term of this Agreement, and for a period of at least ten (10) years after a Certificate of Occupancy is issued for the Project. In the event the Taxable Value, less any accumulated depreciation, falls below the minimum amount stated in the preceding sentence for any Tax Year during the term of this Agreement, then the Company shall be subject to the default, notice, and cure provisions of this Agreement.

4.2 Capital Investment. The minimum Capital Investment for the Project shall be **Ten-Million Dollars (\$ 10,000,000)** as of the date the Project receives a Building Final. The Company shall, within thirty (30) days after receiving a Building Final of the Project deliver to the Town Manager copies of invoices, bills, receipts and such other information as may be reasonably requested by Town to document compliance with the required Capital Investment for the Project.

ARTICLE 5

CHAPTER 380 PROGRAM INCENTIVE

5.1 Town Incentive. As part of the economic development program and in exchange for Company's completion and compliance with the terms and conditions of this Agreement, the Town agrees to sell and convey the Property to the Company for the Purchase Price of \$8.25 per square foot of land (22.2 acres) based on the final survey of the Property, which is estimated to be **(\$7,978,014.00)** as more specifically defined in the Purchase and Sale Agreement. The conveyance of the Property shall be made by special warranty deed "AS IS, WHERE IS, AND WITH ALL FAULTS" and without any other warranty, except for warranty of title, in accordance with the Purchase and Sale Agreement executed between the parties, subject to the following:

To satisfy the requirements of Texas Local Gov't Code Sec. 253.0125, the special warranty deed shall include (1) a provision by which the Town may repurchase the Property for the Purchase Price if Company fails to achieve Commencement of Construction of the Project in accordance with the Approved Plans by the deadline identified in Section 3.3 of this Agreement; and (2) the requirements of Section 3.2 of this Agreement shall be a covenant running with the land and shall bind Company and all its successors and assigns.

ARTICLE 6

TERMINATION AND OFFSET

- 6.1 Termination. This Agreement may be terminated upon any one or more of the following:
- (a) by mutual written agreement of the parties; or
 - (b) upon written notice by any party, if another party defaults or breaches any of the other terms or conditions of this Agreement and such default or breach is not cured within thirty (30) days after written notice thereof; or
 - (c) upon written notice by the Town, if Company suffers an Event of Bankruptcy or Insolvency; or

- (d) upon written notice by the Town, if any Impositions owed to Town become delinquent and such delinquency has not been cured within thirty (30) days after written notice thereof; or
- (e) upon written notice by any party if any subsequent federal or state legislation or any decision of a court of competent jurisdiction renders this Agreement invalid, illegal, or unenforceable.

6.2 Offset. The Company shall not allow the ad valorem taxes owed to the Town on any property owned by Company and located within the Town to become delinquent beyond the last day ad valorem taxes can be paid without assessment of penalty. The Town may at its option, and after delivering written notice to Company of its intent to do so, increase any amounts due and payable to the Town under this Agreement to recover any delinquent debt (including taxes) lawfully due to Town, regardless of whether or not the debt due to the Town has been reduced to judgment by a court.

ARTICLE 7

INDEMNIFICATION

TOWN SHALL NOT BE LIABLE FOR ANY LOSS, DAMAGE, OR INJURY OF ANY KIND OR CHARACTER TO ANY PERSON OR PROPERTY ARISING FROM THE ACTS OR OMISSIONS OF THE COMPANY OR ITS CONTRACTORS PURSUANT TO THIS AGREEMENT. COMPANY HEREBY WAIVES ALL CLAIMS AGAINST TOWN AND ITS COUNCIL, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES (COLLECTIVELY REFERRED TO AS THE “TOWN REPRESENTATIVES”) FOR DAMAGE TO ANY PROPERTY OR INJURY TO, OR DEATH OF, ANY PERSON ARISING AT ANY TIME AND FROM ANY CAUSE (OTHER THAN THE SOLE NEGLIGENCE, GROSS NEGLIGENCE OR WILLFUL ACT OF THE TOWN REPRESENTATIVES) ARISING FROM THE ACTS OR OMISSIONS OF THE COMPANY OR ITS CONTRACTORS PURSUANT TO THIS AGREEMENT. COMPANY DOES HEREBY INDEMNIFY AND SAVE HARMLESS THE TOWN REPRESENTATIVES FROM AND AGAINST ANY AND ALL LIABILITIES, DAMAGES, CLAIMS, SUITS, COSTS (INCLUDING COURT COSTS, ATTORNEYS’ FEES AND COSTS OF INVESTIGATION) AND ACTIONS OF ANY KIND BY REASON OF INJURY TO OR DEATH OF ANY PERSON, OR DAMAGE TO OR LOSS OF PROPERTY ARISING FROM COMPANY’S BREACH OF ANY OF THE TERMS AND CONDITIONS OF THIS AGREEMENT, OR BY REASON OF ANY ACT OR OMISSION ON THE PART OF COMPANY, ITS OFFICERS, DIRECTORS, SERVANTS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, SUB-CONTRACTOR(S), LICENSEES, SUCCESSORS OR PERMITTED ASSIGNS IN THE PERFORMANCE OF THIS AGREEMENT (EXCEPT WHEN SUCH LIABILITY, CLAIMS, SUITS, COSTS, INJURIES, DEATHS OR DAMAGES ARISE FROM OR ARE ATTRIBUTED TO THE SOLE NEGLIGENCE, GROSS NEGLIGENCE OR WILLFUL ACT OF THE TOWN REPRESENTATIVES). NOTWITHSTANDING THE FOREGOING, IN THE EVENT OF JOINT OR CONCURRENT NEGLIGENCE OF BOTH THE TOWN REPRESENTATIVES AND COMPANY, THE RESPONSIBILITY, IF ANY, SHALL BE

APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE TOWN REPRESENTATIVES AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE PROVISIONS OF THIS SECTION ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND THEIR RESPECTIVE SUCCESSORS AND PERMITTED ASSIGNS AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY. THE COMPANY'S OBLIGATIONS UNDER THIS SECTION SHALL NOT BE LIMITED TO THE LIMITS OF COVERAGE OF INSURANCE MAINTAINED OR REQUIRED TO BE MAINTAINED BY COMPANY UNDER THIS AGREEMENT. THIS PROVISION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

ARTICLE 8
ACCESS TO PUBLIC INFORMATION

Notwithstanding any other provision to the contrary in this Agreement, all information, documents, and communications relating to this Agreement may be subject to the Texas Public Information Act and any opinion of the Texas Attorney General or a court of competent jurisdiction relating to the Texas Public Information Act. In addition to the foregoing sentence, the Town shall submit to the comptroller the information as required by Texas Local Gov't Code Sec. 380.004, and any other information the comptroller considers necessary to operate and update the database described by Section 403.0246, Government Code. Upon the Town's request, Company agrees to provide the Town access to contract documents, invoices, receipts, records, and reports to verify Company's compliance with this Agreement.

ARTICLE 9
GOVERNMENTAL FUNCTIONS AND IMMUNITY

The parties hereby acknowledge and agree that the Town is entering into this Agreement pursuant to its governmental functions and that nothing contained in this Agreement shall be construed as constituting a waiver of the Town's police power, legislative power, or governmental immunity from suit or liability, which are expressly reserved to the extent allowed by law. The parties agree that this is not an Agreement for goods or services to the Town. To the extent a Court of competent jurisdiction determines that the Town's governmental immunity from suit or liability is waived in any manner, or that this Agreement is subject to the provisions of Chapter 271 of the Texas Local Gov't Code, as amended, the Town's immunity from suit may be waived only as set forth in Subchapter I of Chapter 271, Texas Local Gov't Code. Further, the parties agree that this Agreement is made subject to all applicable provisions of the Texas Civil Practice and Remedies Code, including but not limited to all defenses, limitations, and exceptions to the limited waiver of immunity from liability provided in Chapter 101 and Chapter 75.

ARTICLE 10
GENERAL PROVISIONS

10.1 Mutual Assistance. The parties shall 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.

10.2 Representations and Warranties. Company represents and warrants that it has the requisite authority to enter into this Agreement. Company represents and warrants that it will not violate any federal, state or local laws in constructing or operating the Project, and that the Project shall conform to the applicable building codes, zoning ordinances, and all other ordinances and regulations of the Town of Flower Mound, Texas.

10.3 Section or Other Headings. Section or other headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

10.4 Entire Agreement. This Agreement contains the entire agreement between the parties with respect to the transaction contemplated herein.

10.5 Amendment. This Agreement may only be amended, altered, or revoked by written instrument signed by the parties.

10.6 Successors and Assigns.

- (a) This Agreement shall be binding on and inure to the benefit of the parties, their respective successors and assigns.
- (b) Company may assign all or part of its rights and obligations under this Agreement to a non-Affiliate only upon prior written approval of the Town. However, this Agreement may be assigned by Company to: (i) its Affiliate without consent by the Town, if Company provides to Town with at least forty-five (45) days' prior written notice thereof and such assignee assumes in writing the obligations and liabilities of such transferring Affiliate in a form reasonably approved by Town; and (ii) to third-parties providing loans to Company as collateral for such loans; provided, however, the assignment of this Agreement as collateral shall not be construed as creating any debt of the Town within the meaning of any constitutional or statutory provision, and the Town shall not be required to subordinate its rights or obligations under this Agreement to any financial institution, or to any other third-party providing loans to Company.

10.7 Notice. Any notices or other communications required or permitted by this Agreement shall be in writing and delivered personally, or by messenger or a nationally recognized overnight courier service, or alternatively, shall be sent by United States certified mail, return receipt requested. The effective date of any notice shall be (i) if by personal delivery, messenger or courier service, the date of delivery of the notice, or (ii) if mailed, on the date upon which the return receipt is signed or delivery is refused or the notice is designated by the postal authorities as undeliverable, as the case may be. The parties hereby designate the addresses set forth below as their respective notice addresses under this Agreement.

COMPANY: AAB VENTURE CAPITAL
5 Cowboys Way, Suite 300
Frisco, Texas 75034
Attn: Vee Basappa

TOWN: Town of Flower Mound, Texas
2121 Cross Timbers Road
Flower Mound, TX 75028
Attn: James Childers, Town Manager

With a copy to: Taylor, Olson, Adkins, Sralla & Elam, LLP
6000 Western Place, Suite 200
Fort Worth, Texas 76107
Attn: Bryn Meredith

10.8 Interpretation. Regardless of the actual drafter of this Agreement, this Agreement shall, in the event of any dispute over its meaning or application, be interpreted fairly and reasonably, and neither more strongly for or against any party.

10.9 Applicable Law/Venue. The substantive laws of the State of Texas (and not its conflicts of law principles) govern all matters arising out of, or relating to, this Agreement and all of the transactions it contemplates, including without limitation its validity, interpretation, construction, performance and enforcement. Mandatory and exclusive venue for any action arising out of, or relating to, this Agreement must be in a court of competent jurisdiction in Denton County, Texas.

10.10 Severability. In the event any provision of this Agreement is ruled illegal, invalid, or unenforceable by any court of proper jurisdiction, under present or future laws, then and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the parties to this Agreement that in lieu of each clause or provision that is found to be illegal, invalid, or unenforceable a provision be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

10.11 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be considered an original, but all of which shall constitute one instrument.

10.12 No Joint Venture. The provisions of this Agreement are not intended to create, nor will they be in any way interpreted or construed to create a joint venture, partnership, or any other similar relationship between the parties.

10.13 Force Majeure. If any party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder (other than the payment of money) by reason of Force Majeure, then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such

delay, provided that the foregoing shall not be applicable to any payment obligation of any party under this Agreement.

10.14 Attorney's Fees. If either party employs an attorney or attorneys to enforce any of the provisions hereof, or to recover damages for the breach of this Agreement, the non-prevailing party in any final judgment or award agrees to pay the other party all reasonable costs, charges and expenses, including reasonable attorneys' fees and costs of court, expended or incurred in connection therewith.

10.15 Limitation of Liability. The parties further agree that no party will be liable to any other party under this Agreement for special, consequential (including lost profits), or exemplary damages.

10.16 Undocumented Workers. Company covenants and certifies that it does not and will not knowingly employ an undocumented worker as that term is defined by Section 2264.001(4) of the Texas Government Code. In accordance with Section 2264.052 of the Texas Government Code, if Company is convicted of a violation under 8 U.S.C. Section 1324a (f), Company shall repay to the Town the full amount of all payments made under this Agreement, plus ten percent (10%) interest per annum from the date such payment was made until the date of full repayment. Repayment shall be paid within one hundred twenty (120) days after the date Company receives a notice of violation from the Town.

10.17 Town Council Approval. This Agreement is not valid unless first authorized by the Town Council of the Town of Flower Mound.

10.18 Gift to Public Servant. The Town may terminate the Agreement immediately if the Company has offered or agreed to confer any benefit upon a Town employee or official that the Town employee or official is prohibited by law from accepting.

10.19 Texas Boycott Prohibitions. To the extent required by Texas law, Company verifies that: (1) It does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, as defined in Texas Government Code § 2274.001, and that it will not during the term of the Contract discriminate against a firearm entity or firearm trade association; (2) It does not "boycott Israel" as that term is defined in Texas Government Code § 808.001 and 2271.001, and it will not boycott Israel during the term of the Contract; (3) It does not "boycott energy companies," as those terms are defined in Texas Government Code §§ 809.001 and 2276.001, and it will not boycott energy companies during the term of the Contract; (4) It does not engage in scrutinized business operations with Sudan, Iran, or designated foreign terrorist organization as defined in Texas Government Code, Chapter 2270; and (5) It is not owned by or the majority of its stock or other ownership interest is held or controlled by i) individuals who are citizens of China, Iran, North Korea, Russia, or a designated country as defined by Texas Government Code § 2275.0101; or ii) a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a designated country; nor is it headquartered in China, Iran, North Korea, Russia, or a designated country.

10.20 380 Incentive Limitations. Under no circumstances shall the obligations of the Town hereunder be deemed to create any debt within the meaning of any constitutional or statutory provision. The Town shall not be obligated to pay any lienholder, commercial bank, lender, or similar Person or financial institution for any loan or credit agreement made by the Company. None of the obligations of Town under this Agreement shall be pledged or otherwise encumbered by the Company in favor of any lienholder, commercial bank, lender, or similar Person, or financial institution.

10.21 Ethics Disclosure. The Company represents that it has completed a TEC form 1295 (“Form 1295”) generated by the TEC’s electronic filing application in accordance with the provisions of Texas Government Code 2252.908 and the rules promulgated by the TEC. The Parties agree that, with the exception of the information identifying the Town and the contract identification number, the Town is not responsible for the information contained in the Form 1295. The information contained in the Form 1295 has been provided solely by Company and the Town has not verified such information. The Town hereby confirms timely receipt of the Form 1295 from the Company pursuant to Section 2252.908, and the Town agrees to acknowledge such form with the TEC through its electronic filing application system not later than the 30th day after the receipt of such form.

10.22 No Third-Party Beneficiaries. The Town and the Company intend that this Agreement shall not benefit or create any right or cause of action in or on behalf of any third-party beneficiary, or any individual or entity other than the Town, the Company or assignees of the Company.

10.23 Full Execution Required. This Agreement will not be binding on any party unless fully executed by all parties.

[Signatures on Following Page]

[REMAINDER OF PAGE LEFT BLANK]

IN WITNESS WHEREOF, the parties have executed this Agreement and caused this Agreement to be effective as of the last date below, which is the __ day of _____, 2025.

AAB VENTURE CAPITAL

a _____

By: _____

Name: _____

Title: _____

Date: _____

STATE OF TEXAS §

§

COUNTY OF _____ §

Before me on this day personally appeared _____, the _____ of AAB Venture Capital, a _____, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated.

Given under my hand and seal of office this ____ day of _____, 2025.

SEAL

Notary Public in and for the State of Texas

My Commission Expires:

**PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF
FLOWER MOUND, TEXAS, on this ____ day of _____, 2025.**

TOWN:

TOWN OF FLOWER MOUND, TEXAS

Cheryl Moore, Mayor

Date: _____

STATE OF TEXAS §
 §
COUNTY OF _____ §

Before me on this day personally appeared _____, the _____
_____ of Town of Flower Mound, Texas, a Texas home rule municipality, known
to me to be the person whose name is subscribed to the foregoing instrument and acknowledged
to me that he executed the same for the purposes and consideration therein expressed, and in the
capacity therein stated.

Given under my hand and seal of office this ____ day of _____, 2025.

SEAL

Notary Public in and for the State of Texas

My Commission Expires:

EXHIBIT A

The Property

The Property is generally shown below and identified as an approximately 22.2± acre tract of land and located at the corner of Cross Timbers Road where it intersects with the Union Pacific Railroad in the Town of Flower Mound, Texas:

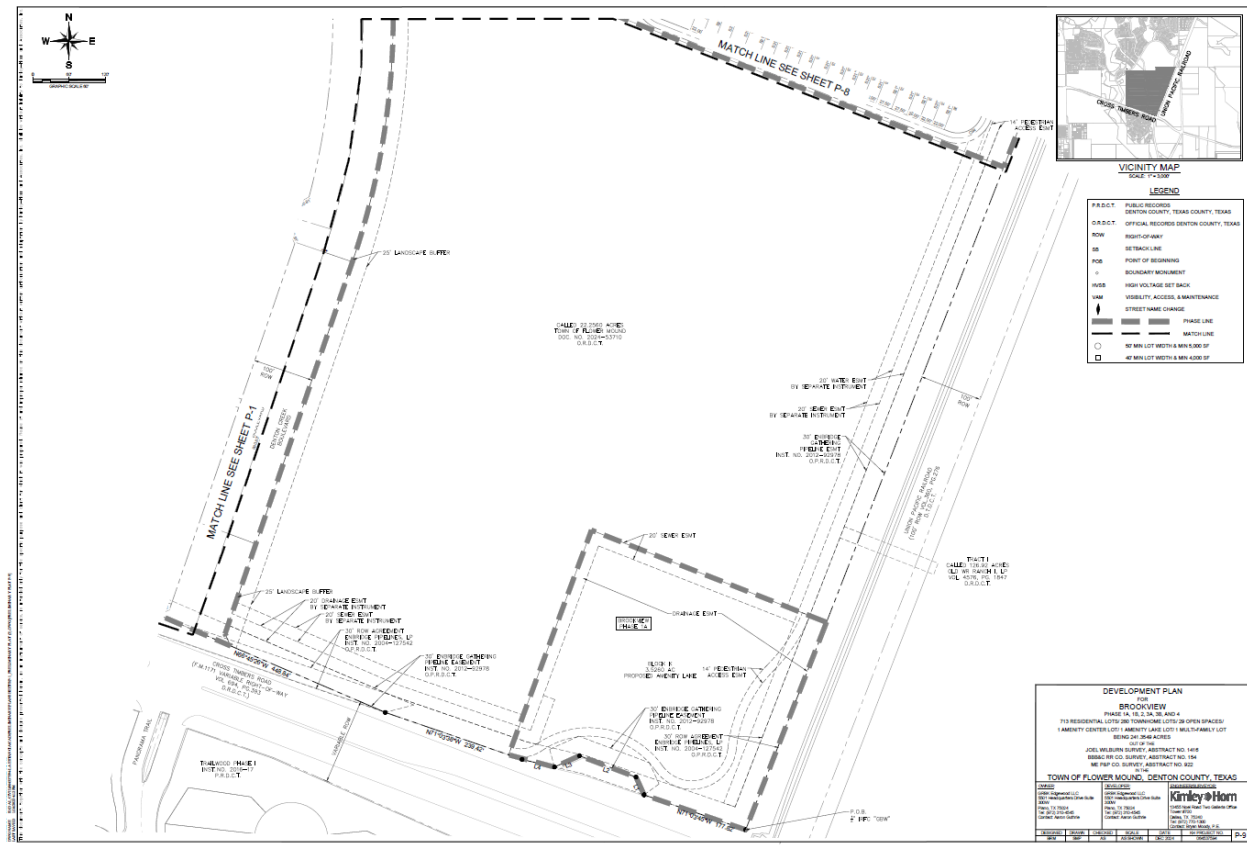


EXHIBIT B

Conceptual Plan

The Property is identified as Parcel 7 on the map below. The Conceptual Plan(s) submitted by the Company to the Town, including Proposal 1 “Entertainment Anchor” (shown below on **Exhibit C**) and Proposal 2 “Grocer Anchor” (shown below on **Exhibit D**) and their proposed economic impact details are shown below and are included in this Agreement by reference as if fully set forth herein. **Exhibit B**, **Exhibit C**, and **Exhibit D** are subject to the following: The Approved Plans for each respective building will be subject to approval by the Town Council prior to Commencement of Construction of each respective building. If the Company constructs the Entertainment Anchor, then approval of the same shall be conditioned upon approval of a specific use permit.



EXHIBIT C

Proposal 1 “Entertainment Anchor”



Proposed Economic Impact Details

PROPOSED IMPACT ON TOWN OF FLOWER MOUND - OPTION 1 - PROPOSAL 1					
	PURPOSE	ANNUAL REVENUE PROJECTED	NO OF JOBS	SALESTAX PROJECTED	
RETAIL	SUPPORT NEIGHBOR HOOD	\$8,000,000.00	15	\$656,000.00	
MEDICAL OFFICES	SUPPORT NEIGHBOR HOOD	\$1,800,000.00	12	\$147,600.00	
ENTERTAINMENT	SUPPORT NEIGHBOR HOOD	\$8,000,000.00	25	\$656,000.00	
GAS STATION	SUPPORT NEIGHBOR HOOD	\$2,400,000.00	2	\$196,800.00	
RESTAURANT	SUPPORT NEIGHBOR HOOD	\$1,650,000.00	6	\$135,300.00	
QSR 1	SUPPORT NEIGHBOR HOOD	\$2,100,000.00	4	\$172,200.00	
QSR 2	SUPPORT NEIGHBOR HOOD	\$2,100,000.00	4	\$172,200.00	
BANK	SUPPORT NEIGHBOR HOOD	\$0.00	4	\$0.00	
SCHOOL	SUPPORT NEIGHBOR HOOD	\$0.00	18	\$0.00	
		\$26,050,000.00	90	\$2,136,100.00	

EXHIBIT D

Proposal 2 “Grocer Anchor”



Proposed Economic Impact Details

PROPOSED IMPACT ON TOWN OF FLOWER MOUND - OPTION 2 - PROPOSAL 2					
	PURPOSE	ANNUAL REVENUE PROJECTED	NO OF JOBS	SALES TAX PROJECTED	
RETAIL	SUPPORT NEIGHBOR HOOD	\$12,000,000.00	15	\$984,000.00	
MEDICAL OFFICES	SUPPORT NEIGHBOR HOOD	\$1,800,000.00	12	\$147,600.00	
GRO CER	SUPPORT NEIGHBOR HOOD	\$6,000,000.00	10	\$492,000.00	
GAS STATION	SUPPORT NEIGHBOR HOOD	\$2,400,000.00	2	\$196,800.00	
RESTAURANT	SUPPORT NEIGHBOR HOOD	\$1,650,000.00	6	\$135,300.00	
QSR 1	SUPPORT NEIGHBOR HOOD	\$2,100,000.00	4	\$172,200.00	
QSR 2	SUPPORT NEIGHBOR HOOD	\$2,100,000.00	4	\$172,200.00	
BANK	SUPPORT NEIGHBOR HOOD	\$0.00	4	\$0.00	
SCHOOL	SUPPORT NEIGHBOR HOOD	\$0.00	18	\$0.00	
		\$28,050,000.00	75	\$2,300,100.00	

AGREEMENT OF PURCHASE AND SALE

ARTICLE 1: PROPERTY/PURCHASE PRICE

1.1 Certain Basic Terms.

(a) Seller and Notice Address:

TOWN OF FLOWER MOUND
Attn: James Childers, Town Manager
2121 Cross Timbers Road
Flower Mound, TX 75028
Telephone: 972.874.6000
Email: James.Childers@flower-mound.com

With a copy to:

Taylor, Olson, Adkins, Sralla & Elam, LLP
Attn: Bryn Meredith
6000 Western Place, Suite 200
Fort Worth, Texas 76107
Telephone: 817-332-2580
Email: bmeredith@toase.com

(b) Purchaser and Notice Address:

AAB VENTURE CAPITAL
Attention: Vee Basappa
5 Cowboys Way, Suite 300
Frisco, Texas 75034
Telephone: (469) 214-7368 (Office)
(469) 469-7812 (Cell)
Email: vee@aabventurecapital.com

(c) Title Company/Escrow Agent:

National Title
Attn: Cathy Miller
3360 Long Prairie Rd.
Flower Mound, TX 75022
Telephone: (972) 221-3521
Email: cathy@nationaltitlegroup.com

(d) Date of this Agreement/Effective Date:

The latest date of execution by Seller or Purchaser, as indicated on the signature page.

(e) Purchase Price:

The purchase price (the "Purchase Price") shall be \$8.25 Per Square Foot of Land (22.2 acres) based on the final Survey (as hereinafter defined), payable as follows:

- (i) Seven Million Nine Hundred and Seventy-eight Thousand Fourteen and No/100 Dollars (\$7,978,014.00) paid by Purchaser at Closing (the "Cash Portion of the Purchase Price"); and

(f) Earnest Money:

The sum of Twenty Five Thousand and No/100 Dollars (\$25,000.00) (the "Earnest Money") deposited within (3) business days after the Effective Date in cash pursuant to Section 1.3 of this Agreement (including any interest accrued thereon), with an additional Two Hundred Thousand and No/100 Dollars (\$200,000.00) deposited (1) business day after the expiration of the Inspection Period and held in escrow by the Escrow Agent pursuant to the terms of this Agreement. The Earnest Money and any interest accrued thereon shall hereinafter collectively be referred to as the "Earnest Money".

(g) Inspection Period

The period ending One Hundred and Twenty days (120) after receipt of (i) Title Commitment, Exception Documents, and Title Insurable Survey and (ii) the completion of Denton Creek Parkway, including water and Sewer, from SH 1171 to Canyon Falls Dr.

(h) Plan Approval Period:

The period ending One Hundred Twenty days (120) after the expiration of the Inspection Period. Purchaser shall have the option to extend the Plan Approval Period by providing written notice to seller and Title Company for an additional Sixty days (60).

(i) Closing Date:

The Closing shall take place thirty days (30) after expiration of Plan Approval by Town.

(j) Broker(s):

Brent Wicker of Wicker & Associates
Commission: A flat fee of \$250,000 will be paid at closing by Town of Flower Mound to Wicker & Associates.

(k) Agreement:

This Agreement of Purchase and Sale.

1.2 Property. Subject to the terms and conditions of this Agreement, Seller agrees to sell to Purchaser, and Purchaser agrees to purchase from Seller, that approximately 22.2± acre tract of land (the "Land") identified as Parcel 7 on the attached Conceptual Plan and located at the corner of Cross Timbers Road where it intersects with the Union Pacific Railroad in the Town of Flower Mound (the "Town"), Denton County, Texas, being further identified on Exhibit A attached hereto, together with (i) all and singular the appurtenances appertaining thereto, and Seller's rights, easements or other interests, if any, in and to adjacent streets, alleys and rights-of-way abutting such real property; (ii) any improvements situated upon the Land; (iii) all of Seller's rights of access, utility capacities and complete control of the surface usage of the Land and (iv) such other assignable rights, interests and properties as may be specified in this Agreement.

1.3 Earnest Money. Within three (3) business days after the Effective Date, Purchaser shall deposit the Earnest Money with Escrow Agent. If this Agreement has not been terminated by Purchaser prior to the expiration of the Inspection Period as provided in Section 2.1 of this Agreement, then the Earnest Money shall be held and disbursed by Escrow Agent as otherwise set forth in this Agreement. No later than one (1) business day after the expiration of the Inspection Period, Purchaser shall deposit with Escrow Agent an additional Two Hundred Thousand and No/100 Dollars (\$200,000.00) as additional Earnest Money.

Upon expiration of the Inspection Period, the Earnest Money, which includes the additional Earnest Money described above, shall only be refundable to Purchaser under the following circumstances:

- (a) Purchaser terminates this Agreement as a result of Seller's default; or
- (b) As otherwise expressly provided for in this Agreement.

1.4 Independent Contract Consideration. Seller and Purchaser agree that Fifty and No/100 Dollars (\$50.00) out of the Earnest Money has been bargained for and agreed to as consideration for Purchaser's exclusive option to purchase the Property and the Inspection Period provided herein, and for Seller's execution and delivery of this Agreement (the "Independent Contract Consideration"). The Independent Contract Consideration is nonrefundable in all events. If the transaction contemplated herein is consummated by the parties, the Independent Contract Consideration will be applied to the Purchase Price at Closing. However, if this Agreement is terminated for any reason, Escrow Agent shall immediately release the Independent Contract Consideration to Seller, and then distribute the Earnest Money as provided in Article 8 hereof.

ARTICLE 2: INSPECTION PERIOD

2.1 Due Diligence and Inspection Period. Purchaser shall have through the last day of the Inspection Period in which to examine, inspect, and investigate the Property and, in Purchaser's sole and absolute judgment and discretion, to determine whether the Property is acceptable to Purchaser. Notwithstanding anything to the contrary in this Agreement, Purchaser may terminate this Agreement by giving notice of termination to Seller and Escrow Agent on or before the expiration of the Inspection Period, upon which the Earnest Money, less the Independent Contract Consideration, shall be returned to Purchaser. Subject to any other applicable provisions of this Agreement, if Purchaser does not terminate this Agreement as provided in the preceding sentence, Purchaser shall be deemed to have waived its right to terminate under this Section 2.1 and this Agreement.

Purchaser and its agents, employees, and representatives ("Purchaser's Consultants") shall have a continuing right of reasonable access to the Property during the pendency of this Agreement, for the purpose of conducting surveys, engineering, soil, geotechnical, and environmental inspections and tests, and any other inspections, studies, or tests reasonably required by Purchaser. Purchaser shall keep the Property free and clear of any liens and Purchaser shall hold Seller harmless from claims and damages including, without limitation, attorney's fees, resulting directly from Purchaser's exercise of its rights under this paragraph. Purchaser shall, at its sole expense, repair any and all damage resulting from any of the tests, studies, inspections and investigations performed by or on behalf of Purchaser pursuant to this Article 2 including, without limitation, restoring the Property to reasonably the same condition as existed prior to such test, study, inspection or investigation. Purchaser's obligations under this Agreement shall survive Closing or termination of this Agreement.

ARTICLE 3: TITLE AND SURVEY REVIEW

3.1 Title Review and Objections. On or before 30 days after the Effective Date, the Title Company will provide, at Seller's expense, a title commitment (the "Title Commitment") covering the Property, issued by the Title Company and addressed to Purchaser, binding the Title Company to issue to Purchaser at Closing an owner's policy of title insurance (the "Title Policy") on the standard form of policy in the full amount of the Purchase Price subject only to the Permitted Exceptions (hereinafter defined). The Title Company will provide legible copies of all instruments referred in the Title Commitment that affect the title of Seller to the Property or that constitutes an exception or restriction upon the title of Seller to the Property be delivered with the Title Commitment (the "Exception Documents"), except copies of any lien(s) to be released at Closing. Purchaser shall have until 60 days after the Effective Date (the "Title Review Period") to deliver written objections to Seller to anything contained or set forth in the Title Commitment or Exception Documents which is unacceptable to Purchaser (collectively, the "Title Objections"); provided, however, in no event shall Purchaser be required to object to any Schedule C items of the Title Commitment and Seller shall cause all such items to be satisfied prior to Closing such that no Schedule C item is specified on the Title Policy, and in no event shall any Schedule C item be a Permitted Exception. Any items to which Purchaser does not object to within such period shall be deemed to be Permitted Exceptions.

3.2 Survey Review and Objections. Seller has already provided to Purchaser a copy of Seller's existing survey ("Seller's Survey") and Seller's Commitment (collectively, "Seller's Title Documents") and a draft of a survey of the Property. Within twenty (20) days after the completion of Denton Creek Parkway and the Title Company delivers the Title Commitment to Seller and Purchaser, Seller shall update the draft survey of the Property (the "Survey"). The surveyor shall determine and state upon the Survey the Square Footage of Land calculated in accordance with Section 1.1(e) above. The Survey shall conform to the Title Commitment and be certified to Seller, Purchaser, and the Title Company. Purchaser shall have 30 days from the completion of the Survey and updated Title Commitment to deliver written objections to Seller to anything contained or set forth on the Survey which is unacceptable to Purchaser (the "Survey Objections"). Notwithstanding the foregoing or anything else to the contrary contained in this Agreement, any items shown on Seller's Survey that are also on the Survey be deemed Permitted Exceptions and shall not be valid Survey Objections from Purchaser.

3.3 Cure of Title and Survey Objections. Seller will cooperate with Purchaser, without expense to Purchaser, in curing any Title Objections or Survey Objections Purchaser may have to title to the Property, but Seller shall have no obligation to cure Title Objections and Survey Objections except (a) liens of an ascertainable amount

created by, through or under Seller, which shall be released at the Closing, and (b) any exceptions or encumbrances to title which are created by, through or under Seller after the Effective Date without the written consent of Purchaser, which shall be removed by the Closing Date. Seller will notify Purchaser in writing of its intentions with respect to curing the Title Objections and Survey Objections within 7 days of receipt of such objections. Purchaser may terminate this Agreement and receive a refund of the Earnest Money if (i) Seller does not elect to cure all or any of Purchaser's Title Objections and Survey Objections or (ii) the Title Company revises the Title Commitment after the expiration of the Inspection Period to add or modify exceptions, if such additions or modifications are not acceptable to Purchaser and are not removed by the Closing Date. The term "Permitted Exceptions" shall mean (y) the specific exceptions in the Title Commitment (1) that Purchaser did not object to; (2) that the Title Company has not agreed to insure over or remove from the Title Commitment as of the expiration of the Inspection Period; and/or (3) that are also exceptions in Seller's Commitment or shown on Seller's Survey; and (z) real estate taxes not yet due and payable.

3.4 Title and Survey Costs. At Closing, Seller will pay all costs associated with the Title Commitment, the base premium for the Title Policy in the amount of the Purchase Price. Purchaser will pay all costs associated with the simultaneous issue cost of any Mortgagee's Title Policy and the cost of any endorsements Purchaser may require. Seller shall pay the cost of the Survey.

ARTICLE 4: REPRESENTATIONS AND WARRANTIES

4.1 Seller's Representations and Warranties. As a material inducement to Purchaser to execute this Agreement and consummate this transaction, Seller represents and warrants to Purchaser as follows:

(a) Authority. Subject to Section 9.3 below, Seller has the full right and authority and has obtained any and all consents required therefor to enter into this Agreement and perform its obligations hereunder. All of the documents to be delivered by Seller at the Closing will be authorized and properly executed and will constitute the valid and binding obligations of Seller, enforceable in accordance with their terms.

(b) Organization and Good Standing. Seller is duly organized, validly existing and in good standing under the laws of the State of Texas.

(c) Section 1445. Seller is not a "foreign person" within the meaning of Section 1445 of the Internal Revenue Code of 1986, as amended, and any applicable regulations promulgated thereunder.

(d) Prohibited Person. Seller represents and warrants to Purchaser, as of the Effective Date and as of the date of the Closing, concerning itself (which representations and warranties shall survive the Closing and which for this purpose includes its assignee and its and its assignee's officers, directors, and owners of direct ownership interests): (a) it is not a Prohibited Person (as defined below); (b) it is currently in compliance with and will at all times during the term of this Agreement remain in compliance with the regulations of the Office of Foreign Asset Control of the Department of the Treasury and any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action relating thereto. "Prohibited Person" shall mean any person, organization, or entity: (i) listed in the Annex to, or is otherwise subject to, the provisions of Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001, and relating to Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (the "Executive Order"); (ii) owned or controlled by, or acting for or on behalf of, any person or entity that is listed in the Annex to, or is otherwise subject to the provisions of, the Executive Order; (iii) with whom a party is prohibited from dealing or otherwise engaging in any transaction by any terrorism or money laundering legal requirements, including the PATRIOT Act and the Executive Order; (iv) that commits, threatens, or conspires to commit or supports "terrorism" as defined in the Executive Order; (v) that is named as a "specifically designated national" or "blocked person" on the most current list published by the U.S. Treasury Department Office of Foreign Assets Control at its official website, <http://www.treas.gov/offices/eotffc/ofac/sdn>, or at any replacement website or other replacement official publication of the list or is named on any other U.S. or foreign government or regulatory list maintained for the purpose of preventing terrorism, money laundering, or similar activities;

(vi) that is covered by IEEPA, OFAC, or any other law, regulation, or executive order relating to the imposition of economic sanctions against any country, region, or individual pursuant to United States law or United Nations resolution; or (vii) that is an Affiliate (including any principal, officer, immediate family member, or close associate) of a person or entity described in one or more of the above clauses of this definition of Prohibited Person.

4.2 Purchaser's Representations and Warranties. As a material inducement to Seller to execute this Agreement and consummate this transaction, Purchaser represents and warrants to Seller that:

(a) Authority. Purchaser has the full right and authority and has obtained any and all consents required therefor to enter into this Agreement and perform its obligations hereunder. This Agreement has been and all of the documents to be delivered by Purchaser at the Closing will be authorized and properly executed and will constitute the valid and binding obligations of Purchaser, enforceable in accordance with their terms.

(b) Organization and Good Standing. Purchaser is duly organized, validly existing and in good standing under the laws of the State of its formation, and is authorized to transact business in the State of Texas.

(c) Conflicts and Pending Action. There is no agreement to which Purchaser is a party or to Purchaser's knowledge binding on Purchaser which is in conflict with this Agreement. There is no action or proceeding pending or to Purchaser's knowledge, threatened, against Purchaser which challenges or impairs Purchaser's ability to execute or perform its obligations under this Agreement.

4.3 Survival of Representations and Warranties. The representations and warranties set forth in this Article 4 are made as of the Effective Date and are remade as of the Closing Date and shall not be deemed to be merged into or waived by the instruments of Closing, but shall survive the Closing for a period of one (1) year. To the extent permitted by Texas law, each party agrees to defend and indemnify the other against any claim, liability, damage or expense asserted against or suffered by such other party arising out of the breach or inaccuracy of any such representation or warranty; provided, however, the indemnity obligation herein shall not be construed as requiring the Purchaser to fund any potential indemnity obligation or defense by prior appropriation or the establishment of a sinking fund.

ARTICLE 5: CLOSING

5.1 Closing. The consummation of the transaction contemplated herein ("Closing") shall occur through an escrow established with the offices of the Title Company on the Closing Date.

5.2 Seller's Deliveries at Closing. On the Closing Date, Seller shall execute (as applicable) and deliver to the Title Company the following:

(a) Deed. A special warranty deed (the "Deed") in the form attached hereto as Exhibit B.

(b) Reserved.

(c) FIRPTA. A Foreign Investment in Real Property Tax Act affidavit executed by Seller. If Seller fails to provide the necessary affidavit and/or documentation of exemption on the Closing Date, Purchaser may proceed with withholding provisions as provided by law.

(d) Seller's Affidavit. An Affidavit executed by Seller that there are no debts, liens and/or parties in possession of the Property and allowing for the removal of the standard exceptions to the Title Policy.

(e) Authority. Evidence of existence, organization, and authority of Seller and the authority of the person executing documents on behalf of Seller reasonably satisfactory to Purchaser and the Title Company.

(f) Additional Documents. Any additional documents customary for similar transactions that Purchaser or the Title Company may reasonably require for the proper consummation of the transaction contemplated by this Agreement.

5.3 Purchaser's Deliveries at Closing. On the Closing Date, Purchaser shall execute (as applicable) and deliver to the Title Company the following:

(a) Purchase Price. A wire transfer of the Cash Portion of the Purchase Price, less an amount equal to the Earnest Money, plus or minus applicable prorations, as provided for in this Agreement, payable to the order of Seller.

(b) Reserved.

(c) A signed Economic Development Agreement. The Purchaser and Seller will have and agree upon an Economic Development Agreement that will be executed prior to closing.

5.4 Additional Documents. Any additional documents customary for similar transactions that Seller or the Title Company may reasonably require for the proper consummation of the transaction contemplated by this Agreement.

5.5 Possession. At the Closing, Seller shall deliver exclusive possession of the Property to Purchaser, subject only to the Permitted Exceptions.

ARTICLE 6: PRORATIONS/CLOSING COSTS/CREDITS

6.1 Tax Prorations/Closing Costs.

(a) If the current amount of ad valorem/real estate taxes for the year of Closing are unknown, ad valorem/real estate taxes for the year of Closing will be prorated at Closing, effective as of the Closing Date, based upon the tax rate for the immediately preceding year, applied to the latest assessed valuation of the Property. If the tax prorations attributable to the Property for the year of Closing are later determined to be higher or lower than those that are estimated at Closing, a post-closing adjustment will be made at the request of Purchaser upon presentation of actual tax bills. Seller will pay all ad valorem real estate taxes for years prior to the year of Closing at Closing if such taxes have not already been paid. This section shall survive Closing.

(b) Purchaser shall pay the recording fee for the Deed from Seller, the costs allocated to Purchaser in Section 3.4 above (if any), tax certificates, and the costs of recording any documents associated with Purchaser's financing. Seller shall pay the cost of recording any releases, the costs allocated to Seller in Section 3.4 above (if any), and any escrow fees. Each party shall pay its own attorney's fees. Any costs or expenses not specifically provided for in this Agreement shall be allocated as is customary for transactions of similar nature in Denton County, Texas. Seller shall be responsible for all taxes that result from subsequent assessments due to a change in land usage or ownership of the Property (the "Rollback Taxes"). Any payment required as a result of the post-closing adjustment shall be made within thirty (30) days after written demand therefor. This section shall survive Closing.

ARTICLE 7: DEFAULT

7.1 Seller Default. If prior to or at Closing, Seller fails to perform any of its obligations under this Agreement, and provided that Purchaser is not in default under any of its obligations hereunder, Purchaser shall be entitled as its sole and exclusive remedy hereunder, to either: (i) terminate this Agreement and receive a return of the

Earnest Money and reimbursement for all actual due diligence costs, as liquidated damages in full and final satisfaction of all obligations of Seller hereunder, or (ii) extend the time for performance for such period of time as may be mutually agreed upon in writing by the parties hereto or (iii) waive such default and proceed to Closing, or (iv) enforce specific performance of Seller's obligation to convey the Property to Purchaser in accordance with the terms, provisions and conditions herein. Except as expressly provided herein, Purchaser waives any other pre-closing remedies to which it may otherwise be entitled at law or in equity, including the right to seek or recover actual, incidental, consequential, exemplary, extraordinary, treble or punitive damages.

7.2 Purchaser Default. If prior to or at Closing, Purchaser fails to perform any of its obligations under this Agreement, and provided that Seller is not in default under any of its obligations hereunder, Seller shall, in its sole discretion, be entitled to: (i) terminate this Agreement and retain the Earnest Money and reimbursement for all actual due diligence costs as liquidated damages; or (ii) extend the time for performance for such period of time as may be mutually agreed upon in writing by the parties hereto.

7.3 Notice and Opportunity to Cure. Notwithstanding the foregoing and prior to exercise of any rights or remedies pursuant to this Agreement, Seller and Purchaser covenant and agree, each with the other, to give prompt notice (as defined in Section 9.14 below) of any default by the other party hereunder which includes three (3) days during which time same may be cured prior to exercise of any rights or remedies pursuant to this Article 7; provided however, no such notice shall be required to be given to a party who has sought relief under the United States Bankruptcy Code, as amended, and from time to time in effect ("Code"). In the event that Seller shall file a petition seeking relief under the Code and shall thereafter, as debtor-in-possession or by action of a trustee appointed in the debtor's case, elect to assume this Agreement, no such election shall be effective unless: (i) Purchaser has elected in writing to continue this Agreement; (ii) all defaults of Seller under this Agreement have been cured and Seller shall have promptly demonstrated to Purchaser, to Purchaser's reasonable satisfaction, Seller's ability to so effect such cure of all defaults; and (iii) Seller shall have delivered to Purchaser within ten (10) days of Seller's election to assume this Agreement, or Seller shall have provided other evidence acceptable to Purchaser in Purchaser's reasonable discretion, that Seller shall be able to comply with all of its obligations under this Agreement.

7.4 Post-Closing Remedies. In the event any representations or warranties by any party herein are determined to be materially untrue or any party breaches any of its covenants herein contained, which is discovered after Closing but within the survival period, or any party fails to perform any post-Closing obligations under this Agreement, then the non-defaulting party shall be entitled, as its sole and exclusive remedy hereunder, to recover its actual damages in full and final satisfaction of all claims. Each party hereby expressly waives incidental, consequential, exemplary, extraordinary, treble or punitive damages.

ARTICLE 8: EARNEST MONEY PROVISIONS

8.1 Delivery at Closing. If the Closing under this Agreement occurs, the Earnest Money shall be credited against the Purchase Price for the benefit of Purchaser.

8.2 Termination Pursuant to Section 2.1. If Purchaser terminates this Agreement during the Inspection Period in accordance with Section 2.1, Escrow Agent shall pay the Earnest Money, less the Independent Consideration, to Purchaser within two (2) business days after receipt of Purchaser's notice of termination of this Agreement. No notice to Escrow Agent from Seller shall be required for the release of the Earnest Money to Purchaser by Escrow Agent pursuant to a termination occurring during the Inspection Period under Section 2.1 of this Agreement and Purchaser and Seller hereby waive any claims against the Escrow Agent for releasing the Earnest Money to Purchaser as set forth herein. Additionally, Purchaser and Seller waive any claims against the Escrow Agent and further agree, each with the other, that neither party shall bring any action against Escrow Agent which would have the effect of delaying, preventing, or in any way interrupting Escrow Agent's delivery of the Earnest Money pursuant to Section 2.1 of this Agreement. Notwithstanding anything else contained herein to the contrary, any party who wrongfully fails or refuses to sign a release acceptable to the Escrow Agent within two (2) business days after receipt of a request will be liable to the other party for (i) damages, (ii) the Earnest Money, (iii) reasonable attorney's fees and (iv) all costs of suit.

8.3 Other Allowable Terminations. Upon a termination of this Agreement as allowed pursuant to this Agreement, but other than as described in Section 8.2, either party to this Agreement (the "Terminating Party") may give written notice to the Escrow Agent and the other party (the "Non-Terminating Party") of such termination

and the reason for such termination. The Non-Terminating Party shall then have five (5) business days in which to object in writing to the release of the Earnest Money to the Terminating Party. In the absence of such an objection, the Escrow Agent shall disburse the Earnest Money to the Terminating Party. If the Non-Terminating Party provides such an objection, then the Escrow Agent may retain the Earnest Money until it receives written instructions executed by both Seller and Purchaser as to the disposition and disbursement of the Earnest Money, or until ordered by final court order, decree or judgment, which is not subject to appeal, to deliver the Earnest Money to a particular party, in which event the Earnest Money shall be delivered in accordance with such notice, instruction, order, decree or judgment. Seller and Purchaser will not unreasonably condition, delay or withhold providing instructions to the Title Company. Notwithstanding anything else contained herein to the contrary, any party who wrongfully fails or refuses to sign a release acceptable to the Escrow Agent within seven (7) days after receipt of the request will be liable to the other party for (i) damages, (ii) the Earnest Money, (iii) reasonable attorney's fees and (iv) all costs of suit.

ARTICLE 9: MISCELLANEOUS

9.1 Commissions. Seller and Purchaser represent and warrant, each to the other, that they have not dealt with any real estate broker, sales person or finder in connection with this transaction other than the Broker(s) listed in Section 1.1(j), who will be paid a commission by Seller from Seller's proceeds at (and only in the event of and as part of) the Closing of this transaction pursuant to a separate written agreement between Broker(s) and Seller. To the extent authorized by Texas law, Seller and Purchaser covenant and agree that each will defend, indemnify, and hold the other harmless from and against all liabilities, claims, demands and actions by third parties for brokerage, commission, finder's or other fees relative to negotiation or execution of this Agreement, or the purchase and sale of the Property, and any court costs, attorneys' fees or other costs or expenses arising therefrom, alleged to be due to the indemnifying party's acts. Such indemnities shall survive any termination of this Agreement or the Closing; however, such indemnities, shall not be construed as requiring the Purchaser to fund any potential indemnity obligation by prior appropriation or the establishment of a sinking fund.

9.2 Assigns. This Agreement shall inure to the benefit of and be binding on the parties hereto and their respective heirs, devisees, legal representatives, successors, and assigns. Purchaser shall not assign this Agreement to any entity, except to related or affiliate entities of the Purchaser, without Seller's prior written consent, which consent may be withheld in Seller's sole discretion. Seller shall not assign this Agreement to any entity other than an affiliate of Seller without Purchaser's prior written consent. Upon any such assignment under this Section 9.2, then such assigning party shall not be relieved of any obligations and liabilities under this Agreement.

9.3 Conditions to Closing. Seller and Purchaser shall act in good faith to negotiate and mutually approve an Economic Development Agreement during the Plan Approval Period and prior to Closing that will affect the Property (the "Economic Development Agreement"), and such Economic Development Agreement shall outline, among other things, Purchaser's obligation to develop the Property in accordance with the Approved Plans (as that term is defined in the Economic Development Agreement) and current zoning for the Property. In the event that the Conditions to Closing (herein so called) set forth in this Section 9.3 are not satisfied on or before Closing, either party shall have the right to terminate this Agreement. To ensure compliance with Texas Local Gov't Code Ch. 253 and Ch. 380, the certain covenants, restrictions, and a right of repurchase shall be included with the Deed.

9.4 **WAIVER OF SOVEREIGN AND/OR GOVERNMENTAL IMMUNITY. THE PARTIES ARE ENTERING INTO THIS AGREEMENT IN RELIANCE UPON ITS ENFORCEABILITY. CONSEQUENTLY, AND NOTWITHSTANDING ANYTHING CONTAINED IN THIS AGREEMENT TO THE CONTRARY, THE TOWN UNCONDITIONALLY AND IRREVOCABLY WAIVES ALL CLAIMS OF SOVEREIGN AND/OR GOVERNMENTAL IMMUNITY (INCLUDING IMMUNITY FROM SUIT AND IMMUNITY TO LIABILITY) RELATED TO THIS AGREEMENT AS PROVIDED SUBCHAPTER I, OF TEXAS LOCAL GOVERNMENT CODE CHAPTER 271, SUCH THAT THIS AGREEMENT SHALL BE GIVEN FULL EFFECT AND SHALL BE FULLY ENFORCEABLE AGAINST THE TOWN IN ALL RESPECTS, WITHOUT EXCEPTION; PROVIDED, HOWEVER, THE WAIVER OF IMMUNITY HEREIN IS NOT ENFORCEABLE BY ANY PARTY THAT IS NOT A PARTY TO THIS AGREEMENT, OR ANY PARTY THAT MAY BE CONSTRUED TO BE A THIRD-PARTY BENEFICIARY TO THIS AGREEMENT.**

9.5 Headings. The article and paragraph headings of this Agreement are for convenience only and in no way limit or enlarge the scope or meaning of the language hereof.

9.6 Invalidity and Waiver. If any portion of this Agreement is held invalid or inoperative, then so far as is reasonable and possible the remainder of this Agreement shall be deemed valid and operative, and effect shall be given to the intent manifested by the portion held invalid or inoperative. The failure by either party to enforce against the other any term or provision of this Agreement shall be deemed not to be a waiver of such party's right to enforce against the other party the same or any other such term or provision.

9.7 Governing Law. This Agreement and said other instruments shall, in all respects, be governed, construed, applied, and enforced in accordance with the law of the State of Texas. Venue for this transaction shall be deemed to be in Denton County, Texas.

9.8 Survival. The provisions of this Agreement that contemplate performance after the Closing and the obligations of the parties not fully performed at the Closing shall survive the Closing and shall not be deemed to be merged into or waived by the instruments of Closing.

9.9 No Third-Party Beneficiary. This Agreement is not intended to give or confer any benefits, rights, privileges, claims, actions or remedies to any person or entity as a third-party beneficiary, decree, or otherwise.

9.10 Entirety and Amendments. This Agreement embodies the entire agreement between the parties and supersedes all prior agreements and understandings relating to the Property. This Agreement may be amended or supplemented only by an instrument in writing executed by the party against whom enforcement is sought.

9.11 Time. Time is of the essence in the performance of this Agreement.

9.12 Attorneys' Fees. Notwithstanding any contrary provisions in this Agreement, should either party employ attorneys to enforce any of the provisions hereof, the party losing in any final judgment agrees to pay the prevailing party all reasonable costs, charges and expenses, including reasonable attorneys' fees, expended or incurred in connection therewith.

9.13 Construction. The parties acknowledge that the parties and their counsel have reviewed and revised this Agreement and agree that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

9.14 Notice. Any notice, approval, waiver, objection or other communication (for convenience, referred to herein as a "notice") required or permitted to be given hereunder or given in regard to this Agreement by one party to the other shall be in writing and the same shall be given or received in accordance with the following table:

Manner of Notice	Date Given	Date Received (Earlier of actual receipt or)
United States mail (certified mail, return receipt requested, postage prepaid)	Date of deposit in US Mail	Date of deposit in US Mail
overnight courier	Date of delivery to courier	Date of delivery to courier
personal delivery	Date of delivery	Date of delivery
Electronic mail	Date of transmission of electronic mail	Date of transmission of electronic mail

Notices given by Purchaser's counsel shall be deemed given by Purchaser and notices given by Seller's counsel shall be deemed given by Seller. All notices shall be addressed to the parties at the addresses set forth in Section 1.1.

9.15 Calculation of Time Periods. Unless otherwise specified, in computing any period of time described herein, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or legal holiday. The last day of any period of time described herein shall be deemed to end at 11:59 p.m. Dallas, Texas time. In addition, if the date specified for the performance of any act hereunder shall be a Saturday, Sunday or legal holiday, then such date shall be deemed to be the next day which is neither a Saturday, Sunday or legal holiday. Further for purposes of this Agreement a business day shall be deemed to be a day which is neither a Saturday, Sunday or legal holiday.

9.16 Further Assurances. In addition to the acts and deeds recited herein and contemplated to be performed, executed and/or delivered by Seller to Purchaser at Closing, Seller agrees to perform, execute and deliver, but without any obligation to incur any additional liability or expense, at Closing any further deliveries and assurances as may be reasonably necessary to consummate the transactions contemplated hereby or to further perfect the conveyance, transfer and assignment of the Property to Purchaser.

9.17 Execution in Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of such counterparts shall constitute one Agreement. Electronic and/or digital signatures shall be deemed originals. To facilitate execution of this Agreement, the parties may execute and exchange by telephone facsimile, email, electronic and/or digital counterparts of the signature pages.

9.18 Post-Closing Easements. Seller and Purchaser acknowledge and agree that Seller will need certain easements on, across or under the Property for (i) construction and use of the retention pond to be located at the southeast corner of Purchaser's Property (the "Amenity Lake"); (ii) drainage, (iii) utility service and connections to Seller's retained property shown on Seller's Survey (the "Retained Property") and (iv) continuing access to the Property for the maintenance of the Amenity Lake, the utility easements and any common elements including, but not limited to, landscape buffers, screening walls and trails. Purchaser agree to reasonably cooperate with Seller, and its respective successors and assigns, to grant any such easement (each, a "New Easement") for no consideration; provided, however, (a) the New Easement must be reasonable and necessary for the development of the Amenity Lake and/or Retained Property, whichever is applicable; (b) the New Easement must not delay the construction, plans or permitting process related to the development of the Property; (c) all costs related to the New Easement shall be the sole cost and expense of Seller; and (d) the New Easement(s) must be in a form reasonably acceptable to Seller and Purchaser. The provisions in this section shall survive the Closing.

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SIGNATURE PAGE TO
AGREEMENT OF PURCHASE AND SALE
BETWEEN

TOWN OF FLOWER MOUND

AND

AAB VENTURE CAPITAL

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year set forth below.

SELLER:

TOWN OF FLOWER MOUND,

By: _____
Name: _____
Title: _____
Date: _____

STATE OF TEXAS §
 §
COUNTY OF _____ §

Before me on this day personally appeared _____, the _____ of Town of Flower Mound, Texas, a Texas home rule municipality, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated.

Given under my hand and seal of office this ____ day of _____, 2025.

SEAL

Notary Public in and for the State of Texas

My Commission Expires:

PURCHASER:

AAB VENTURE CAPITAL,

a _____

By: _____

Name: _____

Title: _____

Date: _____

STATE OF TEXAS §

 §

COUNTY OF _____ §

Before me on this day personally appeared _____, the _____
_____ of AAB Venture Capital, a _____, known to me
to be the person whose name is subscribed to the foregoing instrument and acknowledged to me
that he executed the same for the purposes and consideration therein expressed, and in the capacity
therein stated.

Given under my hand and seal of office this ____ day of _____, 2025.

SEAL

Notary Public in and for the State of Texas

My Commission Expires:

JOINDER OF TITLE COMPANY

Receipt of this Agreement and our agreement to be bound by the terms and conditions of the Agreement applicable to the Title Company as described above, are hereby acknowledged on this ____ day of _____, 2025.

NATIONAL TITLE

By: _____
Name: _____
Title: _____

EXHIBIT A

LEGAL DESCRIPTION AND/OR DEPICTION OF THE PROPERTY

Shown as Parcel 7 – 22.2 Acre Tract



The Property is being conveyed to Grantee "AS IS, WHERE IS, AND WITH ALL FAULTS" and except for warranty of title, all warranties that might arise by common law as well as the warranties in Section 5.023 of the Texas Property Code (or its successor) are expressly excluded.

TO HAVE AND TO HOLD the Property (subject to the foregoing) unto Grantee and Grantee's successors and assigns forever, and Grantor does hereby bind Grantor and Grantor's successors and assigns to WARRANT and FOREVER DEFEND, all and singular, the Property unto Grantee and Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through or under Grantor, but not otherwise.

Ad valorem taxes relating to the Land have been prorated between Grantor and Grantee as of the date hereof.

[THE BALANCE OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK]

EXECUTED to be effective as of the _____ day of _____, 20 ____.

GRANTOR:

THE TOWN OF FLOWER MOUND, TEXAS,
a Texas Home Rule Municipality

By: _____
Name: _____
Title: _____

STATE OF TEXAS §
 §
COUNTY OF _____ §

Before me on this day personally appeared _____, _____ of _____, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated.

Given under my hand and seal of office this _____ day of _____, 20 ____.

SEAL

Notary Public in and for the State of Texas

AFTER RECORDING RETURN TO:

SEND TAX NOTICES TO:

EXHIBIT A - LEGAL DESCRIPTION OF THE LAND

EXHIBIT B - PERMITTED EXCEPTIONS



TOWN COUNCIL AGENDA J.3. REGULAR ITEM(S)

DATE: July 21, 2025

FROM: Codie Freeman, Planner

ITEM: Consider a request for a concept plan (MISC25-0003 - Caliber Collision) with a request for a deviation to computing parking and loading requirements pursuant to Section 82-73 of the Code of Ordinances. The property is generally located south of Justin Road and east of Long Prairie Road. (PZ recommended approval by a vote of 6 to 0 at its July 14, 2025, meeting.)

BACKGROUND:

- Property Size – Approximately 2.075 acres
- Zoning – Industrial-1 (I-1) Zoning District
- Proposed use – Auto Painting or Body Shop
- Existing Building size – Approximately 29,084 square feet
- Deviation request – To allow reduction in the amount of required parking spaces that is in excess of the Town's allowable 20 percent deviation. A parking study has been submitted to demonstrate that 53 (on-site and off-site) parking spaces are adequate to serve the use.
- SMARTGrowth – NA, review not triggered
- Traffic Analysis – Based on the counts provided in the parking study for this project, the number of vehicle trips associated with this project does not exceed the five percent threshold.
- Incentives – NA
- [Planning and Zoning Commission Staff Report Link](#)

BOARD REVIEW/CITIZEN FEEDBACK: The Planning & Zoning Commission recommended approval by a vote of 6 to 0 at its July 14, 2025, meeting.

ALTERNATIVES: N/A

FISCAL IMPACT: N/A

LEGAL REVIEW: N/A

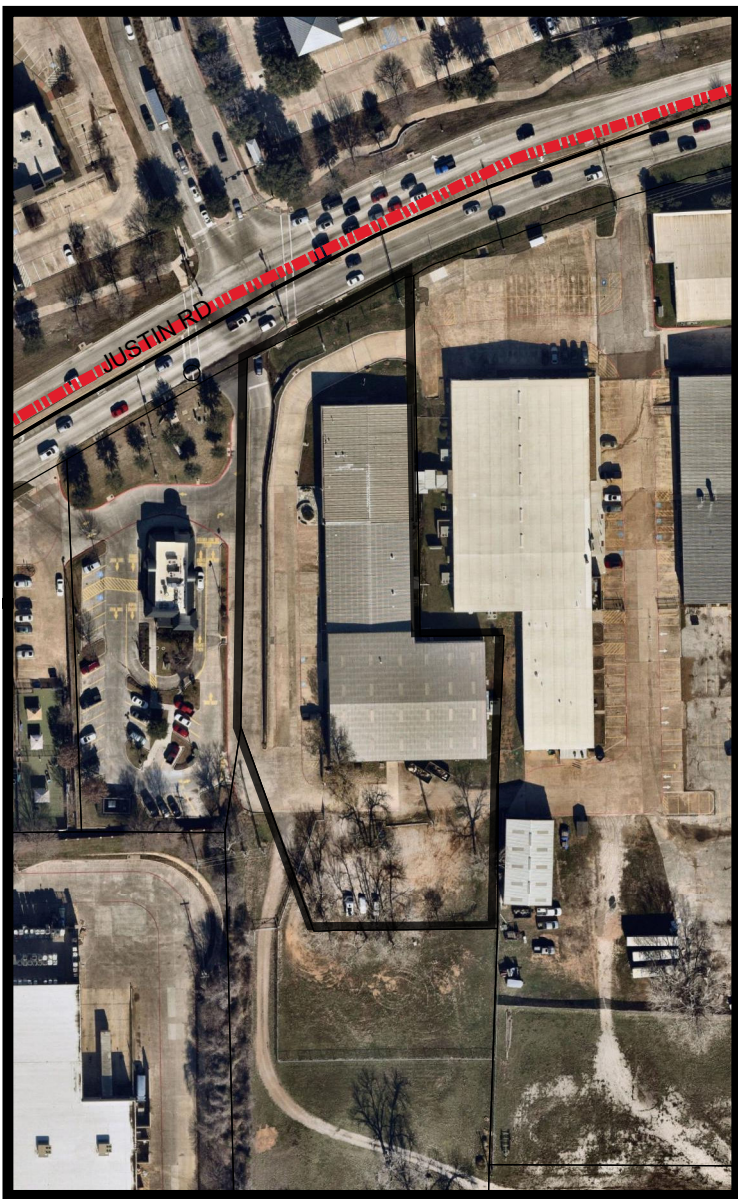
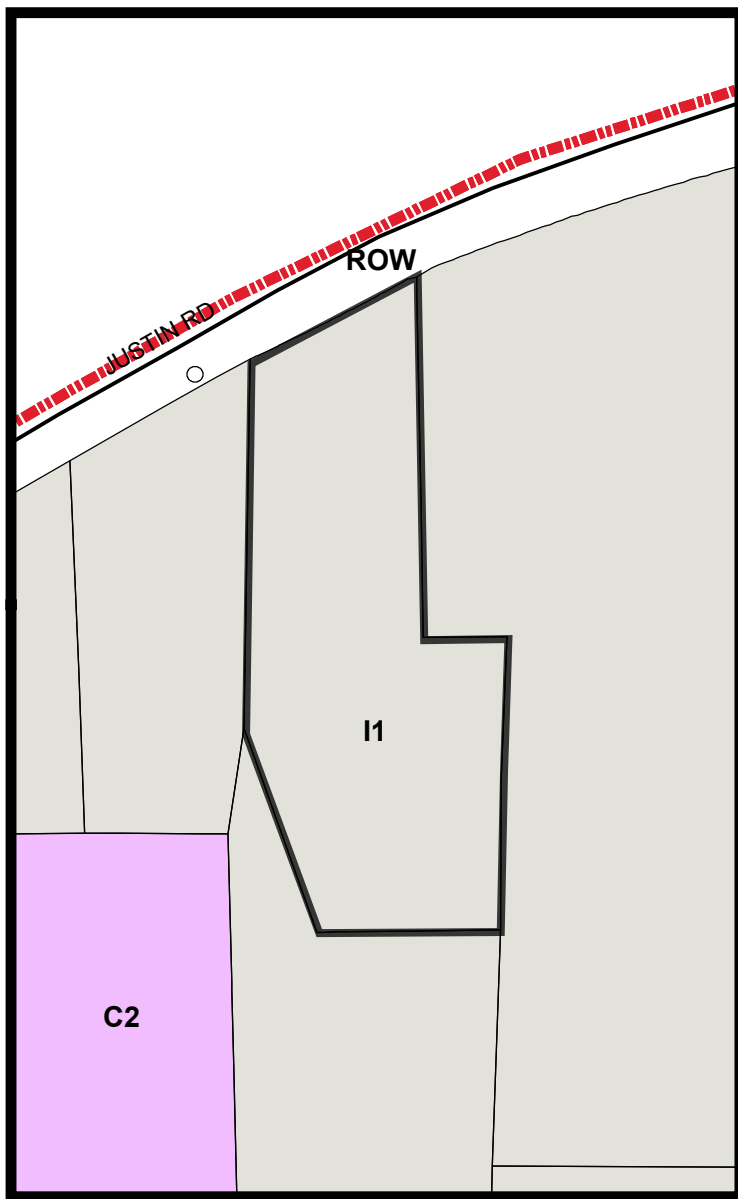
ATTACHMENTS:

1. Zoning & Aerial Map

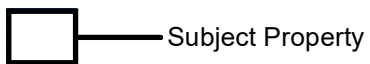
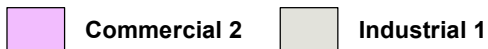
DRAFT MOTION: Move to approve as presented in the agenda caption.

Vicinity Map

MISC25-0003: Caliber Collision

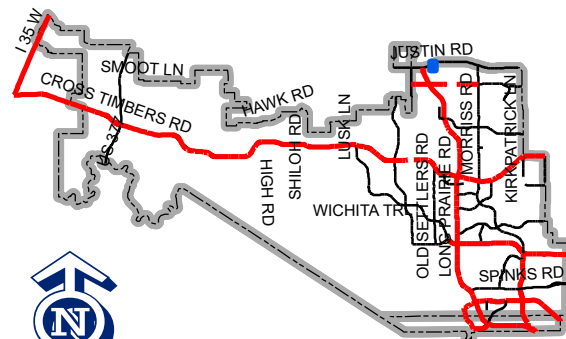


LEGEND



Visit www.fmdevmap.com to learn more about this project.

Visit <https://www.flowermound.gov/notifyme> to sign up for text message and/or email alerts for future projects.



Map Location





TOWN COUNCIL AGENDA L.1. WORK SESSION ITEM

DATE: July 21, 2025
FROM: Julie Taylor, Director of Treasury Operations
ITEM: **Discussion of Stormwater Fee Study.**

BACKGROUND: NewGen Strategies & Solutions (NewGen) has been engaged by the Town to conduct a stormwater cost of service and rate design study which entails an analysis of the Stormwater Utility System's (System) operations and, if needed, recommending alternate rate designs for the Town Council's consideration.

This study will achieve a rate structure that will assure adequate revenue for the System's operations and to ensure the System is operating on a self-supporting basis while considering the economic impact on the Town's customers.

BOARD REVIEW/CITIZEN FEEDBACK: N/A

ALTERNATIVES: N/A

FISCAL IMPACT: N/A

LEGAL REVIEW: N/A

ATTACHMENTS:

None

DRAFT MOTION: Discuss and provide staff with direction.