

**ROAD IMPACT FEE REIMBURSEMENT AGREEMENT
COF CONTRACT No. 2019-0178**

This agreement ("Agreement") is entered into between THE CITY OF FRANKLIN, TENNESSEE ("City") and SouthStar, LLC, ("Developer"), on this the _____ day of _____, 20____, pursuant to Title 16, Chapter 4 of the Franklin Municipal Code ("FMC").

WHEREAS, the Developer has previously submitted to the Franklin Municipal Planning Commission Aureum PUD Subdivision COF Project # 6910 for approval (the "Development Project"); and

WHEREAS, the City has required the Developer to design, acquire right-of-way, acquire easements, obtain permits, and construct certain roadway improvements (the "Improvements") as a requirement of the Development Project and as shown on Exhibit A; and

WHEREAS, the Improvements required as part of the Development Project are identified in the City's Major Thoroughfare Plan, Connect Franklin; and

WHEREAS, the Developer has made application to offset a portion of the costs of these improvements against any Road Impact Fees due from the Development Project.

NOW THEREFORE, the City and the Developer, their successors and assigns, do hereby agree as follows:

1. **PURPOSE.** The purpose of this Agreement is to define the obligations of the parties necessary to carry out the intent of this Agreement for the provision of reimbursement of collector and arterial road impact fees pursuant to the FMC.
2. **TERM.** This Agreement shall become effective on the date it is fully executed and shall continue until the parties have fully fulfilled their obligations provided hereunder or until the agreement is terminated as provided herein. Understanding the large financial investment each party is making, this Agreement shall only be terminated for convenience upon written agreement of the parties.
3. **PROJECT.** The Developer has submitted reliable information related to the costs of construction of the following Improvements:
 - a. Widen East McEwen Drive to provide three (3) travel lanes for eastbound through movements from the I-65 interchange to the Carothers Parkway Intersection.
 - b. Widen the eastbound approach of East McEwen Drive to provide two (2) right turn lanes from eastbound East McEwen Drive to southbound Carothers Parkway.
 - c. Widen Carothers Parkway to provide three (3) travel lanes for southbound through movements.
4. **ELIGIBLE ARTERIAL ROAD IMPACT FEE REIMBURSEMENT.** The total eligible costs of design, right-of-way acquisition, easement acquisition, permits, and construction of the above arterial roadway Improvements is **Five Million Nine Hundred Eighty Thousand and 00/100 Dollars (\$5,980,000.00)** for the Development Project and the total reimbursement to the Developer is estimated to be **Five Million Nine Hundred Eighty Thousand and 00/100 Dollars (\$5,980,000.00)**. At no time shall reimbursement exceed the arterial impact fees collected as part of the Development Project.

At no time shall reimbursement exceed the collector impact fees collected as part of the Development Project

5. APPROVAL OF CONTRACTS AND AGREEMENTS. The City Engineer shall review and approve all professional services agreements, right-of-way and easement acquisition offers (that exceed the appraised value of the acquisition), and construction bids associated with the Improvements. The Developer shall obtain approval prior to the spending of any funding in which the Developer is seeking reimbursement from the City. The Developer agrees that failure to obtain contract approval from the City Engineer may result in loss of City reimbursement as determined by the City Engineer.

6. APPROVAL OF CONSTRUCTION DOCUMENTS. Prior to starting right-of-way acquisition, easement acquisition, and construction, the Developer shall submit construction documents to the City Engineer for review and approval. The Developer agrees that failure to obtain approval from the City Engineer may result in loss of City reimbursement as determined by the City Engineer.

7. PERMITS. The Developer shall be solely responsible for obtaining and complying with all necessary local, state, and federal permits associated with the Improvements.

8. ON-SITE RIGHT-OF-WAY AND EASEMENT DEDICATION. The reimbursement value of on-site right-of-way shall be based on the fair market value of the land at the date of application for the development approval for which the condition of dedication was imposed. The value of right-of-way is hereby established as **\$21.02** per SF, and all other necessary temporary slope, temporary construction, access easements, and utility easements shall be dedicated at no cost to the City.

9. OFF-SITE RIGHT-OF-WAY AND EASEMENT ACQUISITION.

- a. The Developer shall be responsible for obtaining all off-site right-of-way and easements associated with the off-site Improvements.
- b. At a minimum, the Developer shall offer fair market value for all right-of-way and or easements necessary as part of the Improvements. The value of right-of-way and easements shall be determined by a professional real estate appraiser or other means as approved by the City Engineer.
- c. Should negotiations fail, the City agrees to assist, to the maximum extent allowable by law, in the acquisition of the necessary off-site right-of-way and easements associated with the Improvements.

10. Reimbursement and Final Acceptance.

- a. The Developer may submit periodic invoices to the City during the course of design, right-of-way acquisition, easement acquisition, permitting and construction (not more frequently than every 90 days), which invoices shall be payable within 30 days after approval by the Road Impact Fee Administrator (City Engineer), subject to collected impact fees as specified within this Agreement.
- b. No reimbursement on Construction shall be allowed until all right-of-way and easements have been properly deeded to the City and/or State and recorded at the Williamson County Register of Deeds.
- c. Invoices shall include copies of approved contracts and invoices associated with the roadway Improvements, partial lien waivers for all contracts and copies of checks to show proof of payment. The Developer shall submit invoices based on the latest approved City forms as required by the Road Impact Fee Administrator (City Engineer).

- d. Prior to final reimbursement and City acceptance of off-site Improvements, the Developer shall coordinate final inspections with the City and obtain letters of acceptance from the Street Department or City Engineer.
- e. The following costs are specifically excluded from reimbursement: fiscal cost, including interest of money borrowed to finance the construction, cost for utility relocations, landscaping, turn lanes, internal management fees and turn lanes / signal improvements that benefit solely the development and not the arterial and/or collector roadway.

11. INDEMNIFICATION.

- a. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Developer under this Agreement or otherwise, Developer shall indemnify and hold harmless the City, and the officers, directors, members, partners, employees, agents, consultants and subcontractors, from losses, damages, costs, and judgments (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising from third-party claims or actions relating to or resulting from the performance or furnishing of the Improvements, provided that any such claim, action, loss, cost, judgment or damage is attributable to bodily injury, sickness, disease, or death, or to damage to or destruction of tangible property (other than the improvements itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Developer, and any contractor and any subcontractor, and any supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Improvements, or anyone for whose acts any of them may be liable.
- b. In any and all claims against City, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, by any employee (or the survivor or personal representative of such employee) of Developer, and contractor, any subcontractor, any supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Improvements, or anyone for whose acts any of them may be liable, the indemnification obligation under the paragraph above will not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Developer, or any contractor or any such subcontractor, supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

12. MISCELLANEOUS.

- a. Binding. This Agreement shall be binding upon the parties and shall take effect from and after its ratification and signing by all parties after obtaining appropriate approval pursuant to the requirements of applicable law.
- b. Severability. The parties agree that if any part, term, or provision of this Agreement is determined to be illegal or in conflict with any law of the State of Tennessee by any court with jurisdiction, the validity of the remaining portions or provisions shall not be affected. The rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.
- c. Specific Performance. The parties recognize that the rights afforded to each under this Agreement are unique and, accordingly, the individual parties shall, in addition to such other remedies as may be available to them in equity, have the right to enforce their respective rights hereunder by an action for injunctive relief and/or specific performance to the extent permitted by law.

- d. Cooperation. The parties agree to cooperate fully in order to successfully execute the terms and conditions of this Agreement, including obtaining all regulatory and governmental approvals required to carry out the terms of this Agreement, recognizing that the intent of each party to the other is to serve the individual interests of each party while respecting the conditions and obligations of this Agreement.
- e. Assignment. The rights and obligations of this Agreement are not assignable without prior written consent of the City.
- f. Law/Venue. This Agreement shall be exclusively governed by the laws of the State of Tennessee. In the event that any section and/or term of this Agreement, or any exhibits hereto, becomes subject to litigation, the venue for such action will be exclusively maintained in a court of competent jurisdiction sitting in Williamson County, Tennessee.
- g. Entire Agreement. This Agreement represents the entire agreement between the parties and supersedes all prior negotiations, representations, or agreements, either written or oral, with respect to the subject matter hereof. This Agreement may be amended only by written instrument signed by all parties.

IN WITNESS WHEREOF, each party has caused this Agreement to be executed by an authorized person effective as of the date and year written below.

Approved by the Franklin Board of Mayor and Aldermen on _____, 20__.

WITNESS our hands on the dates as indicated.

DEVELOPER

By: _____

Print Name: _____

Title: _____

STATE OF TENNESSEE)

)

COUNTY OF _____)

Before me, _____, a Notary Public of said County and State, personally appeared _____, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged _____ self to be _____ (or other officer authorized to execute the instrument) of _____, the within named bargainer, a _____, and that _____ as such executed the foregoing instrument for the purposes therein contained.

Witness my hand and seal on this _____ day of _____, 20__.

 Notary Public
 My Commission Expires: _____

CITY

CITY OF FRANKLIN, TENNESSEE, a municipality

By: _____

DR. KEN MOORE

Mayor

Date: _____

By: _____

ERIC S. STUCKEY

City Administrator

Date: _____

STATE OF TENNESSEE)
)
COUNTY OF WILLIAMSON)

Before me, the undersigned Notary Public of said County and State, personally appeared **DR. KEN MOORE and ERIC S. STUCKEY**, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged themselves to be the Mayor and City Administrator, respectively, of the City of Franklin, Tennessee, the within named bargainor, a municipality, and that as such Mayor and City Administrator executed the foregoing instrument for the purposes therein contained, by signing the name of the municipality by themselves as Mayor and City Administrator.

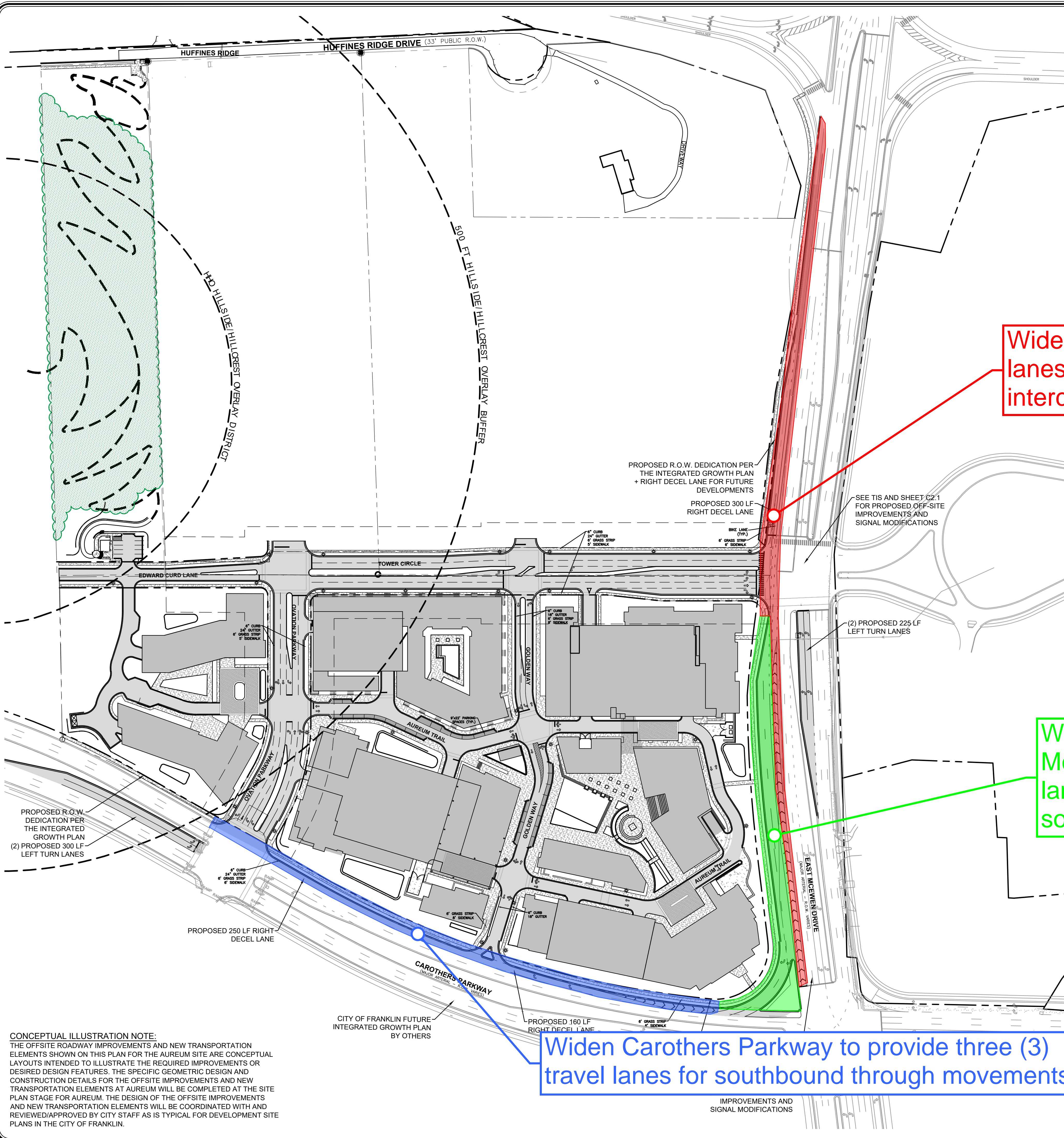
Witness my hand and seal this ____ day of _____, 20 ____.

Notary Public
My Commission Expires: _____

Approved as to form by:

Tiffani M. Pope, Staff Attorney

RAGAN SMITH
LAND PLANNERS • CIVIL ENGINEERS
LANDSCAPE ARCHITECTS • SURVEYORS
Chattanooga, TN
Nashville, TN
Murfreesboro, TN
615-546-6060
ragansmith.com



Aureum - Road Impact Fee Offset Agreement - Cost Summary
Date: April 30, 2019 By: Ralph A. Krauss

Description of Work	McEwen IGP Improvements		
	1-65 Off Ramp to Tower Circle	Tower Circle to Carothers Pkwy	McEwen Drive to Aureum South Property Line
General Conditions	\$181,900	\$299,900	\$296,800
Erosion Control	96,600	138,000	214,700
Clearing and Grubbing/Grading	385,600	550,850	818,750
Stormwater Improvements	255,990	365,700	378,000
Retaining Walls	275,000	0	128,000
Underdrains	37,000	52,900	130,200
Curbs/Paving/Striping	743,760	1,144,250	1,365,000
Sidewalks	75,000	62,100	140,000
Grassing (Includes Topsoiling)	60,000	46,000	228,000
Landscaping	55,000	51,750	99,400
Street Lighting	100,000	85,000	185,500
Signal Improvements	57,250	51,250	130,000
Subtotal	\$2,323,600	\$2,808,200	\$4,014,350
Right-of-Way Dedicated at \$915,782.53 per acre	\$219,788	\$824,204	\$357,155
Engineering Design	150,000	180,000	255,000
Total Estimated Cost	\$2,693,388	\$3,812,404	\$4,626,505
Add 4% Contingency	\$107,736	\$152,596	\$185,060
Grand Total	\$2,801,124	\$3,964,900	\$4,811,565
Offset Requested	100% Offset	100% Offset	100% Offset
Offset Total	\$2,801,124	\$3,964,900	\$4,811,565

Widen East McEwen Drive to provide three (3) travel lanes for eastbound through movements from the I-65 interchange to the Carothers Parkway Intersection.

Date: April 3, 2019 By: Ralph A. Krauss

Development Phase	Development Use Types and Quantities	Road Impact Fees - Arterial	Road Impact Fees - Collector	Total Road Impact Fees by Phase
Development Phase 1	Limited Service Hotel - 300 Rooms Loft Office - 75,000 SF Restaurants (2) - 12,000 SF	\$1,028,637	\$694,731	\$1,713,368
Development Phase 2	Multi-Family Apartments - 320 Units	\$995,890	\$678,754	\$1,674,644
Development Phase 3	Extended Stay Hotel - 200 Rooms Loft Office - 75,000 SF Tower Office - 280,000 SF Restaurants - 6,000 SF Retail - 35,000 SF	\$2,471,618	\$1,687,734	\$4,159,352
Development Phase 4	Condominium Towers - 160 Units	\$487,870	\$339,326	\$827,196
Development Phase 5	Loft Office - 100,000 SF Tower Office - 200,000 SF Restaurants - 12,000 SF Retail - 35,000 SF	\$1,874,591	\$1,280,057	\$3,154,648
Development Phase 6	Full Service Hotel - 300 Rooms	\$720,153	\$515,026	\$1,235,179
Total Road Impact Fees Collected at Full Development		\$7,628,758	\$5,205,638	\$12,834,396

Widen the eastbound approach of East McEwen Drive to provide two (2) right turn lanes from eastbound East McEwen Drive to southbound Carothers Parkway.

Aureum - Use of Conceptual Development Milestone Dates for the purpose of Establishing Road Impact Fee Offset Project Completion Dates
Date: April 3, 2019 By: Ralph A. Krauss

Development Phase Milestone	Completion Date	Road Impact Fee Offset Project Milestone	Completion Date
Complete Design/Secure Building Permits - Development Phase 1	June 1 - 2020	Begin McEwen IGP Road Improvement Design	June 1 - 2020
Complete Construction - Development Phase 1	October 1 - 2022	Complete McEwen IGP Road Improvement Design	January 1 - 2022

Required Milestones to be met for Road Impact Fee Offset Project Completions

Complete Design/Secure Building Permits - Development Phase 6	January 1 - 2028
Complete Construction - Development Phase 6	July 1 - 2030

1) Must complete all McEwen Drive Road Improvements - I-65 to Tower Circle prior to Issuance of Final Certificate of Occupancy for Phase 2 Building Completion. As currently scheduled this completion would occur on or before July 1, 2023.

2) Must complete all McEwen Drive Road Improvements - Tower Circle to Carothers Pkwy prior to Issuance of Final Certificate of Occupancy for Tower Office Building in Phase 3. As currently scheduled this completion would occur on or before May 1, 2026.

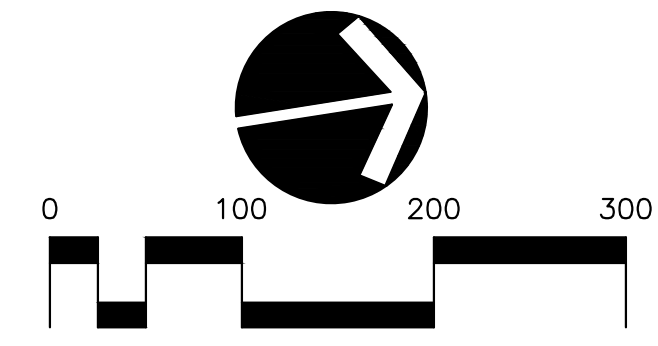
3) Must complete all Carothers Parkway Road Improvements prior to Issuance of Final Certificate of Occupancy for Tower Office Building in Phase 5. As currently scheduled this completion would occur on or before September 1, 2029.

Note: Developer shall have the flexibility to freely substitute the Phase 3 Office Tower for the Phase 5 Office Tower provided the Road Improvements described in Item 2 above are fully completed prior to the first Office Tower Completion Date and provided that the Road Improvements described in Item 3 above are fully completed prior to the second Office Tower Completion Date.

CONCEPTUAL ILLUSTRATION NOTE:
THE OFFSITE ROADWAY IMPROVEMENTS AND NEW TRANSPORTATION ELEMENTS SHOWN ON THIS PLAN FOR THE AUREUM SITE ARE CONCEPTUAL LAYOUTS INTENDED TO ILLUSTRATE THE REQUIRED IMPROVEMENTS OR DESIRED DESIGN FEATURES. THE SPECIFIC GEOMETRIC DESIGN AND CONSTRUCTION DETAILS FOR THE OFFSITE IMPROVEMENTS AND NEW TRANSPORTATION ELEMENTS AT AUREUM WILL BE COMPLETED AT THE SITE PLAN STAGE FOR AUREUM. THE DESIGN OF THE OFFSITE IMPROVEMENTS AND NEW TRANSPORTATION ELEMENTS WILL BE COORDINATED WITH AND REVIEWED/APPROVED BY CITY STAFF AS IS TYPICAL FOR DEVELOPMENT SITE PLANS IN THE CITY OF FRANKLIN.

Widen Carothers Parkway to provide three (3) travel lanes for southbound through movements.

NOTE: BEARINGS SHOWN HEREON ARE BASED ON THE TENNESSEE STATE PLANE COORDINATE SYSTEM, ZONE 5301, FIPZONE 4100; NAD 83 DATUM.



CITY OF FRANKLIN # 6909
AUREUM
FOR
SS-CH FRANKLIN, LLC
CITY OF FRANKLIN, WILLIAMSON COUNTY, TENNESSEE

WK. ORDER	DESIGNED	DRAWN	SCALE	DATE	DESCRIPTION
18-106	WLH	ZDS	1"=60'	2019.04.04	PER CITY COMMENT
1221				FEBRUARY 11, 2019	

FUTURE IGP PLAN
C2.3