

**ROAD IMPACT FEE REIMBURSEMENT AGREEMENT
COF CONTRACT No. 2019-0094**

This agreement is entered into between THE CITY OF FRANKLIN, TENNESSEE (“City”) and Goldberg Companies, Inc., (“Developer”), on this the _____ day of _____, 201____, pursuant to Title 16, Chapter 4 of the Franklin Municipal Code (“FMC”).

WHEREAS, the Developer has previously submitted to the Franklin Municipal Planning Commission Huffines Property PUD Subdivision, Development Plan COF Project #6876 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 Comprehensive Transportation Network Plan; 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. **The recitals stated above are incorporated herein as if set forth at length.**
2. **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.
3. **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.
4. **PROJECT.** The Developer has submitted reliable information related to the costs of construction of the following Improvements: The dedication of right-of-way along Carothers Parkway.
5. **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 **One Hundred Thirty- Five Thousand Eight Hundred Fifty- Nine and No/100 Dollars (\$135,859.00)** for the Development Project and the total reimbursement to the Developer is estimated to be **One Hundred Thirty- Five Thousand Eight Hundred Fifty-Nine and No/100 Dollars (\$135,859.00)**. At no time shall reimbursement exceed the arterial impact fees collected as part of the Development Project.
6. **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.

7. 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.

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

9. 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 **\$11.59 per SF** and all other necessary temporary slope, temporary construction, access easements and utility easements shall be dedicated at no cost to the City.

10. 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.

11. 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. 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).
- c. 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.
- d. 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.

12. 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. Dispute Resolution. The parties may agree to participate in non-binding mediation in an attempt to resolve any disputes. Notwithstanding the foregoing statement, any claims, disputes or other matters in question between the parties to this Agreement arising out of or relating to this Agreement or breach thereof shall be subject to and decided by a court of law.
- c. 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.
- d. 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.
- e. 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.
- f. Assignment. The rights and obligations of this Agreement are not assignable.
- g. 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.
- h. 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 Alderman on _____, 201__.

WITNESS our hands on the dates as indicated.

DEVELOPER

Goldberg Companies, Inc.

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 bargainor, 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



March 13, 2019

Mr. Paul Holzen
Director of Engineering
City of Franklin, Tennessee
109 3rd Avenue South
Franklin, Tennessee 37064

**RE: *Road Impact Fee Offset Agreement Request
Huffines PUD Subdivision
1343 Huffines Ridge, Franklin, TN***

Dear Paul,

Please consider this formal request for a road impact fee offset for Huffines PUD Subdivision located at 1343 Huffines Ridge. This fee offset is estimated below and includes the costs associated with the right-of-way dedication for Carothers Parkway (arterial roadway).

The proposed development, The Huffines PUD Subdivision Phase One, consists of 426 apartment units. Preliminary estimates of the anticipated Arterial Roadway Impact fees for this development have been estimated using the City of Franklin Road Impact Fees Outline totaling \$1,325,712.00. The fees required by the City of Franklin for the Road Impact fee have not yet been paid to the City of Franklin but will be paid prior to plat recordation. We propose that the required roadway impact fees be reimbursed by the amount provided below after payment of roadway impact fees and ROW dedicated.

R.O.W. Dedication Fee (0.269 Acres)	<u>\$ 135,859</u>
	\$ 135,859

TOTAL IMPACT FEE OFFSET ESTIMATE - \$ 135,859

The ROW dedication fee outlined above was based upon the court-moderated sale contract of the property for the 23.76 acre parcel for \$12,000,000. The price equates to \$505,051/acre. The price of \$505,051/acre was applied to the 0.269 acres of Carothers Parkway ROW dedication which are depicted on the attached ROW and Access Plan from the Development Plan Submittal.

The total anticipated cost of these improvements does not exceed the Arterial Roadway Impact Fee estimate. As a result, we are requesting the roadway impact fees be reimbursed by the amount of \$ 135,859.



Mr. Holzen, March 13, 2019, Page 2 of 2

Please contact me at (615) 800-4004 or mary.mcgowan@kimley-horn.com should you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Mary McGowan". The signature is written in a cursive, flowing style.

Mary McGowan, P.E.

Attachments: Court Moderated Sale Document
ROW and Access Plan from Development Plan Submittal (Preliminary Layout is included)

UTILITY AGENCIES CONTACT LIST			
WATER	GAS	TELEPHONE	ENGINEER
MALLORY VALLEY 465 DUKE DRIVE FRANKLIN, TN 37067 PHONE: (615) 628-0237 CONTACT: BOBBY NUTT	ATMOS ENERGY 200 NOAH DRIVE FRANKLIN, TN 37064 PHONE: (615) 794-2596 CONTACT: RON MYATT	AT&T (615) 595-7816 CONTACT: DAVID TUTTERTON	KIMLEY-HORN AND ASSOCIATES, INC. 214 OCEANSIDE DRIVE NASHVILLE, TENNESSEE 37204 PHONE: (615) 564-2701 CONTACT: MARY MCGOWAN, P.E.
ELECTRIC	SANITARY SEWER	CABLE	CITY OF FRANKLIN
MIDDLE TN ELECTRIC 2156 EDWARD CURD LN. FRANKLIN, TN 37067 PHONE: (615) 595-4693 CONTACT: DALE HOOD	CITY OF FRANKLIN 124 LUMBER DRIVE FRANKLIN, TN 37064 PHONE: (615)550-6855 CONTACT: UTILITY INSPECTOR	COMCAST 2501 MCGAVOCK PK, SUITE 1206 NASHVILLE, TN 37214 (615)440-2920 CONTACT: PAULA BROOKS	109 3rd AVENUE SOUTH, FRANKLIN, TN 37067 CONTACT: JOSH KING 615-550-6977 ENGINEERING: LANCE FITTRO 615-550-6676

FIRE FLOW TEST
TEST DATE: 08/23/2018 TIME: 2:30 PM STATIC PRESSURE: 124 PSI RESIDUAL PRESSURE: 110 PSI FLOW: 1,194 GPM TESTED BY: CORY BORUM AND BEN BUTLER, HEATHCOAT & DAVIS, INC.

ROW & ACCESS GENERAL NOTES

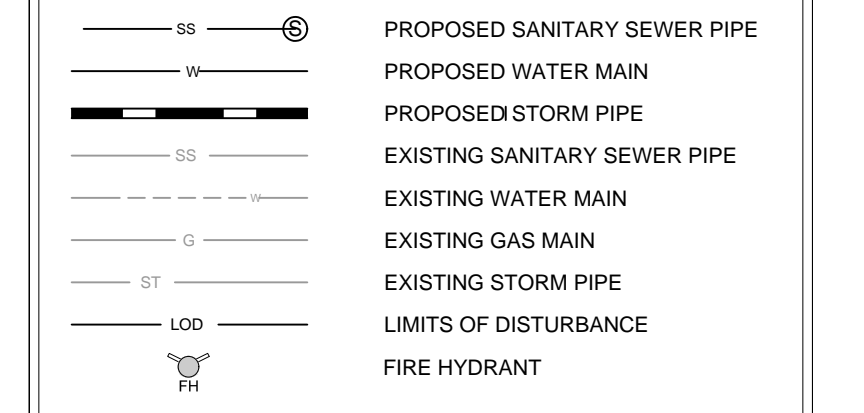
- PRIOR TO BEGINNING ANY CONSTRUCTION, THE DEVELOPER AND/OR CONTRACTOR, SHALL OBTAIN ALL NECESSARY PERMITS AS REQUIRED BY LAW. SUCH PERMITS MAY INCLUDE, BUT ARE NOT LIMITED TO, THOSE REQUIRED BY STATE OF TENNESSEE, WILLIAMSON COUNTY AND OTHER CITY OF FRANKLIN AGENCIES.
- ALL OFF-SITE WORK WITHIN THE PUBLIC RIGHT-OF-WAY SHALL REQUIRE AN APPROVED TRAFFIC CONTROL PLAN WHICH COMPLIES WITH THE MUTCD. NO OFF-SITE EXCAVATION MAY BE UNDERTAKEN IN ANY STREET, ROAD, ALLEY OR RIGHT-OF-WAY OF ANY UTILITY OR TEMPORARY CONSTRUCTION EASEMENT OF THE CITY OF FRANKLIN BY ANY ENTITY UNLESS 72-HOUR NOTICE HAS BEEN GIVEN TO THE CITY OF FRANKLIN TRAFFIC OPERATIONS CENTER. THE CONTRACTOR SHALL HAVE AN APPROVED TRAFFIC CONTROL PLAN ON-SITE DURING CONSTRUCTION.
- CONSTRUCTION MATERIALS SHALL BE FULLY TESTED IN ACCORDANCE WITH THE DESIGNATIONS AND REQUIREMENTS WITHIN THE REFERENCED "DOT STANDARD SPECIFICATIONS" SECTIONS, UNLESS OTHERWISE NOTED WITHIN THE "STANDARD SPECIFICATIONS" SECTION OF THE CITY OF FRANKLIN TRANSPORTATION & STREET TECHNICAL STANDARDS.
- AN AUTHORIZED REPRESENTATIVE OF THE CITY SHALL MAKE A FINAL INSPECTION OF THE PROJECT AFTER COMPLETION TO DETERMINE ACCEPTABILITY OF THE WORK AND FOR RELEASE OF PERFORMANCE BONDS IF REQUIRED. BEFORE THIS FINAL INSPECTION CAN BE MADE, THE ENGINEER RESPONSIBLE FOR THE PROJECT SHALL CERTIFY IN WRITING TO THE CITY ENGINEER THAT THE WORK HAS BEEN COMPLETED IN ACCORDANCE WITH APPROVED PLANS AND SPECIFICATIONS.
- LOCATING AND COORDINATION FOR THE RELOCATION OF EXISTING UTILITIES IS THE RESPONSIBILITY OF THE CONTRACTOR. TENNESSEE'S ONE-CALL AND THE CITY OF FRANKLIN UTILITY LOCATION SERVICE SHALL BE UTILIZED IN ADDITION TO COORDINATION WITH LOCAL UTILITY OWNERS. THE CONTRACTOR SHALL AT ALL TIMES PROTECT EXISTING UTILITIES AND WILL BE RESPONSIBLE FOR COSTS DUE TO DAMAGE CAUSED TO ANY UTILITY LINES.
- ALL TEMPORARY STRIPING SHALL CONFORM TO "STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION" PUBLISHED BY TDOT, THE LATEST REVISION EXCEPT AS HEREIN AMENDED. WHEN APPROVED, TEMPORARY STRIPING SHALL BE REQUIRED PRIOR TO THE OPENING OF A STREET FOR TRAVEL WHERE PAVEMENT AND/OR PERMANENT STRIPING CANNOT BE COMPLETED DUE TO WEATHER AND/OR TIME CONSTRAINTS.
- THERMOPLASTIC PAVEMENT MARKINGS SHOULD BE USED ON ALL PUBLIC AND PRIVATE CITY STREET PROJECTS. THERMOPLASTIC TRAFFIC STRIPING AND PAVEMENT MARKINGS SHALL CONFORM TO SECTION 716.03 "THERMOPLASTIC PAVEMENT MARKINGS," OF THE TENNESSEE DEPARTMENT OF TRANSPORTATION SPECIFICATIONS (TDOT), AND TO THE CITY OF FRANKLIN TRANSPORTATION & STREET TECHNICAL STANDARDS.

IMPACT STATEMENT

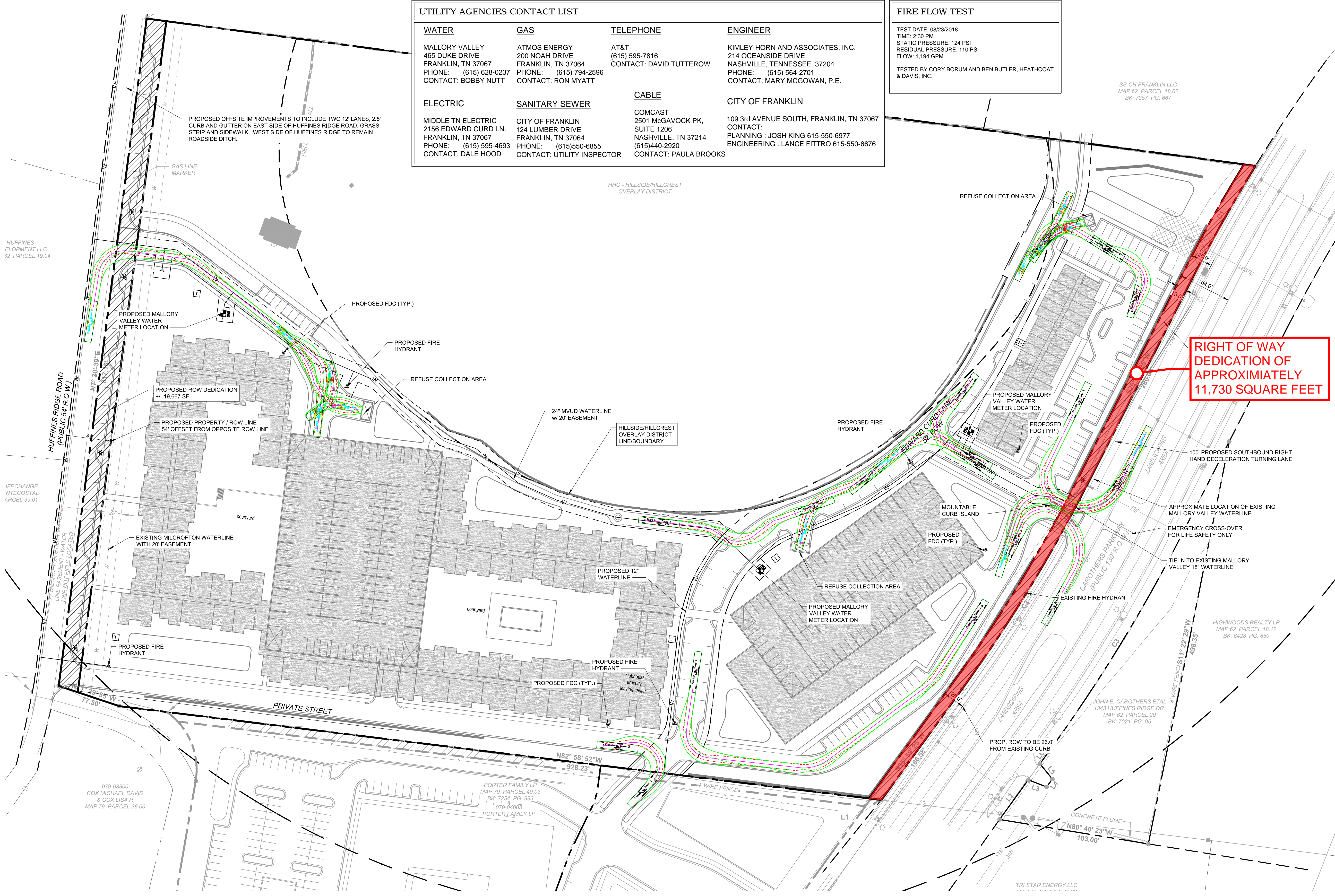
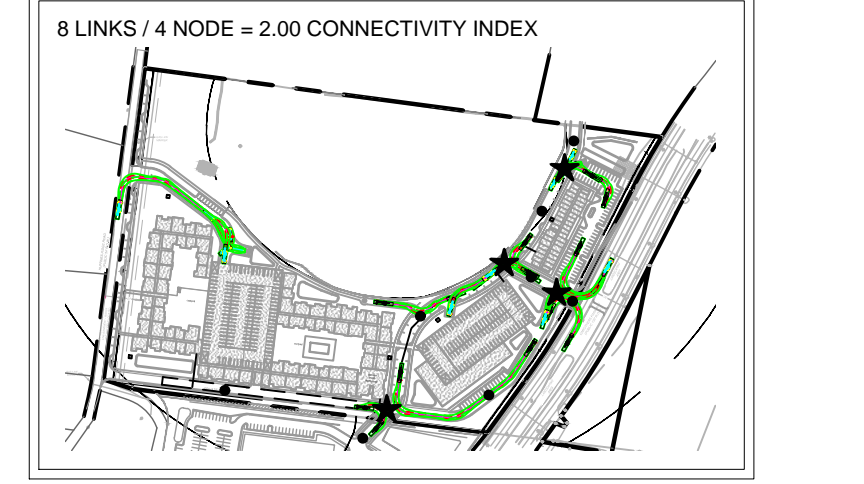
ACCESS TO THE MULTIFAMILY PORTION OF THE DEVELOPMENT WILL BE PROVIDED VIA PRIVATE ROAD WITH TWO CONNECTIONS DIRECTLY FROM HUFFINES RIDGE ROAD, ONE CONNECTION INDIRECTLY OFF OF CAROTHERS PARKWAY, AND ONE CONNECTION INDIRECTLY FROM THE FUTURE DEVELOPMENT TO THE SOUTH. THE OFFICE PORTION OF THIS SITE WILL BE ACCESSED VIA PRIVATE ROAD WITH ONE CONNECTION DIRECTLY TO CAROTHERS PARKWAY, ONE CONNECTION INDIRECTLY OFF OF HUFFINES RIDGE ROAD, AND ONE CONNECTION INDIRECTLY FROM THE FUTURE DEVELOPMENT TO THE SOUTH. THE HOTEL PORTION OF THIS SITE WILL BE ACCESSED VIA PRIVATE ROAD WITH ONE CONNECTION DIRECTLY TO CAROTHERS PARKWAY, ONE CONNECTION INDIRECTLY OFF OF HUFFINES RIDGE ROAD, AND ONE CONNECTION INDIRECTLY FROM THE FUTURE DEVELOPMENT TO THE SOUTH.

OFFSITE IMPROVEMENTS ARE TO BE MADE PER RECOMMENDATIONS FROM THE TRAFFIC IMPACT ANALYSIS PREPARED BY KIMLEY HORN FOR THIS SITE AND DISCUSSIONS WITH CITY OF FRANKLIN OFFICIALS.

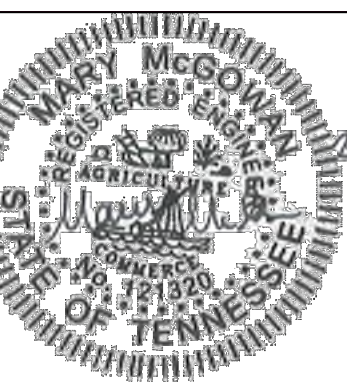
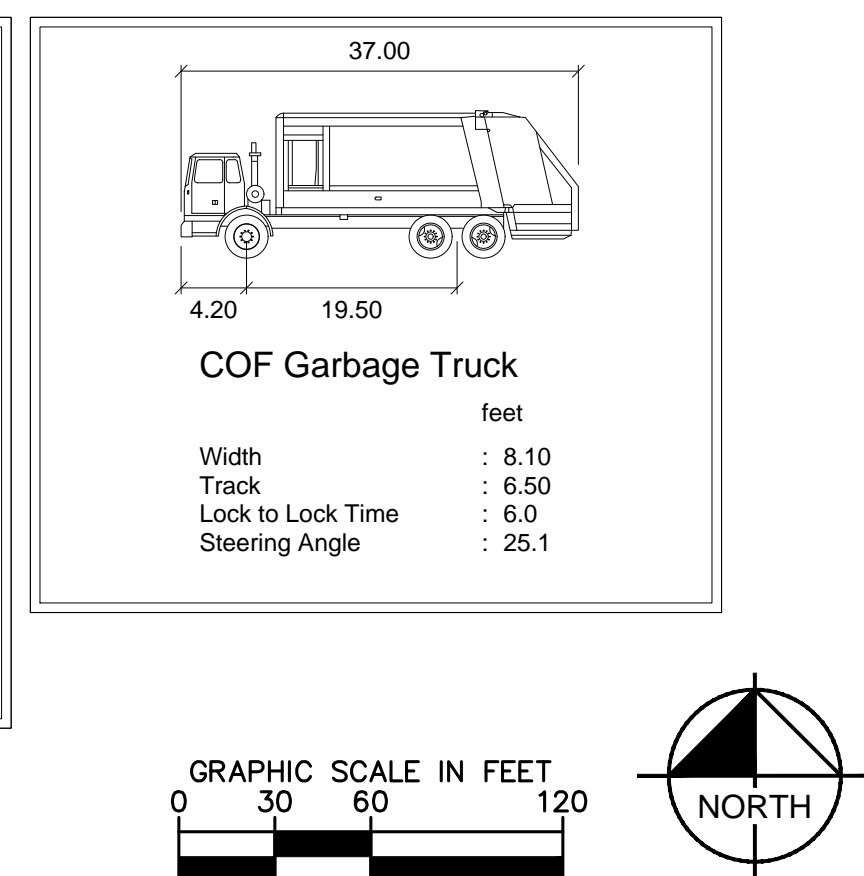
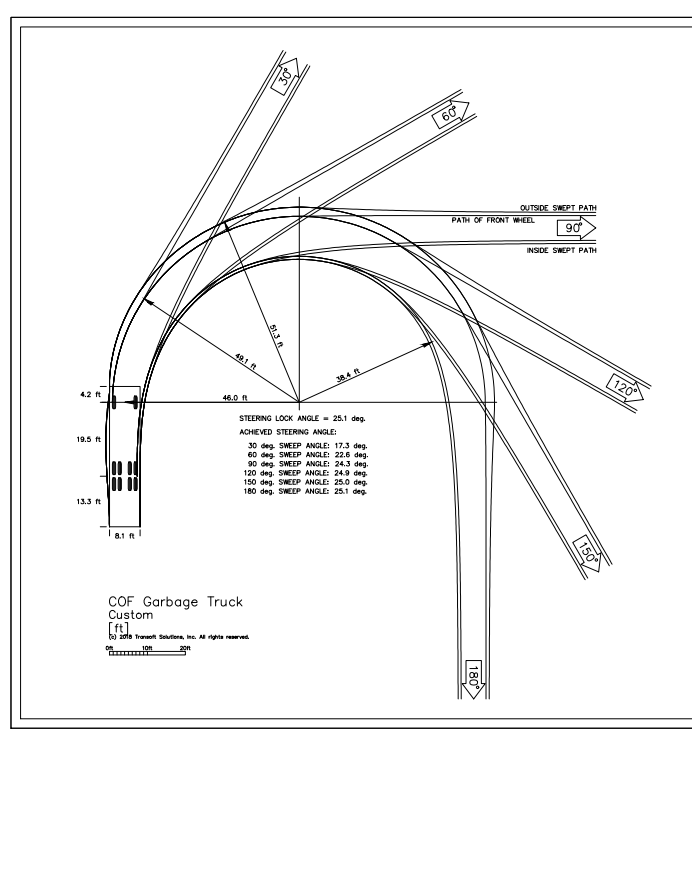
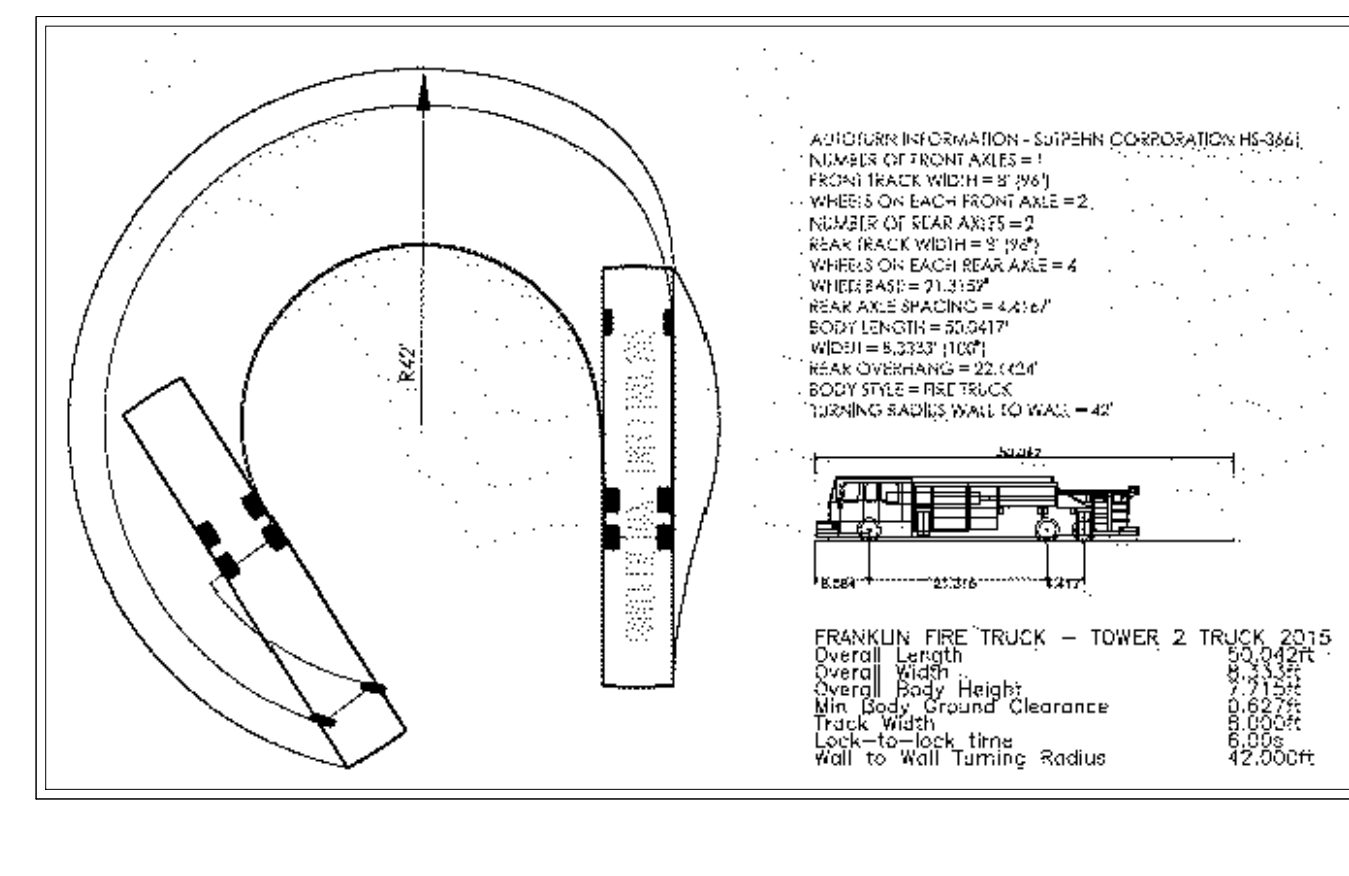
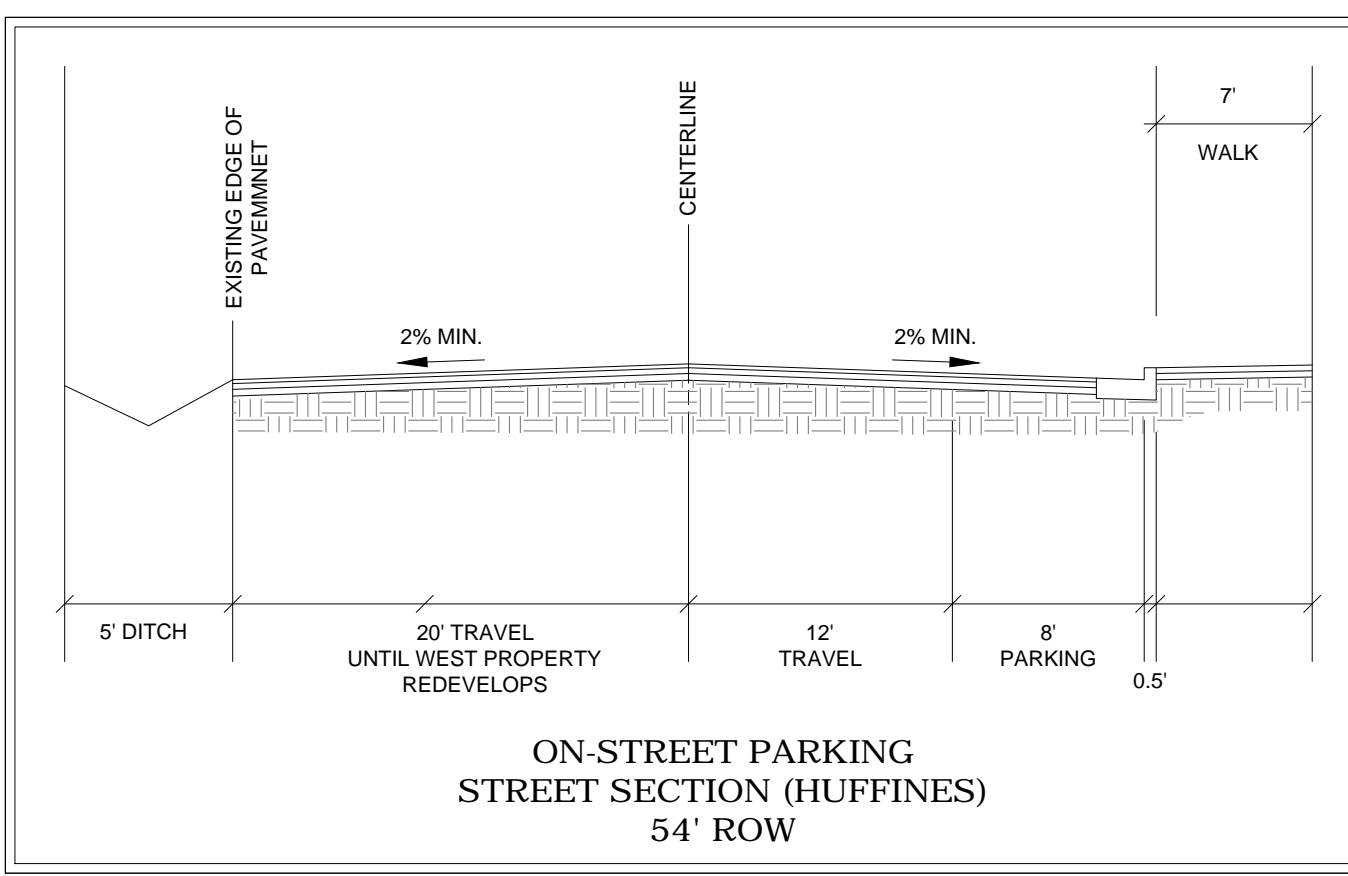
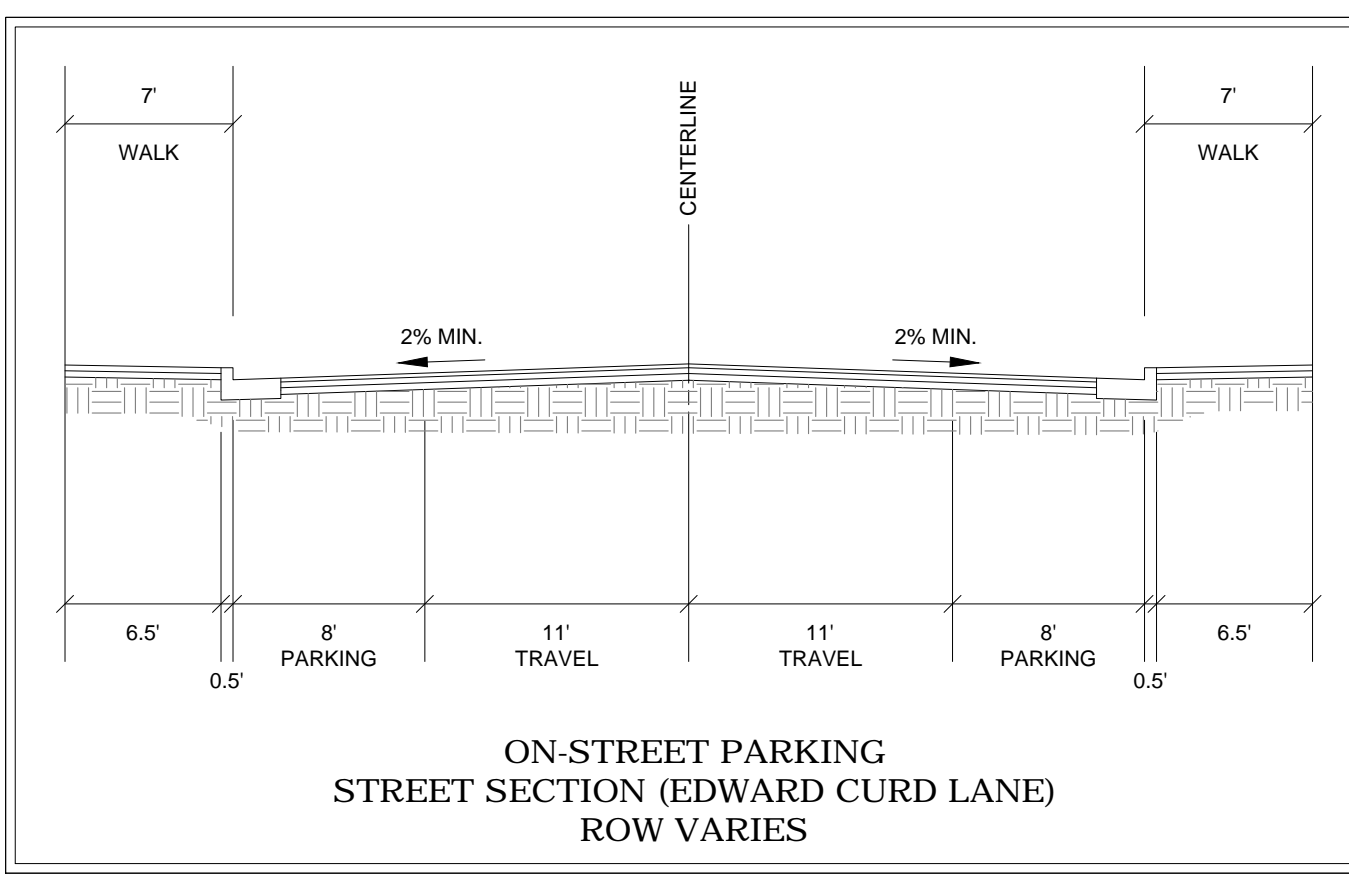
SITE LEGEND



CONNECTIVITY INDEX



RIGHT OF WAY DEDICATION OF APPROXIMATELY 11,730 SQUARE FEET



Issued: Dec. 10, 2018

Revision	Date
△	
△	
△	
△	

ENLARGED ROW & ACCESS PLAN