

**DEVELOPERS AGREEMENT
TRANSPORTATION IMPROVEMENTS PROJECT
CALDWELL LAKES/CALDWELL CROSSING SUBDIVISION**

This Agreement ("Agreement") is made by and between the **CITY OF IOWA COLONY, TEXAS** (the "City") acting through its City Council, **D.R. HORTON – TEXAS, LTD.**, a Texas limited partnership ("DRH") a limited liability company authorized to do business in Texas, **608 COLONY INVESTMENTS, LTD.**, a Texas limited partnership ("608 Colony") a Delaware limited partnership, and **BRAZORIA COUNTY MUNICIPAL UTILITY DISTRICT NO. 87** (the "District") acting through its Board of Directors. The City, DRH, 608 Colony and the District are referred to herein from time to time individually as "Party" or collectively as the "Parties".

RECITALS

WHEREAS, 608 Colony and DRH each own a portion of the approximately 639 acre tract of land located wholly within the City's corporate limits, said tract of land is more particularly depicted in **Exhibit A** (the "Tract");

WHEREAS, DRH has a contractual right to purchase the Tract in phases from 608 Colony and intends to purchase the Tract in one or more phases and develop the Tract for single-family residential and commercial uses;

WHEREAS, the District exists over the Tract;

WHEREAS, the County and City wish to provide for the orderly, safe, and healthful development of the Tract; and

WHEREAS, by way of this Agreement, the Parties wish to formalize their agreement to jointly participate in the expansion and development of the transportation improvement projects identified in this Agreement.

NOW, THEREFORE, for and in consideration of Ten and No/100 Dollars (\$10.00) the receipt and sufficiency of which is hereby acknowledged, as well as the mutual promises and benefits herein contained, the Parties hereby agree to jointly participate in the expansion and widening of certain roads described in this Agreement, all in accordance with the terms and conditions set forth herein.

SCOPE OF CONSTRUCTION PROJECT

The scope of the construction project includes DRH, 608 Colony or the District expanding and widening certain roads as further defined in **Exhibits B and C**, attached hereto (collectively the "Project").

AGREEMENT

The Parties agree to provide the following services, either directly or by contracting:

City Responsibilities:

- a. Review and approve the design and engineering for the roads defined in **Exhibit C**, which DRH and 608 Colony (collectively referred to herein as “Developer”) are obligated to construct.
- b. If applicable, after approving the design and engineering, grant all necessary City permits for the construction of the Project in the City and/or County Road rights-of-way.
- c. Provide oversight of necessary testing and inspections contracted by Developer to ensure that all improvements are constructed as designed and engineered and for compliance with City and/or County regulations.
- d. Receive, review and approve plats in accordance with all applicable City, County and State requirements.
- e. Approve the adjusted locations of major thoroughfares as substantial conformance with the City's major thoroughfare plan.
- f. Acquire all rights-of-way necessary for the construction, maintenance and operation of the roads defined in **Exhibit C**, subject to the Developer and District Responsibilities described below.

Developer and District Responsibilities:

Developer and District as indicated, shall construct and dedicate necessary right-of-way over District and/or Developer owned land to expand the following:

- a. **Traffic Signals.** – Upon written notice to the City from Developer, the City shall design and construct a traffic signal at CR 57 and Driveway 5 (the “Traffic Signal”) at the Developer’s sole cost and expense. The design of the Traffic Signal shall be submitted to the District’s engineer of record for review and approval, which approval shall not be unreasonably withheld. At such time the City authorizes the design of the Traffic Signal, upon written notice to the Developer, Developer shall escrow with the City the funds for the design and engineering related to the Traffic Signal. Subsequently, at such time the City issues the “notice to proceed” for construction of the Traffic Signal, upon written notice to the Developer, Developer shall escrow with the City the funds for the construction of the Traffic Signal. The City shall make monthly reports to the Developer and to the District on the progress of construction. The City agrees that should construction of the Traffic Signal be delayed, such delay shall not be grounds for denying Developing plans and/or permits for construction inside the District.
- b. **CR 57** – CR 57 currently consists of 20 ft wide undivided roadway with roadside ditches within a 60 ft right of way (ultimate 120 ft right of way). CR 57 will be replaced with a 25 ft undivided concrete roadway from the tie-in at Sterling Lakes West to the Brazoria County line except where the roadway increases to accommodate the right turn lanes and left turn lanes proposed in the approved Traffic Impact Analysis (TIA) and shown in **Exhibit B**. The approximate length of roadway to be improved is 6,220 ft. The Developer shall fund 4,440 ft of the roadway and the City shall fund the remaining 1,780 ft. The roadway

improvements for CR 57 are depicted in **Exhibit C**.

1. Phase 1 – Developer shall Construct an Eastbound Left Turn Lane at Driveway 2 (entrance into Caldwell Crossing Section 2) and construct a Westbound Left Turn Lane at Driveway 1 (entrance into Caldwell Crossing Section 3). The roadway limits abutting Developer owned roadway frontage along Caldwell Crossing shall also be improved in Phase 1. The length of roadway to be improved in Phase 1 is approximately 2,255 ft. Developer shall be responsible for this design and construction cost of Phase 1. Phase 1 improvements are anticipated to be constructed by May 2025, and are depicted on **Exhibit C**.

2. Phase 2 – Developer shall construct an Eastbound Left Turn Lane at Driveway 5 (entrance into Caldwell Lakes Section 1) and construct an Eastbound Left Turn Lane at Driveway 6 (entrance into Caldwell Lakes Section 1). Developer shall construct a Westbound Right Turn Lane at Driveway 5 (entrance into Caldwell Lakes Section 1) and construct a Westbound Right Turn Lane at Driveway 6 (entrance into Caldwell Lakes Section 1). The roadway limits abutting Developer owned roadway frontage along Caldwell Lakes shall also be improved in Phase 2. The length of roadway to be improved in this phase is approximately 1,320 ft. Developer shall be responsible for the design and construction cost of Phase 2. Phase 2 improvements are anticipated to be constructed by August 2025, and are depicted on **Exhibit C**.

3. Phase 3 – The roadway limits not abutting Developer owned roadway (“Offsite Frontage”) will be improved in Phase 3. The length of roadway to be improved in Phase 3 is approximately 2,645 ft. The Developer shall design the Offsite Roadway and the City and Developer each agree to pay their pro-rata share of such design and construction costs based on the following: Developer (865 ft.) and City (1,780 ft). The City’s pro-rata share of design and construction funds shall be escrowed with the Developer at such time the Developer has given the City three (3) months written notice pursuant to the terms of this Agreement. Phase 3 improvements are depicted on **Exhibit C**.

- c. **Additional District Obligations** – If Developer begins construction or triggers construction through development of any segment of right-of-way or traffic signal as identified above and fails to complete the segment or traffic signal, the District shall complete the segment or traffic signal.
- d. **Rough Proportionality** – The Developer and District hereby agree that any land or property it dedicates to the City as reflected on the final plat is roughly proportional to the need for such land and Developer and District hereby waive any claim therefore that either may have. Developer and District agree that the contribution to build or cost of building the above described improvement is roughly proportional to the need for such improvement and Developer and District hereby waive any claim therefore that either may have. Developer and District further acknowledge and agree that all prerequisites to such determination of rough proportionality have been met, and that any costs incurred relative to said dedication are related both in nature and extent to the impact of the development of Caldwell Lakes and its needs. Developer, District, and City further agree to waive and release all claims one may have against the other related to all rough proportionality and individual determination requirements mandated by the United States Supreme Court in *Dolan v. Town of Tigard*, 512 U.S. 374 (1994), and

its progeny, as well as any other requirements of a nexus between development conditions and the projected impact of the foregoing, including all dedications of land and costs of improvement. Developer and District hereby release City from any and all liability under Section 232.110 of the Texas Local Government Code, related to the cost of City infrastructure improvements required under this Agreement.

Governing Law

This Agreement shall be governed by, and interpreted in accordance with, the laws of the State of Texas, without giving effect to its conflict of laws provision, and venue for resolution of disputes shall lie in Brazoria County, Texas.

The Parties desire to cause to have constructed the project on behalf of the City and Developer for purposes of public safety.

No noncompliance shall be a default unless written notice is given as provided hereinafter and the noncompliance continues for thirty (30) days thereafter, provided that if the noncompliance is of a nature which requires a longer time to cure, then there shall be no default provided the party has commenced such cure within the thirty (30) day period and thereafter diligently prosecuted such cure to conclusion. In the event of default, a party shall have the right to bring an action at law against the defaulting party.

All notices and communications hereunder shall be in writing and shall be deemed to have been duly given if delivered in person or by an overnight service, such as Federal Express, or deposited in the United States mail by registered or certified mail, postage prepaid, properly addressed as follows:

City: Mayor
c/o City Secretary
City of Iowa Colony
3144 Meridiana Pkwy
Iowa Colony, Texas 77583
Telephone: (281) 369-2471
Email: krosser@iowacolonytx.gov

DRH: Daniel Rose, II
DR Horton – Texas, Ltd.
c/o Coats Rose, P.C.
9 Greenway Plaza, Ste. 1000
Houston, Texas 77046
Telephone: (713) 653-7354
Email: lkilgore@coatsrose.com

District: Laken Jenkins Kilgore
Brazoria County Municipal Utility District No. 87
c/o Coats Rose, P.C.
9 Greenway Plaza, Ste. 1000
Houston, Texas 77046
Telephone: (713) 653-7354

Email: lkilgore@coatsrose.com

608 Colony:

Brad Richie
608 Colony Investments, LLC
c/o Great America Companies, Inc.
10003 NW Military Hwy Suite 2201
San Antonio, TX 78231
Telephone: 210-344-9200 ext. 24
Email: gacbradr@greatamericacompanies.com

Notices shall be deemed to be given upon personal delivery, or two (2) business days after deposited with the United States mail service, or the following business day if deposited with an overnight delivery service or mailed.

State Law Verifications.

The Developer verifies:

- a. Anti-Boycott Verification. The Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and, will not boycott Israel during the term of this Agreement. As used in the foregoing verification, “boycott Israel” means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The Developer understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with the Developer and exists to make a profit. Notwithstanding anything contained herein, the representations and covenants contained in this Section 6.10(a) shall survive termination of this Agreement until the statute of limitations has run.
- b. Verification Pursuant to Chapters 2252 and 2270 of the Texas Government Code. The Developer represents that neither it nor any of its parent company, wholly- or majority- owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code.

The foregoing representation excludes the Developer and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Developer understands “affiliate” to mean any entity that controls, is controlled by, or is under common control with the Developer and exists to make a profit. Notwithstanding anything contained herein, the representations and covenants contained in this Section 6.10(b) shall survive termination of the Agreement until the statute of limitations has run.

- c. Verifications Pursuant to Chapter 2276, Texas Government Code. The Developer hereby

verifies that it and its parent companies, wholly- or majority- owned subsidiaries, and other affiliates, if any, do not boycott energy companies and, will not boycott energy companies during the term of this Agreement. As used in the foregoing verification, “boycott energy companies” shall have the meaning assigned to the term “boycott energy company” in Section 809.001, Texas Government Code. The Developer understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with the Developer and exists to make a profit. Notwithstanding anything contained herein, the representations and covenants contained in this Section 6.10(c) shall survive termination of the Agreement until the statute of limitations has run.

- d. Firearms. The Developer hereby verifies that it and its parent companies, wholly- or majority- owned subsidiaries, and other affiliates, if any,
 - a. do not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association; and
 - b. will not discriminate during the term of this Agreement against a firearm entity or firearm trade association.

As used in the foregoing verification, “discriminate against a firearm entity or firearm trade association” shall have the meaning assigned to such term in Section 2274.001(3), Texas Government Code. The Developer understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with the Developer and exists to make a profit. Notwithstanding anything contained herein, the representations and covenants contained in this Section 6.10(d) shall survive termination of the Agreement until the statute of limitations has run.

- e. Notwithstanding anything contained herein, the representations and covenants contained in this Section 6.10 shall survive closing until the statute of limitations has run. Liability for breach of any verification in such section during such period shall not be liquidated or otherwise limited by any provision herein, notwithstanding anything herein to the contrary.

This Agreement constitutes the entire agreement of the parties with respect to the project described therein. This Agreement may not be amended, modified, altered or changed in any respect whatsoever except by further agreement in writing duly executed by the parties hereto. All understandings and agreements heretofore between the parties with respect to the Property are merged in this Agreement, which alone fully and completely expresses their understanding.

[signature page follows]

IN WITNESS WHEREOF, the undersigned Parties have executed this Agreement to be effective as of the _____ day of _____, 2024.

CITY OF IOWA COLONY:

By: _____
Wil Kennedy, Mayor

Date: _____

DRH:

D.R. HORTON – TEXAS, LTD.
a Texas limited partnership

By: D.R. Horton, Inc. a Delaware corporation
Its Authorized Agent

By:  _____

Name: _____
Eric Loeb
Vice President

Title: _____

**BRAZORIA COUNTY MUNICIPAL
UTILITY DISTRICT NO. 87:**

By: _____
Doug Jeffrey, President

Date: _____

608 COLONY INVESTMENTS, LTD.
a Texas limited partnership

By: FW Companies, LLC
a Texas limited liability company
its General Partner

By: _____

Name: Israel Fogiel

Title: President

IN WITNESS WHEREOF, the undersigned Parties have executed this Agreement to be effective as of the _____ day of _____, 2024.

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By: _____
Wil Kennedy, Mayor

Date: _____

DRH:

D.R. HORTON – TEXAS, LTD.
a Texas limited partnership

By: D.R. Horton, Inc. a Delaware corporation
Its Authorized Agent

By: _____

Name: _____

Title: _____

**BRAZORIA COUNTY MUNICIPAL
UTILITY DISTRICT NO. 87:**

By: 
Doug Jeffrey, President

Date: 3/25/24

608 COLONY INVESTMENTS, LTD.
a Texas limited partnership

By: FW Companies, LLC
a Texas limited liability company
its General Partner

By: _____

Name: Israel Fogiel

Title: President

IN WITNESS WHEREOF, the undersigned Parties have executed this Agreement to be effective as of the _____ day of _____, 2024.

CITY OF IOWA COLONY:

By: _____
Wil Kennedy, Mayor

Date: _____

DRH:

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a Texas limited partnership

By: D.R. Horton, Inc. a Delaware corporation
Its Authorized Agent

By: _____

Name: _____

Title: _____

**BRAZORIA COUNTY MUNICIPAL
UTILITY DISTRICT NO. 87:**

By: _____
Doug Jeffrey, President

Date: _____

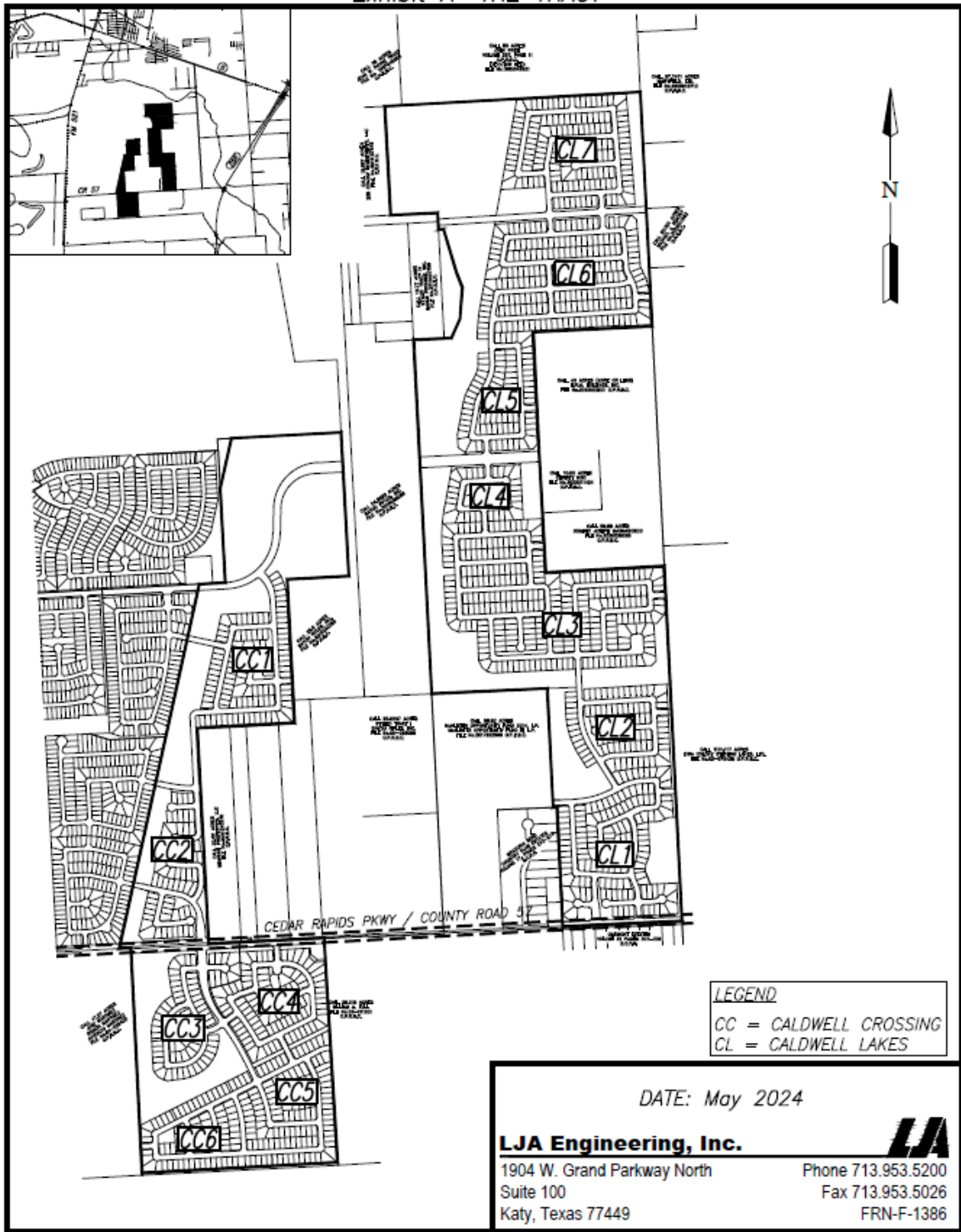
608 COLONY INVESTMENTS, LTD.
a Texas limited partnership

By: FW Companies, LLC
a Texas limited liability company
its General Partner

By:  _____
Name: Israel Fogiel
Title: President

Exhibit "A"

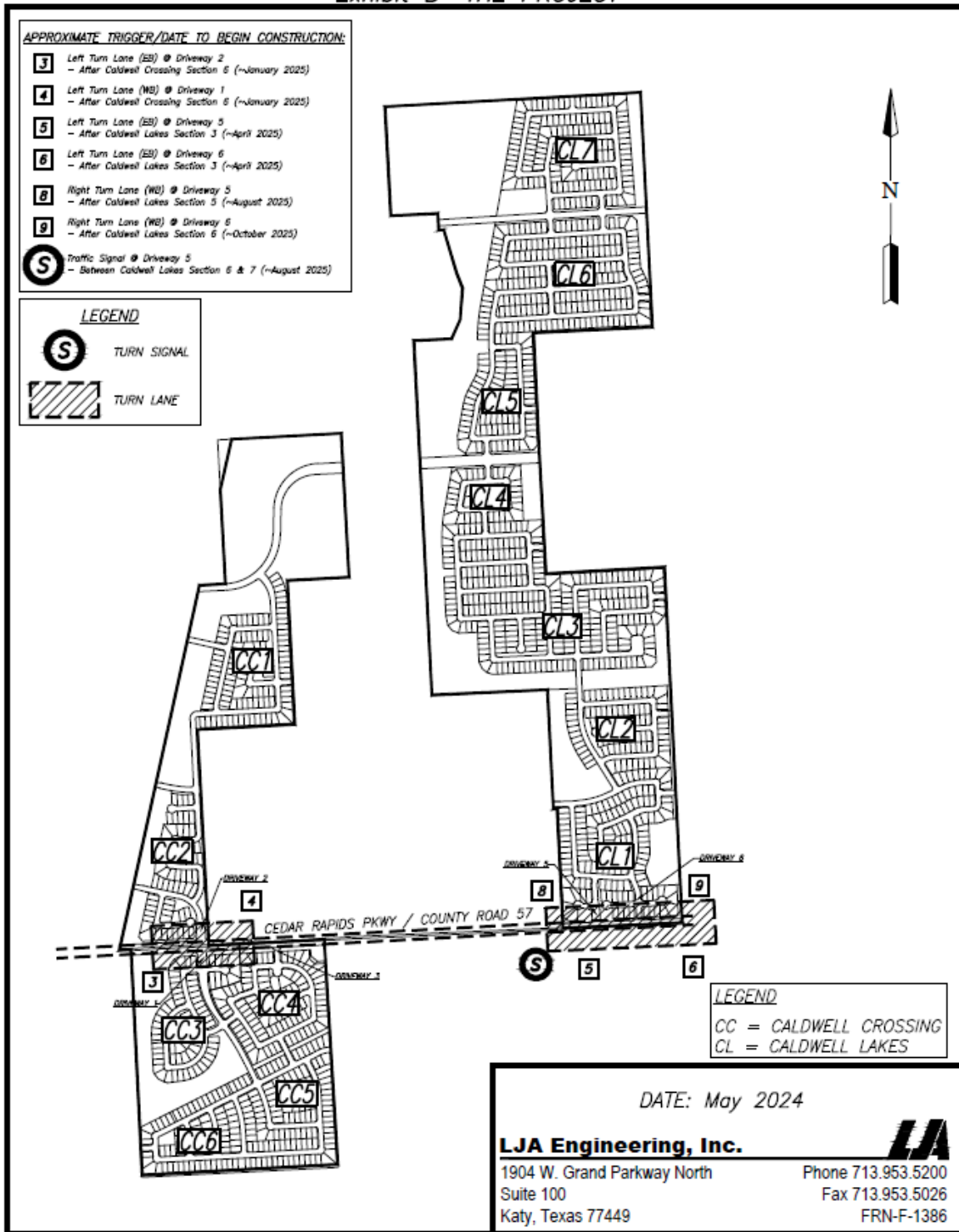
Exhibit A "THE TRACT"



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Exhibit "B"

Exhibit B "THE PROJECT"



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Exhibit "C"

