

WHEN RECORDED, RETURN TO:
City Clerk
City of Lodi
221 West Pine Street
Lodi, CA 95240

IMPROVEMENT AGREEMENT
for the
PUBLIC IMPROVEMENTS
of the
BLAYKE-MAISYN ESTATES SUBDIVISION
TRACT NO. 4163

THIS AGREEMENT is made and entered into by and between the CITY OF LODI, a California municipal corporation, hereinafter referred to as "City", and DAVID S. SHAH AND STEPHANIE C. SHAH, TRUSTEES, OR THEIR SUCCESSORS IN INTEREST, OF THE SHAH FAMILY REVOCABLE TRUST DATED 4/17/2024, hereinafter referred to as "Developer".

RECITALS:

Developer is the developer of that certain real property situated in the City of Lodi, County of San Joaquin, commonly known as Parcel 1 (A.P.N.: 029-060-66) and more particularly described in Exhibit A and depicted in Exhibit B. Developer has presented to City for approval the final subdivision map, hereinafter called "Map", entitled "BLAYKE-MAISYN ESTATES SUBDIVISION". The Map was filed with the Public Works Director for presentation to the City Council for approval, and is hereby referred to and incorporated herein;

Developer has requested approval of the Map prior to the construction and completion of public improvements, including all streets, highways or public ways, and public utilities and facilities which are a part of, or appurtenant to, the Blayke-Maisyn Estates Subdivision, hereinafter called "Project", all in accordance with, and as required by, the plans and specifications for all or any of said improvements in, appurtenant to, or outside the limits of Project, which plans and specifications are now on file in the office of and endorsed with the approval of the Public Works Director or his designee.

City Council will adopt a resolution to approve the Map and accept the dedications therein offered on the condition that Developer will first enter into and execute this Agreement with City and meet the requirements of said resolution; and

This Agreement is executed pursuant to the provisions of the Subdivision Map Act of the State of California and Titles 15 and 17 of the Lodi Municipal Code ("LMC").

NOW THEREFORE, for and in consideration of the acceptance of the dedications offered, and in order to insure satisfactory performance by Developer of Developer's obligations under State law and City Code, the parties agree as follows:

1. Performance of Work by Developer

Developer will do and perform, or cause to be done and performed at Developer's own expense, in a good and workmanlike manner, and furnish all required materials, all under the direction and to the satisfaction of City's Public Works Director, all of the work and improvements as shown on the approved improvement plans for the Project, Plan Set 2024D001, which is on file in the Public Works Department.

The Developer shall also perform or cause to be performed the following items which are not shown on the improvement plans:

- A. Street light installation and connection to City system;
- B. Natural gas line installation;

- C. Telephone line installation;
- D. Electrical system; and
- E. Cable television system.

2. Development Changes

Developer shall also perform all work and furnish all materials necessary to comply with any changes required by the Public Works Director, which, in his opinion, are necessary or required to complete the work in conformance with City Standards or are the result of changed conditions.

3. Performance of Work by City

Prior to the approval of the final map by the City, it is agreed that the Developer shall deposit with the City the amount of money shown as the "Developer Cost" on the Billing Schedule, attached hereto as Exhibit C, and by this reference made a part hereof as though fully set forth.

From payments made under the Billing Schedule, Developer elects to have the City perform or install or cause the installation of the following items:

- A. Water service abandonment;
- B. Televideo inspection of the public storm drain lines. The fee shown on the Billing Schedule is based on the linear footage of storm drain pipe, including laterals, shown on the improvement plans. The fee will be adjusted, if necessary, when the televideo inspection is complete. Any additional fee must be paid prior to Project acceptance;
- C. Storm Water Permit Compliance Inspections. The fee shown on the Billing Schedule is based on one (1) inspection per month for construction activities covering a six-month period. The fee will be adjusted, if necessary, when the improvements are complete and ready for acceptance by the City. Any additional fee must be paid prior to Project acceptance.

Developer shall also pay all additional costs for work performed by City deemed by the Public Works Director necessary to complete the work under this Agreement in conformance with City Standards.

4. Development Impact Mitigation Fees

Development Impact Mitigation Fees for water, wastewater, storm drainage, street improvements, police, fire, parks and recreation, neighborhood parks, general City facilities, electrical, art in public places, non-potable water, and south wastewater trunk line are required for this Project. Payment of the Development Impact Mitigation Fees shall be collected prior to issuance of Certificate of Occupancy for each dwelling. In conformance with LMC Section 15.64.050, the fees are automatically adjusted on January 1st of each year. Fees may also be adjusted at other times by separate City Council action. The actual fees to be paid will be those in effect at the time of payment. This Agreement shall in no way limit City's ability to charge Developer the fees in effect at the time Developer pays the fees.

5. Reimbursement from Others

Developer may be eligible for reimbursement from others for the cost of certain off-site public improvements that benefit other properties. It is Developer's responsibility to request reimbursement and submit the appropriate information per LMC Section 17.62.

6. Work; Time for Commencement and Performance

Developer shall, within 365 calendar days from the date of this Agreement, perform or cause to be performed, all work and/or improvements described in this Agreement. At

least 15 calendar days prior to the commencement of work hereunder, Developer shall notify the Public Works Director of the date fixed by Developer for commencement thereof, so that City can provide required inspection services.

7. Time Extension

Time is of the essence of this Agreement. City may extend the time for completion of the improvements hereunder, under the terms of an addendum to this Agreement, which shall be approved and executed by the City Manager. Any such extension may be granted without notice to Developer's surety, and extensions so granted, shall not relieve the surety's liability on the bond to secure the faithful performance of Developer under this Agreement. The City Manager shall be the sole and final judge as to whether or not good cause has been shown to entitle Developer to an extension.

8. Record Drawings and Certifications

Prior to acceptance of the Project improvements, Developer shall have installed and put in place, all survey monuments as shown on the Maps and provide record drawings and certifications as described in the City of Lodi Public Improvement Design Standards.

9. Permits; Compliance with Law

Developer shall, at Developer's expense, obtain all necessary permits and licenses for the construction of the improvements described in this Agreement, give all necessary notices, and pay all fees and taxes required by law.

10. Superintendence by Developer

Developer shall give personal superintendence to the work of said improvements, or have a competent agent, foreman or superintendent, satisfactory to the Public Works Director, on the work site at all times during construction, with authority to act for Developer.

11. Inspection by City

Developer, shall at all times, maintain proper facilities and provide safe access for inspection by City to all parts of the work site. Inspections will be provided during normal working hours of City staff. Developer will be billed for inspections on work performed on weekends, holidays and overtime. Developer shall also pay all additional costs incurred by City for soils and materials testing and/or inspection services, including storm water compliance inspections, required as a part of City inspection activities.

12. Contract Security

Concurrently with the execution of this Agreement, Developer shall furnish Improvement Security of at least 100 percent of the estimated cost of the public improvements required to be constructed, plus engineering costs of surveying, record drawings and certifications as security for the faithful performance of this Agreement; and an amount equal to at least 100 percent of the above costs as security for the payment of all persons performing labor and furnishing materials in connection with this Agreement as more fully described in the State Subdivision Map Act.

The City has determined these security amounts to be as follows:

Faithful Performance:	\$ 184,400.00
Labor and Materials:	\$ 184,400.00

13. Warranty Security

Prior to acceptance of the Project improvements by City, Developer shall furnish warranty security of at least 10 percent of the total cost of the public improvements required to be constructed, as security for repair or replacement of defective work as provided under Paragraph 17 of this Agreement. The warranty period shall be two years following the date of acceptance of the improvements by City. If any portion of the Project receives

partial acceptance during the course of construction, the warranty period for all required Project improvements shall commence upon the date of final acceptance for the entire Project.

14. Hold-Harmless Agreement

Developer hereby agrees to, and shall, hold City, its elected and appointed boards, commissions, officers, agents, and employees, harmless from any liability for damage or claims for damage from personal injury, including death, as well as from claims for property damage which may arise from Developer's or Developer's contractors', subcontractors', agents' or employees' operations under this Agreement, whether such operations be by Developer or by any of Developer's contractors, subcontractors, or by any one or more persons directly or indirectly employed by, or acting as agent for, Developer or any of Developer's contractors or subcontractors. Developer agrees to, and shall, defend City and its elected and appointed boards, commissions, officers, agents, and employees from any suits or actions at law or in equity for damages caused, or alleged to have been caused, by reason of any of the aforesaid operations; provided as follows:

- A. That City does not, and shall not, waive any rights against Developer which it may have by reason of the aforesaid hold-harmless agreement, because of the acceptance by City, or the deposit with City by Developer, of any of the insurance policies described in Paragraph 15 of this Agreement.
- B. That the aforesaid hold-harmless agreement by Developer shall apply to all damages and claims for damages of every kind suffered, or alleged to have been suffered, by reason of any of the aforesaid operations referred to in this paragraph, regardless of whether or not City has prepared, supplied or approved of, plans and/or specifications for the Project, or regardless of whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.

15. Developer's Insurance

Refer to Exhibit D for the insurance requirements for public improvement agreements.

16. Title to Improvements

Title to, and ownership of, all public improvements constructed hereunder by Developer shall vest absolutely in City upon completion and acceptance of such public improvements by City.

17. Repair or Reconstruction of Defective Work

If, within a period of two (2) years after final acceptance by City of the work performed under this Agreement, any structure or part of any structure furnished and/or installed or constructed, or caused to be installed or constructed by Developer, or any of the work done under this Agreement, including the mitigation measures for dust and erosion control, fails to fulfill any of the requirements of this Agreement plans and specifications referred to herein, Developer and Developer's surety shall, without delay and without cost to City, repair, replace or reconstruct any defective or otherwise unsatisfactory part or parts of the work or structure. Should Developer or Developer's surety fail to act promptly or in accordance with this requirement, or should the exigencies of the case require repairs or replacements to be made before Developer can be notified, City may, at its option, make the necessary repairs or replacements or perform the necessary work, and Developer shall pay to City the actual cost of such repairs plus 15-percent for administration and overhead costs.

18. Homeowners Association

The subdivision will be governed by a Homeowners Association (HOA) organized and established pursuant to California law. The Developer shall provide the HOA's proposed

Declaration of Covenants, Conditions, and Restrictions (CC&Rs) to the Community Development Department for review and approval prior to recordation of the final map. The HOA/CC&Rs shall contain appropriate mechanisms for the permanent ongoing maintenance of areas, including but not limited to the private storm drain system, private sanitary sewer system, common landscaping, curb, gutter, sidewalk, street lights, walls, fencing, and shared drives. The HOA/CC&Rs shall include appropriate mechanisms to assess and collect assessments for said maintenance and the ability to enforce adherence to the HOA/CC&Rs. The HOA/CC&Rs shall clearly provide that each homeowner is responsible for compliance with the HOA/CC&Rs and also responsible and liable for their renter's violations of the HOA/CC&Rs. The HOA/CC&Rs shall address guest parking and garbage pick-up (i.e., when and how long trash bins can be on the street). Following approval of the HOA/CC&Rs by the Community Development Department, the HOA/CC&Rs shall be recorded with the Office of the San Joaquin County Recorder prior to or concurrent with the final map. The HOA/CC&Rs shall require Developer to fund its share of the maintenance obligations related to the lots it has not sold on a pro rata basis.

19. Private Utilities

The Developer shall notify all purchasers of homes or lots, either through the Department of Real Estate Subdivision Report or, if there is no Subdivision Report, through a statement signed by each buyer and submitted to the City, that this subdivision is served by private sanitary sewer and storm drain facilities to be owned, operated, and maintained under the sole direction of the private Homeowners Association. The wording and format for notifying home buyers under this Paragraph 19 is subject to approval by the Community Development Director and the Public Works Director.

20. Joint Trench / Dry Utility Encroachment

Developer shall be responsible for obtaining an encroachment permit issued by the City of Lodi Public Works Department prior to commencing any joint trench or other dry utility related work within the City's right-of-way or public utility easements.

21. Repair or Replacement of City-Owned Bypass Meter Assemblies

Developer is required by City to install bypass meter assemblies in conjunction with the installation of water mains in the City of Lodi. City will supply these assemblies upon receipt of a deposit in the amount of \$5,000 for each assembly required. The purpose of the deposit is to guarantee the return of the assembly in good condition and fulfillment of the other obligations shown in the City's Policies and Procedures entitled "Metering Water Usage of New Water Mains Requiring Temporary Bypasses."

22. Mud, Debris, Dust and Erosion

Developer agrees and covenants not to permit mud or other debris to be tracked from the Project site or elsewhere onto City or County streets or onto private property without express permission. Developer further agrees not to cause damage to City or County streets.

Should any mud or debris be deposited in City or County streets or any damage is caused to City or County streets, Developer shall have the same removed or repaired forthwith, and if not removed or repaired upon notice within a specified time, City shall cause the same to be removed or repaired and Developer shall be charged for the cost of said removal or repairs.

Developer, Developer's contractor, subcontractors, and/or agents shall be responsible for dust and erosion problems created during construction, including installation of telephone, electrical, cable television and gas facilities. Developer's responsibility for dust and erosion control shall extend to include a period of two years from the date of final acceptance by City of the work performed under this Agreement.

If a dust or erosion problem arises during development or within a period of two (2) years from the date of final acceptance by City of the work performed under this Agreement, including but not limited to installation of telephone, electrical, cable television, and/or gas facilities, and has not, after notice, been abated by Developer within a specified period of time, City shall cause the same to be controlled, and Developer shall be charged with the cost of said control.

23. Fire Protection During Construction

Fire protection facilities approved by City's Fire Chief, including all-weather access road and an approved water supply capable of supplying the required fire flow, shall be installed and made serviceable in accordance with the City Fire Code (as set forth in the Lodi Municipal Code) prior to and during the time of building construction. The above may be modified when alternate methods of protection approved by the Fire Chief are provided.

24. Protection of Existing Improvements

Damage to any existing improvements, private or public utility lines installed or undergoing installation in which damage occurs during the onsite and offsite construction required of Developer under this Agreement, shall be the absolute responsibility and liability of Developer. In other words, it shall be Developer's responsibility to pay for damage to existing improvements and public or private utilities within the Project property. Damage to any existing facilities outside the limits of the Project damaged as part of the construction of the required Project improvements is also Developer's responsibility.

25. Dwelling Occupancy

City will not allow occupancy of any building or structure within the Project until all deferred fees have been paid, the private sanitary sewer lift station facilities are completed, and public improvements have been approved and accepted by the Public Works Department per established City policy and other requirements of City codes have been met. If building is started prior to acceptance of the improvements, it is Developer's responsibility to inform all prospective purchasers that occupancy will not be permitted until said deferred fees are paid, private sanitary sewer lift station is completed, and public improvements are so accepted by City.

26. Developer Not Agent of City

Neither Developer nor any of Developer's agents, contractors, or subcontractors are or shall be considered to be agents of City in connection with the performance of Developer's obligations under this Agreement.

27. Notice of Breach and Default

If Developer refuses or fails to obtain prosecution of the work, or any severable part thereof, with such diligence as will insure its completion within the time specified, or any extensions thereof, or fails to obtain completion of said work within such time, or if Developer should be adjudged bankrupt, or Developer should make a general assignment for the benefit of Developer's creditors, or if a receiver should be appointed in the event of Developer's insolvency, or if Developer or any of Developer's contractors, subcontractors, agents, or employees, should violate any of the provisions of this Agreement, the Public Works Director or City Council may serve written notice upon Developer and Developer's surety of breach of this Agreement, or any portion thereof, and the default of Developer.

28. Breach of Agreement; Performance by Surety or City

In the event of any such notice, Developer's surety shall have the duty to take over and complete the work and the improvements herein specified; provided however, that if the surety, within five (5) days after the serving upon it of such notice of breach, does not

give City written notice of its intention to take over the performance of this Agreement, and does not commence performance thereof within five (5) days after notice to City of such election, City may take over the work and prosecute the same to completion, by contract or by any other method City may deem advisable, for the account and at the expense of Developer, and Developer's surety shall be liable to City for any excess cost or damage occasioned City thereby; and, in such event, City, without liability for so doing, may take possession of, and utilize in completing the work, such materials, appliances, plant and other property belonging to Developer as may be on the site of the work and necessary therefor.

29. This Agreement shall run with the land and be binding on the Owner, its heirs, successors and assigns.

[The balance of this page is intentionally left blank.]

30. Notices.

All notices herein required shall be in writing, signed by the authorized representative of the sender and shall be deemed to have been given when the same is personally served or upon receipt by express or overnight delivery, postage prepaid, or three (3) days from the time of mailing if sent by first class or certified mail, postage prepaid, addressed to the respective parties.

Notices required to be given to City shall be addressed as follows:

Charles E. Swimley, Jr.
Public Works Director
City of Lodi
221 West Pine Street
Lodi, CA 95240

Notices required to be given to Developer shall be addressed as follows:

David S. Shah and Stephanie C. Shah
Trustees
David S. Shah and Stephanie C. Shah, Trustees, or their
successors in interest, of the Shah Family Revocable
Trust dated 4/17/2024
PO Box 2718
Lodi, CA 95241

Notices required to be given to Surety shall be addressed as follows:

Provided that either party or the surety may change such address by notice in writing in the manner set forth above, to the other party and thereafter notices shall be addressed and transmitted to the new address.

31. Authority

The undersigned hereby represent and warrant that they are authorized by the parties to execute this Agreement.

[The balance of this page is intentionally left blank.]

32. Execution

In Witness Whereof, Developer and City have caused their names and corporate seals to be hereunto affixed.

DAVID S. SHAH AND STEPHANIE C. SHAH,
TRUSTEES, OR THEIR SUCCESSORS IN
INTEREST, OF THE SHAH FAMILY
REVOCABLE TRUST DATED 4/17/2024

Dated: _____

By: _____
DAVID S. SHAH
Trustee

Dated: _____

By: _____
STEPHANIE C. SHAH
Trustee

(CORPORATE SEAL)

CITY OF LODI,
a California municipal corporation

Dated: _____

By: _____
JAMES LINDSAY
Acting City Manager

ATTEST:

OLIVIA NASHED
City Clerk

(CORPORATE SEAL)

APPROVED AS TO FORM:

KATIE O. LUCCHESI
City Attorney

EXHIBIT A

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF LODI, COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

A PORTION OF THE NORTHEAST QUARTER OF SECTION THREE (3), TOWNSHIP THREE (3) NORTH, RANGE SIX (6) EAST, MOUNT DIABLO BASE AND MERIDIAN, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID QUARTER; THENCE NORTH 0°02' WEST, ALONG THE WEST LINE OF SAID QUARTER, A DISTANCE OF 1241.7 FEET TO THE SOUTHWEST CORNER OF THAT CERTAIN 0.90 ACRE PARCEL OF LAND DESCRIBED IN DEED TO LEMOIN BECKMAN, ET UX, RECORDED JANUARY 12, 1956, IN VOL. 1827 OF OFFICIAL RECORDS, PAGE 307, AND BEING THE TRUE POINT OF BEGINNING THE HEREINAFTER DESCRIBED TRACT OF LAND; THENCE SOUTH 89°34' EAST, ALONG THE SOUTH LINE OF SAID BECKMAN LAND AND ITS EASTERLY EXTENSION, A DISTANCE OF 398.7 FEET TO AN ANGLE POINT IN THE BOUNDARY OF THE LAND DESCRIBED IN DEED TO CAPELL LAND DEVELOPMENT COMPANY, INC., RECORDED MARCH 14, 1963, IN VOL. 2668 OF OFFICIAL RECORDS, PAGE 259; THENCE NORTH 0°01' WEST ALONG SAID CAPELL LAND, A DISTANCE OF 567.7 FEET TO A NORTHWEST CORNER THEREOF; ALSO BEING ON THE NORTH LINE OF THE LAND DESCRIBED IN GIFT DEED TO CARRIE C. ERICH, RECORDED IN VOL. 764 OF OFFICIAL RECORDS, PAGE 119; THENCE SOUTH 88°38' WEST, ALONG THE NORTH LINE OF SAID ERICH LAND, A DISTANCE OF 398 FEET, MORE OR LESS, TO THE WEST LINE OF SAID NORTHEAST QUARTER; THENCE SOUTH 00°02'00" EAST ALONG SAID WEST LINE, A DISTANCE OF 555.2 FEET TO THE POINT OF BEGINNING.

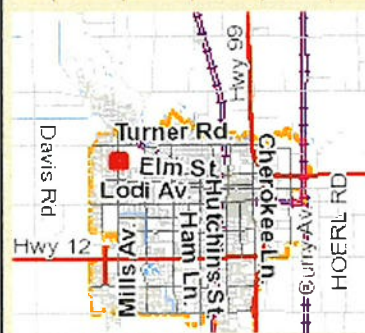
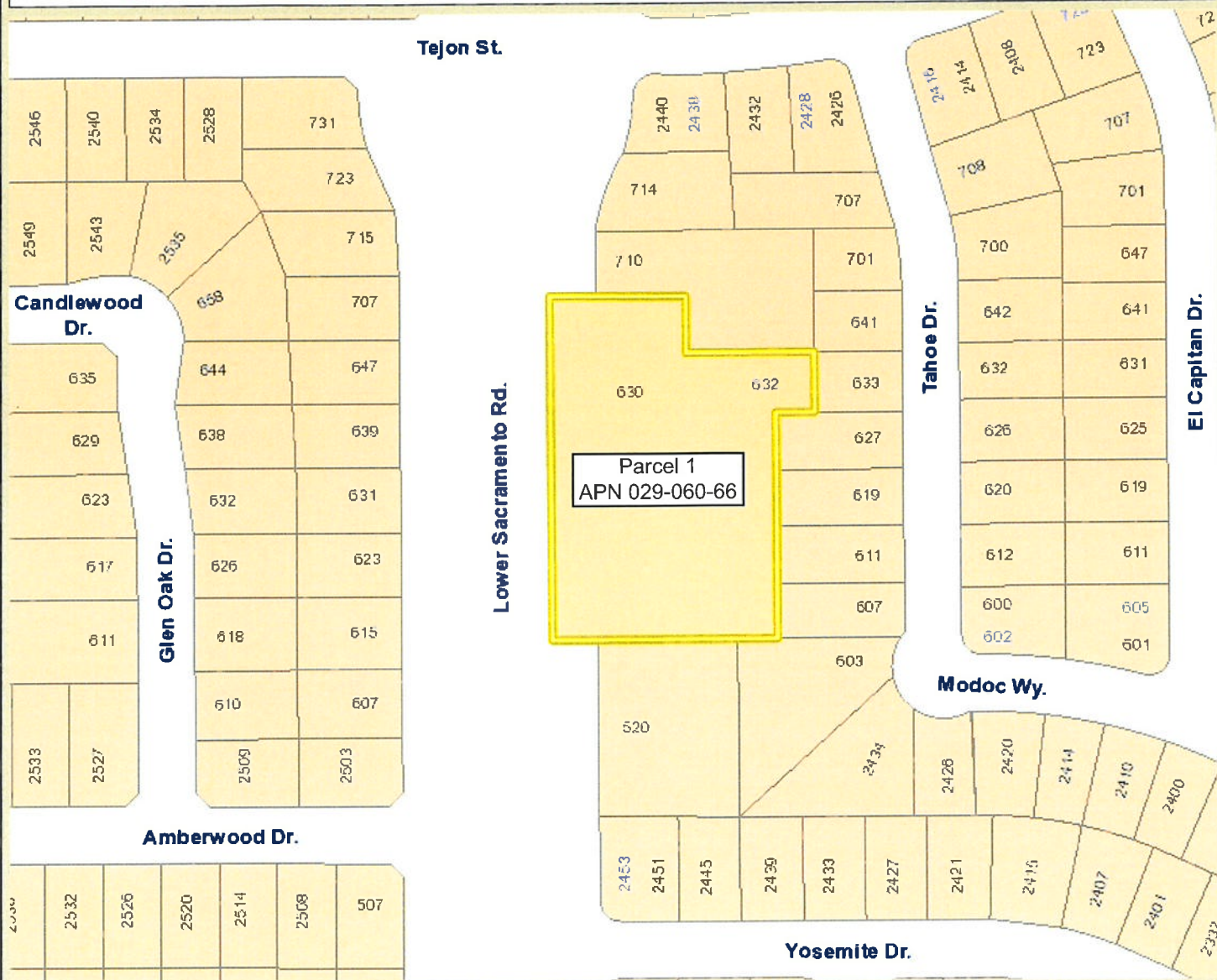
EXCEPT THEREFROM THAT CERTAIN 0.90 ACRE TRACT OF LAND DESCRIBED IN DEED TO LEMOIN BECKMAN, ET UX, RECORDED JANUARY 12, 1956, IN VOL. 1827 OF OFFICIAL RECORDS, PAGE 307.

ALSO EXCEPT THEREFROM THAT CERTAIN 0.40 ACRE TRACT OF LAND DESCRIBED IN DEED TO BILLY G. LEWIS, ET UX, RECORDED JULY 14, 1961, IN VOL. 2436 OF OFFICIAL RECORDS, PAGE 415, SAN JOAQUIN COUNTY RECORDS.

ALSO EXCEPT THEREFROM THAT CERTAIN 1.70 ACRE TRACT OF LAND DESCRIBED IN DEED TO JOHN F. CAPELL, ET UX, RECORDED FEBRUARY 16, 1972, IN VOL. 3620 OF OFFICIAL RECORDS, PAGE 414, SAN JOAQUIN COUNTY RECORDS.



Exhibit B



Legend

- ☐ Parcel Outline
- Street Names
- Parcels
 - Parcels
 - County Parcels

Map Scale

1: 2,257



Notes

Blayke-Maisyn Estates Subdivision
630 North Lower Sacramento Road
Lodi, CA 95242

376 0 188 376 Feet

WGS_1984_Web_Mercator_Auxiliary_Sphere

© City of Lodi Geographic Information Systems

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

BILLING SCHEDULE

EXHIBIT C

Development:	Blayke-Maisyn Estates Subdivision	Gross Acreage:	1.67
Developer:	David S. Shah and Stephanie C. Shah, Trustees, or their successors in interest, of the Shah Family Revocable Trust dated 4/17/2024	No. of Units:	5
Engineer:	Baumbach and Piazza, Inc.	Construction cost	\$184,400.00
Date:	7/29/25		

					DEVELOPER COST	CREDITS
ENGINEERING						
Plan Check Fee	(5.0% of	\$100,000)	ENG FEE	\$	5,000.00	
	(3.5% of	\$84,400)	ENG FEE		2,954.00	
Inspection Fee	(4.0% of	\$184,400)	ENGINS		7,376.00	
Plan Check Fee Paid			ENG FEE			\$ 4,626.00
Improvement Agreement			ENG FEE		\$3,225.00	\$
ENGINEERING SUBTOTAL				\$	18,555.00	\$ 4,626.00
STREET SYSTEM						
Fees:						
Storm Water Inspection Fees		PW03	1 LS @ \$	1,370.00	\$1,370.00	
(Charge for 6 months of inspections)						
STREET SYSTEM SUBTOTAL					\$1,370.00	\$0.00
WATER SYSTEM						
Charges for work by City Forces:						
3/4" Service Abandonment		PW02	1 EA @ \$	2,478.00	2,478.00	
WATER SYSTEM SUBTOTAL					\$2,478.00	\$0.00
STORM DRAIN SYSTEM						
Fees:						
Charges for Work by City Forces:						
TV Inspection for Project Acceptance		PW03	55 LF @ \$	1.90	104.50	
TV Inspection Prior to End of Warranty Period		PW03	55 LF @ \$	1.90	104.50	
STORM DRAIN SYSTEM SUBTOTAL					\$209.00	\$0.00
ELECTRICAL SYSTEM						
To be billed separately by Electric Utility Department						
TOTAL AMOUNT OF BILLING SCHEDULE					\$22,612.00	\$4,626.00
TOTAL DUE PRIOR TO IMPROVEMENT PLAN APPROVAL					\$17,986.00	



EXHIBIT D

NOTE: The City of Lodi is now using the online insurance program PINS Advantage. Once you have been awarded a contract you will receive an email from the City's online insurance program requesting you to forward the email to your insurance provider(s) to submit the required insurance documentation electronically

Insurance Requirements for Public Improvement Agreements

Developer shall not commence work under this Agreement until Developer shall have obtained all insurance required under this exhibit, nor shall Developer allow any contractor or subcontractor to commence work on Developer's contract or subcontract until all similar insurance required of the contractor or subcontractor shall have been so obtained. All requirements herein provided shall appear either in the body of the insurance policies or as endorsement and shall specifically bind the insurance carrier.

Developer shall procure and maintain during the life of this Agreement such insurance as shall insure City, its elected and appointed boards, commissions, officer, agents, and employees, Developer and any contractor or subcontractor performing work covered by this Agreement from claims for damages for personal injury, including death, as well as from claims for property damage which may arise from the Project or the Project property, including any public streets or easements, from Developers' or any contractors' or subcontractors' operations hereunder, whether such operations be by Developer or any contractor or subcontractor or by anyone directly or indirectly employed by either Developer or any contractor or subcontractor, and the amount of such insurance shall be as follows:

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$3,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto or if Developer has no owned autos, then hired, and non-owned autos with limit no less than **\$3,000,000** per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease.
4. **Professional Liability.** For any consultant or other professional who will engineer or design the Public Improvements, liability insurance for errors and omissions with limits not less than **\$1,000,000** per occurrence, shall be procured and maintained for a period of five (5) years following completion of the Public Improvements. Such insurance shall be endorsed to include contractual liability.

Other Insurance Provisions:

(a) Additional Named Insured Status

The City of Lodi, its elected and appointed boards, commissions, officers, agents, employees, and volunteers are to be covered as additional insureds on the CGL and auto policy with respect to liability arising out of work or operations performed by or on behalf of the Developer including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Developer's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 if a later edition is used

(b) Primary and Non-Contributory Insurance Endorsement

The limits of insurance coverage required may be satisfied by a combination of primary and umbrella or excess insurance. For any claims related to this contract, the Developer's insurance coverage shall be primary coverage **at least as broad as** ISO CG 20 01 04 13 as respects the Entity, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Entity, its officers, officials, employees, or volunteers shall be excess of the Developer's insurance and shall not contribute with it.

- (c) Waiver of Subrogation Developer hereby grants to City of Lodi a waiver of any right to subrogation which any insurer of said Developer may acquire against the City of Lodi by virtue of the payment of any loss under such insurance. Developer agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City of Lodi has received a waiver of subrogation endorsement from the insurer

NOTE: (1) The street address of the **CITY OF LODI** must be shown along with (a) and (b) and (c) above: 221 West Pine Street, Lodi, California, 95240; (2) The insurance certificate must state, on its face or as an endorsement, a description of the project that it is insuring.

- (d) Severability of Interest Clause
The term "insured" is used severally and not collectively, but the inclusion herein of more than one insured shall not operate to increase the limit of the company's liability under the Developers commercial general liability and automobile liability policies.
- (e) Notice of Cancellation or Change in Coverage Endorsement
This policy may not be canceled nor the coverage reduced by the company without 30 days' prior written notice of such cancellation or reduction in coverage to the Risk Manager, City of Lodi, 221 West Pine St., Lodi, CA 95240.
- (f) Continuity of Coverage
All policies shall be in effect on or before the first day of the Term of this Agreement. At least thirty (30) days prior to the expiration of each insurance policy, Developer shall furnish a certificate(s) showing that a new or extended policy has been obtained which meets the minimum requirements of this Agreement. Developer shall provide proof of continuing insurance on at least an annual basis during the Term. If Developer's insurance lapses or is discontinued for any reason, Developer shall immediately notify the City and immediately obtain replacement insurance. Developer agrees and stipulates that any insurance coverage provided to the City of Lodi shall provide for a claims period following termination of coverage which is at least consistent with the claims period or statutes of limitations found in the California Tort Claims Act (California Government Code Section 810 et seq.).
- (g) Failure to Comply
If Developer fails or refuses to obtain and maintain the required insurance, or fails to provide proof of coverage, the City may obtain the insurance. Developer shall reimburse the City for premiums paid, with interest on the premium paid by the City at the maximum allowable legal rate then in effect in California. The City shall notify Developer of such payment of premiums within thirty (30) days of payment stating the amount paid, the name(s) of the insurer(s), and rate of interest. Developer shall pay such reimbursement and interest on the first (1st) day of the month following the City's notice. Notwithstanding any other provision of this Agreement, if Developer fails or refuses to obtain or maintain insurance as required by this agreement, or fails to provide proof of insurance, the City may terminate this Agreement upon such breach. Upon such termination, Developer shall immediately cease use of the Site or facilities and commence and diligently pursue the removal of any and all of its personal property from the site or facilities.
- (h) Verification of Coverage
Developer shall furnish the City with a copy of the policy declaration and endorsement page(s), original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Developer's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time. **Failure to exercise this right shall not constitute a waiver of the City's right to exercise after the effective date.**
- (i) Self-Insured Retentions
Self-insured retentions must be declared to and approved by the City. The City may require the Developer to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or City.
- (j) Insurance Limits
The limits of insurance described herein shall not limit the liability of the Developer and Developer's officers, employees, agents, representatives, contractors or subcontractor. Developer's obligation to defend, indemnify and hold the City and its officers, officials, employees, agents and volunteers harmless under the provisions of this paragraph is not limited to or restricted by any requirement in the Agreement for Developer to procure and maintain a policy of insurance.
- (k) Subcontractor
Developer shall require and verify that all contractor and subcontractor maintain insurance meeting all the requirements stated herein, and Developer shall ensure that City is an additional insured on insurance required from contractors and subcontractors.
- (l) Qualified Insurer(s)
All insurance required by the terms of this Agreement must be provided by insurers licensed to do business in the State of California which are rated at least "A-, VI" by the AM Best Ratings Guide, and which are acceptable to the City. Non-admitted surplus lines carriers may be accepted provided they are included on the most recent list of California eligible surplus lines insurers (LESLI list) and otherwise meet City requirements.
- (m) Completed Operations Endorsement
For three years after completion of the project, a certificate of insurance with a Completed Operations Endorsement, CG 20 37 07 04, will be provided to the City of Lodi.
Professional Liability. For any consultant or other professional who will engineer or design the Public Improvements, liability insurance for errors and omissions with limits not less than \$1,000,000 per occurrence, shall be procured and maintained for a period of five (5) years following completion of the Public Improvements. Such insurance shall be endorsed to include contractual liability.