

**Recording Requested By:**

RECLAMATION DISTRICT NO. 17

**When Recorded Return To:**

RECLAMATION DISTRICT NO. 17  
c/o NOMELLINI, GRILLI & McDANIEL  
LAW OFFICE  
P. O. Box 1461  
STOCKTON, CA 95201

PUBLIC ENTITY FILING FEE WAIVED PER GOVT. CODE § 6103

**PERMIT AGREEMENT  
MANTECA STORM DRAIN ZONE 36 & 39 IMPROVEMENTS  
PHASE I OUTFALL PROJECT**

**PARTIES:**

RECLAMATION DISTRICT NO. 17 (RD 17)  
CITY OF MANTECA (Permittee)

**AFFECTED PROPERTY:**

Properties described as APNs 241-520-010,241-520-170,241-520-0180,241-720-010, 241-720-020, 241-720-030, 241-720-350, 241-720-040, 241-720-050, 241-720-060, 241-720-070, 241-720-080, 241-720-090, 241-720-100, 241-720-110, 241-720-120, 241-720-130, 241-720-140, 241-730-010, 241-730-020, 241-730-030, 241-730-040, 241-730-050, 241-730-060, 241-730-070, 241-730-080, 241-730-090, 241-730-100, 241-730-110, 241-730-120, 241-730-130, 241-730-140, 241-730-150, 241-730-160, 241-740-120, 241-740-130, 241-740-140, and 241-740-270 including portion along right Bank of Walthall Slough.

**AGREEMENT:**

Permission is hereby granted by RD 17 to the City of Manteca (Permittee) and its successors and assigns to construct, and maintain, a stormwater discharge outfall structure, pipelines, access roads, pumping plant and related facilities with twin 30-inch diameter steel pipes crossing the RD 17 levee as per the plans approved by RD 17 and the Central Valley flood protection Board, which are referenced in an exhibit to this agreement.

This permission is granted upon the following conditions:

1. Permittee shall compensate RD 17 and, if claimed by the Central Valley Flood Protection Board for the fair market value of an easement on the portion of such parties' land necessary for such Project to be constructed and maintained. Compensation to be addressed under a separate agreement between RD 17 and Permittee. Such easement shall be subject to the paramount use for levee and other reclamation purposes. Permittee or Oakwood Lakes Water

## ATTACHMENT 3

District (OLWD) is to provide a grant of fee title to the levee area, abandoned pond areas, and areas connecting to the RD 17 property along Aplicella Court as shown in Exhibit A to this Agreement. RD 17 will grant to Permittee an easement extending 10 feet on each side of the pipeline for pipeline operation and maintenance purposes subject to the senior right of RD17 and the Central Valley Flood Protection Board for levee purposes as shown on Exhibit B. The acreage of land granted to RD 17 by Permittee or OLWD, that is not subject to levee easements as shown on Exhibit A shall be a credit to the acreage of easement area granted by RD 17 to Permittee for the pipeline as shown on Exhibit B. To the extent that the pipeline easement area granted by RD 17 exceeds the area of the land granted to RD 17, Permittee shall pay to RD 17 the fair market value or agreed upon value by RD 17 and Permittee by way of a separate compensation agreement.

2. Permittee shall upon completion of the approved project submit to RD 17 a survey signed and stamped by an appropriately qualified professional showing the profile and horizontal location of all new pipelines in the area of work (the “premises”) and within 500 feet of the centerline of the RD 17 levee.

3. Permittee shall notify RD 17 Engineer Chris Neudeck or Jeff Mueller with Kjeldsen, Sinnock & Neudeck, Inc., 711 North Pershing Avenue, Stockton, California 95203, (209) 946-0268, one (1) week before initiating any construction or maintenance activity in the San Joaquin River or on or near the RD 17 levees or dredger cuts and when there is no activity for a period of five (5) working days, then twenty-four (24) hours prior to resumption of operations.

4. Permittee shall retain at Permittee’s sole cost and expense a California registered Geotechnical Engineer to provide oversight of all work in the waterway or on or near the RD 17 levees and any and all water seepage, soil stability problems and changes in levee crown elevation shall be immediately reported to the RD 17 Engineer. A representative of the Geotechnical Engineer with control over the work shall be onsite continuously during the course of construction of all borings, excavations and pile driving within 300 feet of the centerline of the RD 17 levees.

5. In the event the RD 17 Engineer deems the safety of the RD 17 levee is being jeopardized by the approved project, he may order all or any portion of the work temporarily stopped, in which case Permittee agrees to immediately comply with the order. RD 17 and Permittee representatives shall be immediately available to discuss and resolve the issues(s) with the objective of allowing work to continue expeditiously in a manner where the safety of the levee is maintained.

6. Permittee’s approved project activities shall not interfere with access along the levee crown road.

7. Indemnification and Insurance, etc.:

Permittee agrees to fully indemnify, defend and save harmless RD 17 including its governing boards, trustees, owners, partners, officers, agents, employees and contractors, herein collectively referred to as RD 17, against any and all loss, damage, liability, claim, demand, litigation, expense, including reasonable attorney’s fees, resulting from injury or harm to any person or property arising out of Permittee’s approved project facilities and operations permitted

## ATTACHMENT 3

hereby excepting only such injury or harm caused by sole negligence or active negligence or willful misconduct of RD 17.

Permittee shall secure the naming of RD 17 as additional insured as to claims arising out of Permittee's approved project facilities and operations on the liability policies and to the limits which shall not be less than Twenty Million Dollars (\$20,000,000.00) per occurrence as required by Permittee of its contractors only during the period of the contractor's work within 300 feet of the center line of the RD 17 levee. Additionally, Contractor shall at all times during the construction period of the approved project until City Council acceptance, maintain comprehensive general liability insurance including coverage for all damages arising out of Permittee's approved project facilities and operations with limits of a minimum of Twenty Million Dollars (\$20,000,000.00) per occurrence but not less than Contractor's actual underlying and "excess" policy limits, to insure Permittee's obligations for personal injury and property damage as provided herein. All liability insurance shall be provided by California admitted carriers with a B+ or better rating. Certificates of said insurance shall be provided to RD 17 upon issuance and all renewals of said policies. Said certificates shall provide for thirty (30) days prior notice to RD 17 of termination of the insurance.

Permittee shall maintain comprehensive general liability insurance including coverage for all damages arising out of Permittee's facilities and operations with limits of a minimum of Twenty Million Dollars (\$20,000,000.00) per occurrence but not less than Permittee's actual underlying and "excess" policy limits, to insure Permittee's obligations for personal injury and property damage as provided herein. All liability insurance shall be provided by California admitted carriers with a B+ or better rating and shall name RD 17 as an additional insured. Certificates of said insurance shall be provided to RD 17 upon issuance and all renewals of said policies. Said certificates shall provide for thirty (30) days prior notice to RD 17 of termination of the insurance.

### 8. Assumption of Risk:

Permittee acknowledges that the premises could be flooded from many causes, including without limitation, the following:

- a. Levee overtopping and levee failure due to natural causes such as winds, tides, barometric pressure changes, rainfall, rainfall runoff, earthquakes, levee settlement and rodents.
- b. Levee overtopping and levee failure due to man-related causes including negligence of the landowner, any Reclamation District and any other governmental agency such as inadequate or improper levee maintenance, flood fighting and/or patrol, dredging, water releases, obstructing water flows and water diversions.
- c. Failure of the drainage system due to natural or man-related causes, including negligence of owner, any reclamation district, and any governmental agency.
- d. Failure to construct, repair, maintain or operate levees, drainage or irrigation facilities or other facilities whether due to limited funding or otherwise.

## ATTACHMENT 3

Permittee hereby expressly assumes the risk of damage to property and the related direct and indirect losses to Permittee, its contractors, employees and agents arising out of the above and hereby waives the right, including the right on the part of any insurer through subrogation, to make any claim pertaining to the same as against RD 17 and the landowners within RD 17. Permittee agrees to hold RD 17 and the landowners within RD 17 free and harmless from and indemnify them for inverse condemnation of and for damages to property belonging to Permittee or used in connection with Permittee's operations including, without limitation, damage to equipment, improvements, site preparation, bridges, pipelines, valves and appurtenances caused by flooding due to the causes set forth above. The parties intend that this indemnity shall extend as broadly as legally permitted and shall apply except as arises from the sole negligence or active negligence or willful misconduct of the indemnified party.

9. Permittee shall within thirty (30) days of invoice, reimburse RD 17 for its reasonable out-of-pocket engineering and legal costs incurred in reviewing, preparing and processing this permit.

10. Permittee does hereby agree that at all times during and after the construction of the proposed improvements that Permittee shall, upon written demand by RD 17 perform at Permittee's own cost and expense and within the reasonable time limits set by RD 17 all rehabilitation, maintenance or repair work reasonably ordered to be performed by RD 17 which arises as a result of Permittee's approved project. Customary levee maintenance and improvement work shall not be a requirement of this paragraph unless the work is required as a result of Permittee's approved project improvements or unless the work area is within twenty-five (25) feet of Permittee's improvements; provided, however, Permittee shall within thirty (30) days of invoice reimburse RD 17 for any increased cost of performing levee maintenance and improvement work due to the presence of Permittee's approved project.

11. Permittee shall within ninety (90) days of completion of the construction contemplated hereby supply RD 17 with approved "as-built" drawings of the approved project construction.

12. This permit shall be subject to termination by the Board of Trustees of RD 17 upon failure of Permittee to adhere to the terms and conditions provided herein for a period of thirty (30) days after written notice (or such additional time as may reasonably be required to cure such failure as long as cure is commenced within thirty (30) days) and shall automatically terminate upon non-use of the permitted facility for the permitted purpose for a period of thirty-six (36) months. Upon any termination, Permittee shall remove all structures including pipelines permitted hereby from the RD 17 levees in accordance with the reasonable requirements of RD 17 and the Central Valley Flood Protection Board.

13. If and in the event that in the sole discretion of the Board of Trustees of RD 17, work needs to be performed on the levee, banks, slopes or other RD 17 facilities in the immediate area of Permittee's approved project works, then and in that event Permittee hereby gives to RD 17, its agents, employees or contractors, the right and permission to repair or remove and replace any and all works and any appurtenances thereto reasonably necessary to the performance of such

## ATTACHMENT 3

work, provided that RD 17 will not excavate within twenty-five (25) feet of the approved project without first giving notification to the Permittee and providing the Permittee a reasonable opportunity to perform the necessary work at its own expense. Permittee agrees that in the event the work is needed to address an emergency, the notification may be oral or by telephone, fax or e-mail; Permittee's election to perform or not perform the work must be immediate; and if permittee elects to perform the work the performance must be immediate. Permittee does hereby hold RD 17, its governing board, agents, employees and contractors, harmless from any and all liability arising out of or by reason of said proposed works, including, without limitation, any and all liability arising out of Permittee's proposed works having been approved, constructed, undertaken, damaged or removed as aforesaid. Permittee shall within thirty (30) days from date of written demand by RD 17 reimburse RD 17 for (1) all costs and expenses incurred in the repair or removal and replacement of said works or any appurtenances thereto by RD 17 as per the above, including reasonable attorney's fees and interest and (2) for all costs and expenses incurred by RD 17 in performing levee, bank, slope, and waterway rehabilitation, maintenance or repair work which is reasonably necessary and caused by the presence of the proposed works. In the event enforcement action is required, the prevailing party shall be entitled to recover, in addition to such costs and expenses, the costs of suit together with reasonable attorney's fees to be fixed by the Court.

14. Permittee agrees that to the extent its easements and improvements benefit from the operations of RD 17 that it will be subject to annual benefit type assessments and fees and charges.

15. All covenants of Permittee herein shall also be deemed conditions of this permit.

16. The terms and conditions herein shall bind the heirs, assigns, executors, administrators and transferees of Permittee and shall run with the permit. Permittee agrees as a condition of any transfer to obtain from the transferee its written agreement to comply with the terms of this agreement. Permittee shall notify RD 17 of the name and address of any transferee and provide to RD 17 a copy of said transferee's agreement within ten (10) days of the transfer.

17. Unless changed by written notice to RD 17, the mailing address for all notices to Permittee shall be: City of Manteca, Attn: City Manager, 1001 West Center Street, Manteca, CA 95337.

18. This permit shall not be valid until an original which is fully signed and acknowledged in recordable form by all named parties is returned to RD 17, in care of Nomellini, Grilli & McDaniel Professional Law Corporations, P.O. Box 1461, Stockton, California 95201, telephone (209) 465-5883, fax (209) 465-3956.

19. Permittee agrees to execute any and all additional documents reasonably necessary to secure the recordation of this agreement or a memorandum thereof in the County of San Joaquin, State of California.

20. Time is of the essence in this permit.

### **ATTACHMENT 3**

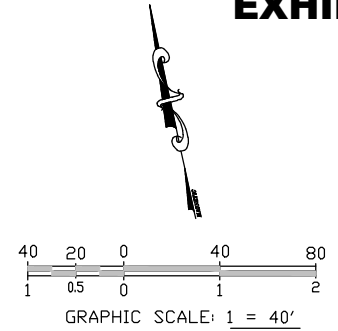
21. No discharge shall be made from the facilities permitted hereby if such discharge will increase peak flood flows in the San Joaquin River.

22. No excavations shall take place within 500 feet of the landside toe of the levee without the prior written approval of the Reclamation District Engineer.

24. This permit is conditioned upon and shall not become effective until an encroachment permit for the project is granted by the Central Valley Flood Protection Board.

[SIGNATURES ON THE FOLLOWING PAGE.]





**LEGEND:**

- PROPOSED PROPERTY LINE
- PROPOSED PROPERTY TRANSFER AREA
- PERMANENT CITY UTILITY EASEMENT
- PERMANENT CITY ACCESS EASEMENT

**NOTES:**

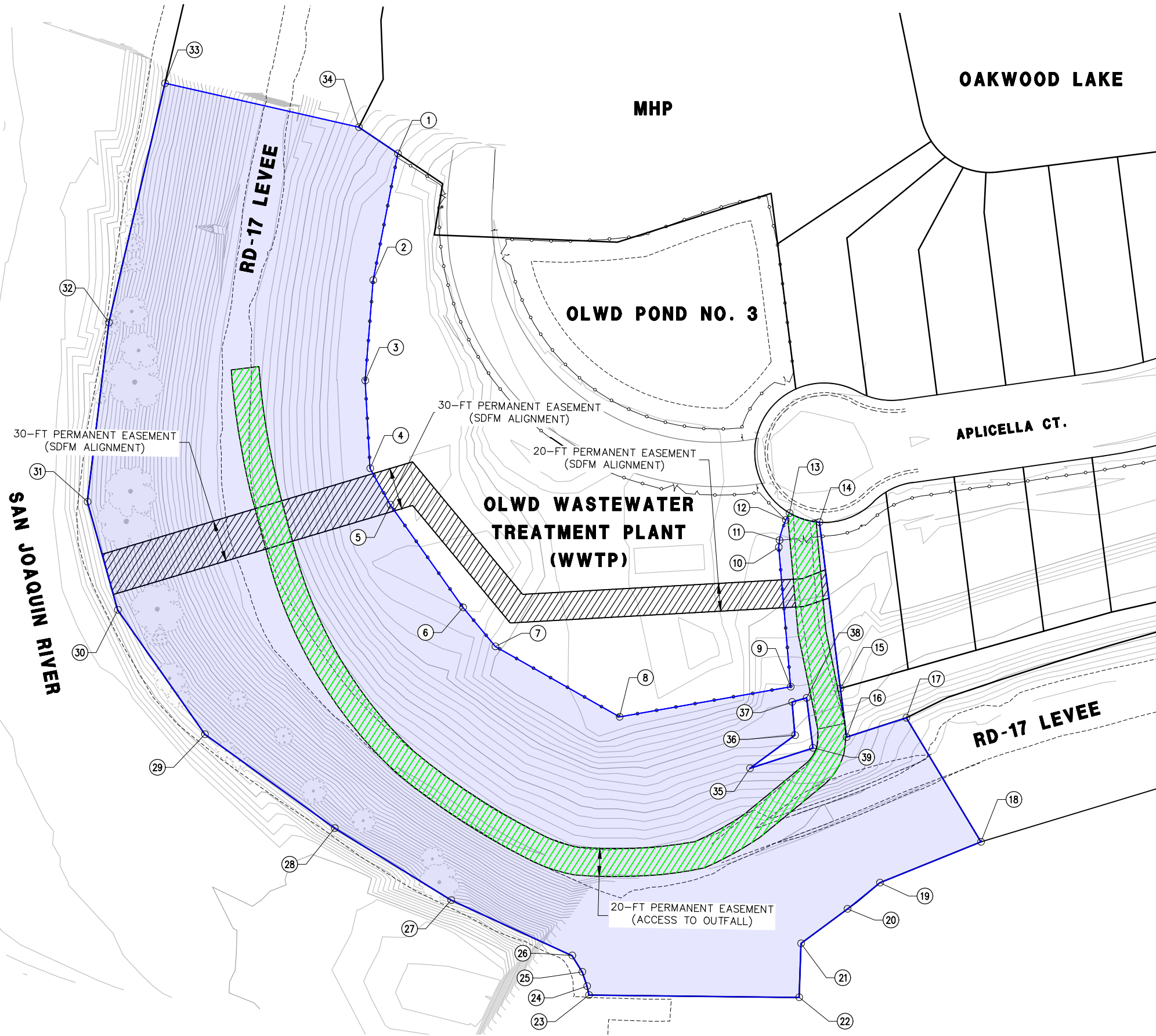
1. PROPOSED PROPERTY TRANSFER AREA IS 168,660 SQFT (3.87 ACRES).

**HORIZONTAL CONTROL TABLE – PROPERTY TRANSFER LIMITS**

LOCATION	NORTHING	EASTING	LOCATION	NORTHING	EASTING
①	2105886.98	6330844.05	②1	2105271.64	6331007.72
②	2105801.80	6330807.58	②2	2105234.09	6330998.18
③	2105732.62	6330786.78	②3	2105267.46	6330851.04
④	2105670.16	6330776.98	②4	2105273.95	6330851.04
⑤	2105641.59	6330785.67	②5	2105284.70	6330849.79
⑥	2105558.57	6330821.18	②6	2105297.68	6330845.16
⑦	2105526.25	6330837.97	②7	2105354.87	6330768.61
⑧	2105458.06	6330914.56	②8	2105423.06	6330697.72
⑨	2105453.37	6331039.21	②9	2105508.51	6330620.88
⑩	2105553.00	6331051.88	③0	2105608.97	6330578.41
⑪	2105557.87	6331053.50	③1	2105689.53	6330573.55
⑫	2105571.10	6331060.92	③2	2105812.06	6330615.70
⑬	2105575.37	6331064.60	③3	2105971.51	6330691.24
⑭	2105564.46	6331084.27	③4	2105911.30	6330820.71
⑮	2105444.66	6331073.87	③5	2105402.30	6330998.33
⑯	2105409.59	6331070.84	③6	2105418.69	6331034.90
⑰	2105414.10	6331115.64	③7	2105442.43	6331037.95
⑱	2105315.72	6331149.37	③8	2105443.09	6331048.64
⑲	2105302.38	6331072.21	③9	2105407.04	6331045.51
⑳	2105288.78	6331045.51			

CITY OF MANTECA  
OAKWOOD LAKE WATER DISTRICT  
**STORM DRAIN ZONE 36 & 39 IMPROVEMENTS PROJECT  
PHASE 1 OUTFALL CONSTRUCTION**

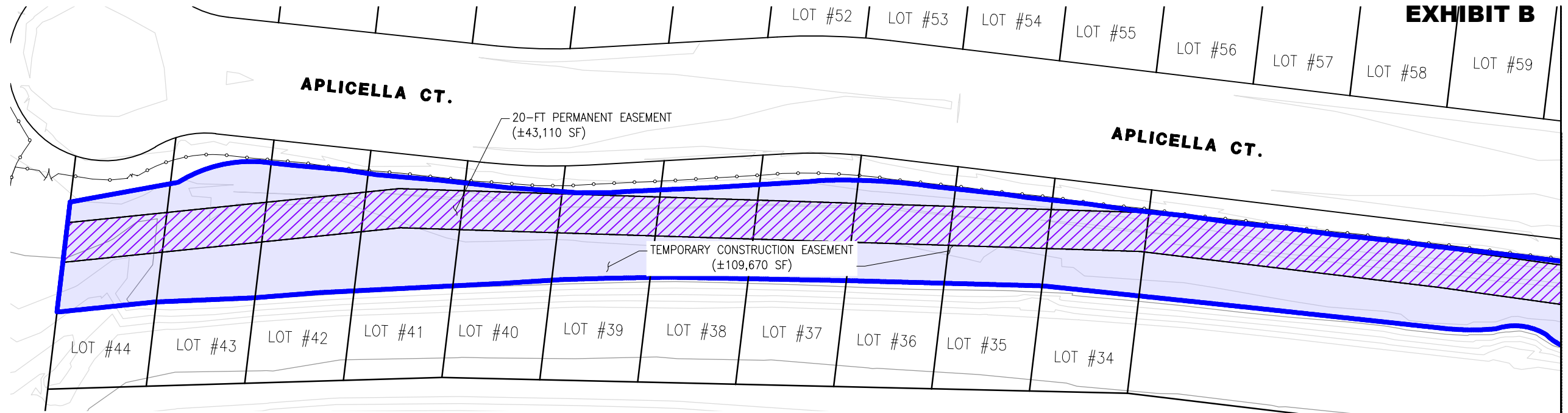
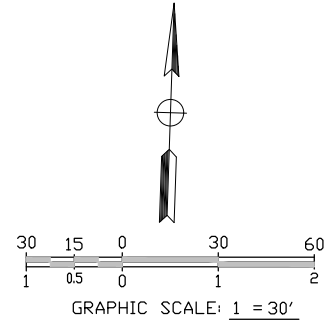
**OLWD AND RD-17  
PROPOSED PROPERTY TRANSFER**



**PLAN**

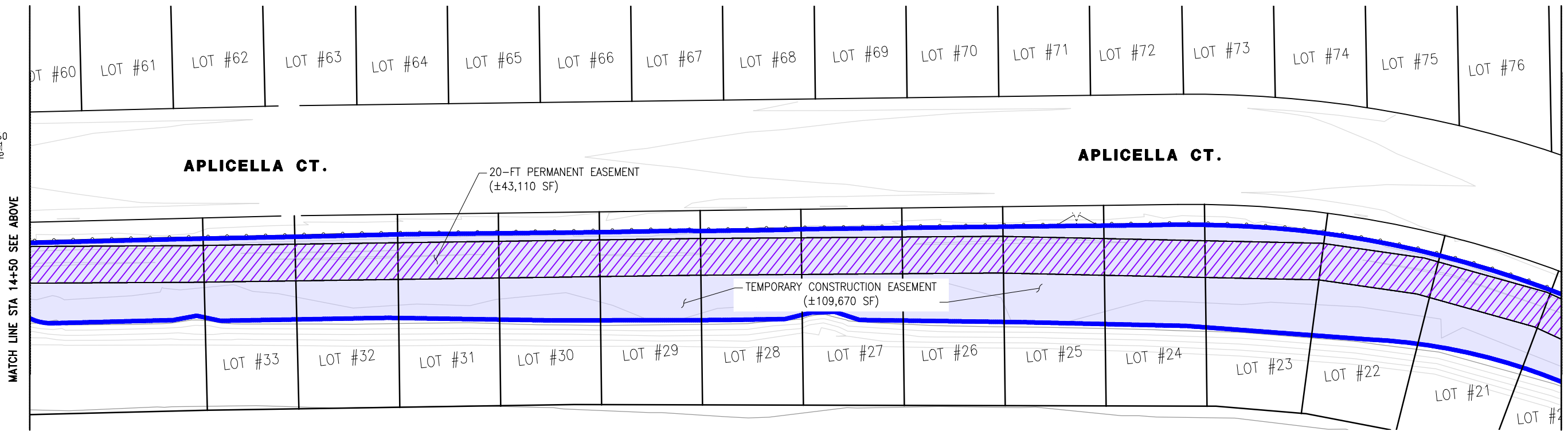
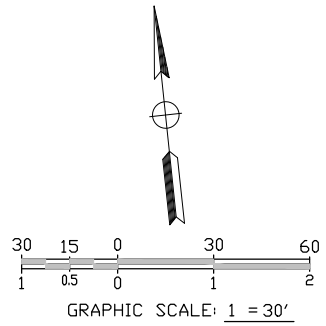
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PLAN  
STA 6+87 - STA 14+50

MATCH LINE STA 14+50 SEE BELOW



PLAN  
STA 14+50 - STA 22+50

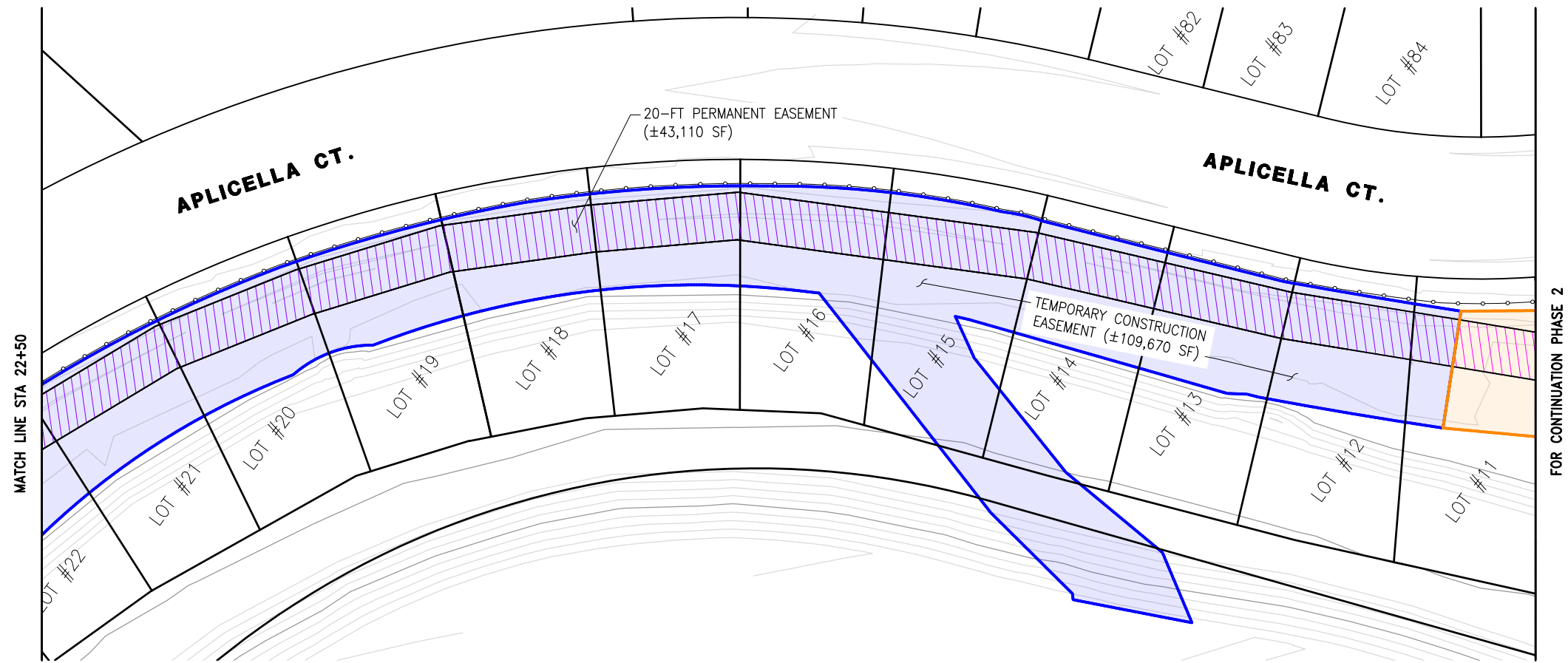
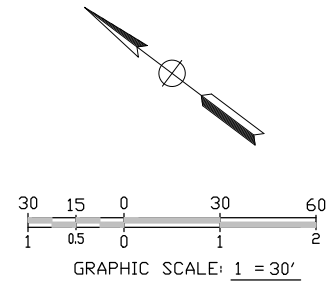
MATCH LINE STA 22+50

- LEGEND:**
- TEMPORARY CONSTRUCTION EASEMENT - PHASE 1
  - PERMANENT CITY UTILITY EASEMENT - PHASE 1

CITY OF MANTECA  
 OAKWOOD LAKE WATER DISTRICT  
 STORM DRAIN ZONE 36 & 39 IMPROVEMENTS PROJECT  
 PHASE 1 OUTFALL CONSTRUCTION  
**RIGHT-OF-WAY / CONSTRUCTION EASEMENT  
 THROUGH RD-17 PROPERTY**



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**PLAN**  
**STA 22+50 - STA 28+00**

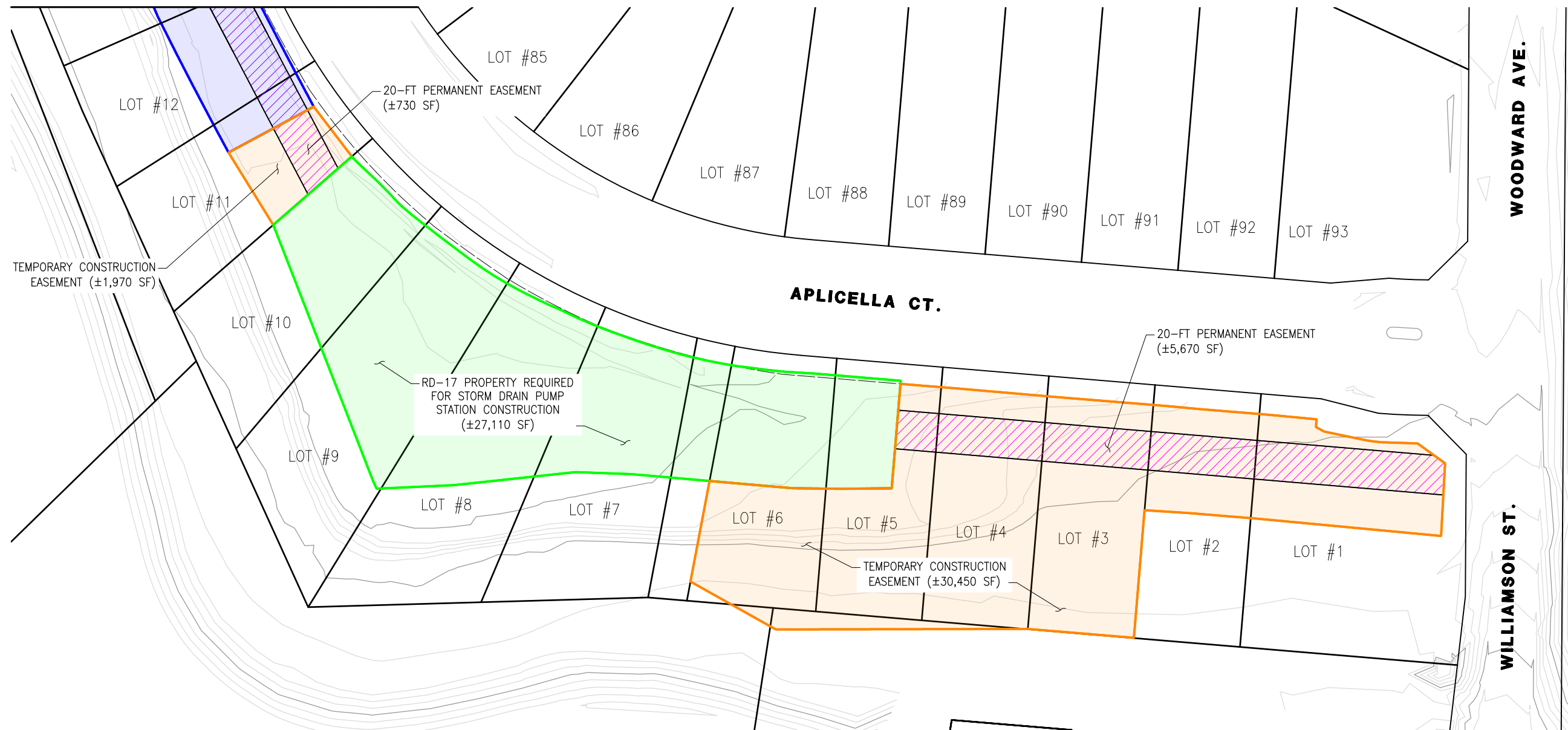
**LEGEND:**

- TEMPORARY CONSTRUCTION EASEMENT - PHASE 1
- TEMPORARY CONSTRUCTION EASEMENT - PHASE 2
- PERMANENT CITY UTILITY EASEMENT - PHASE 1
- PERMANENT CITY UTILITY EASEMENT - PHASE 2

CITY OF MANTECA  
OAKWOOD LAKE WATER DISTRICT  
STORM DRAIN ZONE 36 & 39 IMPROVEMENTS PROJECT  
PHASE 1 OUTFALL CONSTRUCTION  
**RIGHT-OF-WAY / CONSTRUCTION EASEMENT  
THROUGH RD-17 PROPERTY**

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FOR CONTINUATION STA 28+00



**PLAN  
PHASE 2**

- LEGEND:**
- TEMPORARY CONSTRUCTION EASEMENT - PHASE 1
  - TEMPORARY CONSTRUCTION EASEMENT - PHASE 2
  - RD-17 PROPERTY REQUIRED - PHASE 2 / STORM DRAIN PUMP STATION
  - PERMANENT CITY UTILITY EASEMENT - PHASE 1
  - PERMANENT CITY UTILITY EASEMENT - PHASE 2

CITY OF MANTECA  
 OAKWOOD LAKE WATER DISTRICT  
**STORM DRAIN ZONE 36 & 39 IMPROVEMENTS PROJECT**  
**PHASE 1 OUTFALL CONSTRUCTION**  
**RIGHT-OF-WAY / CONSTRUCTION EASEMENT**  
**THROUGH RD-17 PROPERTY**

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