

Parcel Number: 402-240-022
Project Name: Pinole Animal Shelter
Project Number: WLP317

Optionee: Fix Our Ferals
Address: 2226 San Pablo Ave.
Richmond, CA 94805

**OPTION AGREEMENT BETWEEN
CONTRA COSTA COUNTY
AND FIX OUR FERALS (dba ANIMAL FIX CLINIC)**
(Not to be Recorded)

This agreement (“Agreement”) is dated July 26, 2022, and is between the COUNTY OF CONTRA COSTA, a political subdivision of the State of California, (the “County”) and FIX OUR FERALS (DBA ANIMAL FIX CLINIC), a California nonprofit corporation (“Optionee”).

RECITALS

- A. The County owns an approximately .40-acre parcel at 910 San Pablo Avenue, Pinole, California (PN 402-240-022), as more particularly described in Exhibit A (the “Property”). The Property is improved with a one-story building consisting of approximately 5,213 square feet, a parking lot and landscaping.
- B. Optionee is a non-profit organization that provides low cost, outpatient surgical practice for cats and dogs, offering high volume spay/neuter services and other life-saving surgeries. Optionee is exempt from taxation pursuant to Section 501(c) (3) of the Internal Revenue Code.
- C. The County has determined that the Property is surplus and no longer required for County use. In accordance with Government Code section 26227, the County desires to sell, and Optionee desires an option to purchase the Property from the County to operate a free or low-cost community animal shelter.

The parties therefore agree as follows:

AGREEMENT

- 1. **Effective Date.** This Agreement is effective on the date signed by both parties (the “Effective Date”).
- 2. **Conveyance of Option.** In consideration of Optionee’s promises herein:
 - a. Grant of Option. The County hereby grants to Optionee the exclusive option to purchase the Property on the terms and conditions in this Agreement (the “Option”).

- b. Option Term. The term of the Option begins on the Effective Date and expires thirty days after the Effective Date (the “Option Term”). The County may extend the Option Term in its sole discretion.
- c. Grant Deed. If Optionee exercises the Option, the County shall convey title to the Property to Optionee in fee simple absolute by grant deed, in the form attached hereto as Exhibit B (“Grant Deed”), subject to all covenants, conditions, and restrictions, whether recorded or unrecorded, and deposit the Grant Deed into escrow on or before the closing date. Under the Grant Deed, the County will reserve a power of termination, as defined in Civil Code section 885.010, that will enable the County to take the Property back if it is used for anything other than activities, including administration, that directly relate to providing free or low-cost services to animals during the twenty-five-year period that begins on the date the Grant Deed is recorded.

3. **Consideration for Option.**

- a. **Payment**. As consideration for the Option, Optionee shall pay the County One Thousand Dollars (\$1,000.00) (the “Option Consideration”) within five business days after the Effective Date. The Option Consideration will be applied to the purchase price if Optionee exercises the Option. Optionee shall cause the Option Consideration to be paid by a check made payable to Contra Costa County that is delivered to the County at the address for the County shown in Section ___ below.
- b. **Retention of Option Consideration**. Except as provided in Section 10 below (Informalities; Cancellation of Sale), the Option Consideration belongs to the County and will be retained by the County, whether or not Optionee exercises the Option. The County has no obligation to account for the Option Consideration to Optionee.

4. **Terms and Purchase Price.**

- a. **Escrow**. If the Optionee exercises its Option, at the County’s election, the sale of the Property will be consummated through an escrow (“Escrow”) at a title company to be selected by the County (the “Title Company”). If for any reason, the named Title Company is unable to handle this transaction through the Close of Escrow, the County’s Real Property Agent assigned to oversee this transaction will select an alternate title company to handle the transaction and notify Optionee in writing of the identity and address of the successor title company and the new escrow number. Thereafter, the successor company will be the “Title Company” for purposes of this Agreement.
- b. Optionee hereby authorizes the County to prepare and file escrow instructions with the Title Company on behalf of Optionee in accordance with this Agreement, subject to Optionee’s advance notice and consent, which may not be unreasonably withheld, conditioned or delayed.

- c. Escrow will be deemed to be closed and the Property will be deemed to be conveyed on the date the Grant Deed to Optionee is recorded (“Closing Date”). All escrow fees, recording fees, documentary transfer taxes or other real estate transaction taxes or fees, by whatever name known, including broker’s commission, if any, and personal property sales taxes where applicable, will be paid solely by Optionee. If title insurance is desired by the Optionee, Optionee will be solely responsible to pay the premium charged.
 - d. **Purchase Price.** The purchase price for the Property during the Option Term is Forty-Two Thousand Dollars (\$42,000.00) (the “Purchase Price”). The County shall credit the Option Consideration to the Purchase Price. Optionee shall cause the Purchase Price to be delivered to the County at the Public Works Department, Real Estate Division, 40 Muir Road, Second Floor, Martinez, California 94553, and made payable to Contra Costa County.
5. **Exercise.** From and after the Effective Date and prior to the expiration of the Option Term, Optionee may exercise the Option by delivering to the County a written notice exercising the Option.
6. **Condition of the Property.** Neither the County nor its agents or employees have made any warranty, guarantee, or representation concerning any matter or thing affecting or relating to the Property, nor does County assume any responsibility for the conformance the codes or permit regulations of the city or County within which the Property is located. Optionee shall take title to the Property in its “AS-IS” condition. The County has not made and does not make any representation as to the physical condition of the Property. Optionee relies solely on its own judgment, experience, and investigations as to the present and future condition of the Property or its suitability for Optionee’s intended uses and is not relying on any disclosure or representation from County.

As partial consideration for this Option, Optionee hereby releases and discharges County and its employees, agents, attorneys, officers, divisions, related agencies and entities, affiliates, successors, and assigns from any and all claims, demands, causes of action, obligations, damages, and liabilities, which Optionee now has or could assert in any manner related to or arising from the condition of the Property, the presence of any hazardous substance in or around the Property, and the Optionee’s present or future use of the Property. Optionee knowingly waives the right to make any claim against the County for such damages and expressly waives all rights provided by section 1542 of the California Civil Code, which provides as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR”

7. **Right of Entry.** During the term of this Option and prior to the Closing Date, Optionee, its agents, contractors and employees, have the right to enter the Property at all reasonable times for the purpose of performing reasonable tests, engineering studies, surveys, soil and environmental tests and other tests, surveys, studies, and investigations of the Property as Optionee determines necessary or desirable. Optionee will defend, indemnify, and hold the County harmless from any claim, loss or liability in connection with any entry by Optionee, its contractors, agents or employees and Optionee is solely responsible for all costs incurred in connection with these activities or Optionee's investigation of the Property.
8. **Informalities; Cancellation of Sale.** The County reserves the right to waive any informality or irregularity on any offer or cancel the sale at any time prior to recording the Grant Deed. In the event of cancellation of sale by the County, through no fault, action, or inaction of Optionee, all monies deposited shall be refunded without payment of interest.
9. **Notices.** All notices (including requests, demands, approvals or other communications) under this Agreement must be in writing.

a. Notice will be sufficiently given for all purposes as follows:

- i. When delivered by first class mail, postage prepaid, notice will be deemed delivered three (3) business days after deposit in the United States Mail.
- ii. When mailed by certified mail with return receipt requested, notice will be effective on receipt if delivery is confirmed by a return receipt.
- iii. When delivered by overnight delivery by a nationally recognized overnight courier, notice will be deemed delivered one (1) business day after deposit with that courier.
- iv. When personally delivered to the recipient, notice will be deemed delivered on the date personally delivered.

b. The place for delivery of all notices given under this Agreement is as follows:

County: Public Works Department
 Real Estate Division
 40 Muir Road, Second Floor
 Martinez, CA 94553
 Telephone: 925-313-2000

Optionee: Fix Our Ferals
 12226 San Pablo Avenue
 Richmond, CA 94805
 Telephone: (510) 215-9300

or to such other addresses as Optionee and the County may respectively designate by written notice to the other.

10. **Assignment, Successors and Third-Party Rights.** This Agreement binds and inures to the benefit of the parties, and their respective heirs, personal representatives, successors and assigns. Nothing in this Agreement, express or implied, is intended to confer on any person, other than the parties and their respective successors and assigns, any rights or remedies under or by reason of this Agreement.
11. **Construction.** The section headings and captions of this Agreement are for the sole convenience of the parties to this Agreement. The section headings, captions and arrangement of this instrument do not in any way affect, limit, amplify or modify the terms and provisions of this Agreement. This Agreement may not be construed as if it had been prepared by one of the parties, but rather as if both parties prepared it. The parties to this Agreement and their counsel have read and reviewed this Agreement and agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party do not apply to the interpretation of this Agreement.
12. **Further Assurances.** Whenever requested to do so by the other party, each party shall execute, acknowledge and deliver all further conveyances, assignments, confirmations, satisfactions, releases, powers of attorney, instruments of further assurance, approvals, consents and all further instruments and documents that are necessary, expedient, or proper in order to complete all conveyances, transfers, sales, and assignments under this Agreement, and do all other acts and to execute, acknowledge, and deliver all documents requested in order to carry out the intent and purpose of this Agreement.
13. **Governing Law.** This Agreement is governed by California Law. The venue for any legal action pertaining to this Agreement will be Contra Costa County, California.
14. **Severability.** If any term, portion or provision of this Agreement is finally decided to be in conflict with any law of the United States or of the State of California, or otherwise to be unenforceable or ineffectual, the validity of the remaining parts, terms, portions or provisions of this Agreement will be deemed severable and not affected thereby, provided that such remaining parts, terms, portions or provisions can be construed in substance to constitute the Agreement that the parties intended to enter into in the first instance.
15. **Indemnification.** As partial consideration for this Agreement, Optionee shall defend, indemnify, protect, save and hold harmless the County, its officers, agents, and employees, from any and all claims, costs and liability for any damages, sickness, death or injury to persons or property, including without limitation all consequential damages, from any cause whatsoever, including the sole or joint negligence of the County, its agents, officers or employees, arising directly or indirectly from or connected with the repairs or any present or future condition of the Property or use of the Property that is the subject of this Agreement, or any representations, misrepresentations or non-

representations regarding its condition or use, and shall make good to and reimburse the County for any expenditures, including reasonable attorneys' fees that the County may make by reason of such matters and, if requested by the County, shall defend any such suits at the Optionee's sole expense.

16. **Survival.** All of the terms, provisions, representations, warranties and covenants of the parties under this Agreement shall survive the close of escrow of the Property, shall be fully enforceable after the Closing Date in accordance with their terms and shall not merge in the deed or other documents following the delivery and recordation of said deed or other documents.
17. **Negation of Optionee or Partnership.** No provision of this Agreement may be construed as making either party an agent or partner of the other party.
18. **Time of Essence.** Time is of the essence for this Agreement. If the Option is not exercised in the manner provided in Section 5 before the expiration of the Option Term, Optionee shall have no interest in the Property and the Option may not be revived by any subsequent payment or further action by Optionee.
19. **Waivers.** No waiver of any breach of any covenant or provision in this Agreement is a waiver of any other covenant or provision in this Agreement and no waiver will be valid unless in writing and executed by the waiving party.
20. **Amendment.** This Agreement may not be amended or altered except by a written instrument executed by the County and Optionee.
21. **Entire Agreement.** This Agreement contains the entire agreement between the parties with respect to the matters set forth, and expressly supersedes all previous or contemporaneous agreements, understandings, representations, or statements between the parties with respect to this matter.

[Signatures Appear on the Following Page]

COUNTY:

COUNTY OF CONTRA COSTA, a
political subdivision of the State of
California

OPTIONEE:

FIX OUR FERALS, a
California nonprofit corporation

By: _____
Beth Ward
Animal Services Director

By: _____
Emily Cowell
President

RECOMMENDED FOR APPROVAL:

By: _____
Jeannette Goh
Medical Director

By: _____
Jessica L. Dillingham
Principal Real Property Agent

By: _____
Stacey Sinclair
Senior Real Property Agent

APPROVED AS TO FORM:

MARY ANN McNETT MASON, COUNTY COUNSEL

By: _____
Kathleen M. Andrus
Deputy County Counsel

**NO OTHER OBLIGATION OTHER THAN THOSE SET FORTH HEREIN WILL BE
RECOGNIZED**

\\PW-DATA\grpdata\realprop\910 San Pablo Ave_Sale of Surplus Animal Shelter\RFP - 2\Option Agreement\Option Agreement\910
San Pablo Ave_Pinole Animal Shelter Option V2.doc
Updated 10/2021 (County)

EXHIBIT A

402103

Description:

The land referred to herein is situated in the State of California, County of Contra Costa, City of Pinole, and is described as follows:

PARCEL 1:

A PORTION OF PARCEL 1 OF SUBDIVISION M. S. 654-00, FILED DECEMBER 31, 2001 IN BOOK 183, OF PARCEL MAPS, PAGES 1 THROUGH 3, AND BY THAT CERTAIN "CERTIFICATE OF CORRECTION", RECORDED JULY 1, 2002, INSTRUMENT NO. 2002-229624, IN THE OFFICE OF THE RECORDER OF CONTRA COSTA COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF PARCEL 1 OF SUBDIVISION M. S. 654-00, ABOVE REFERRED TO, SAID POINT BEING ON THE NORTHERLY LINE OF SAN PABLO AVENUE, SAID POINT BEING ON A CURVE CONCAVE TO THE SOUTH FROM WHICH A RADIAL BEARS SOUTH 19° 41' 53" WEST HAVING A RADIUS OF 1050.00 FEET; THENCE ALONG SAID ARC A DISTANCE OF 25.00 FEET, THROUGH A CENTRAL ANGLE OF 01° 21' 51", TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID ARC A DISTANCE OF 56.27 FEET, THROUGH A CENTRAL ANGLE OF 03° 04' 13"; THENCE SOUTH 65° 52' 02" EAST 136.87 FEET TO A TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 22 FEET; THENCE ALONG THE ARC OF SAID CURVE A DISTANCE OF 44.83 FEET, THROUGH A CENTRAL ANGLE OF 116° 45' 19"; TO THE EAST LINE OF SUNNYVIEW DRIVE, AS SHOWN ON SAID MAP OF SUBDIVISION M. S. 654-00, ABOVE REFERRED TO; THENCE ALONG SAID EAST LINE OF SUNNYVIEW DRIVE NORTH 02° 37' 21" WEST 114.59 FEET TO THE NORTHEAST CORNER OF SAID PARCEL 1 OF SUBDIVISION M. S. 654-00, ABOVE REFERRED TO; THENCE ALONG THE NORTHERN LINE OF SAID PARCEL 1 THE FOLLOWING COURSES AND DISTANCES NORTH 79° 18' 11" WEST 63.35 FEET, THENCE SOUTH 10° 41' 49" WEST 20.16 FEET AND NORTH 79° 18' 11" WEST 42.92 FEET; THENCE LEAVING SAID NORTH LINE OF SAID PARCEL 1 SOUTH 10° 41' 49" WEST 46.92 FEET; THENCE NORTH 79° 18' 11" WEST 64.86 FEET TO A TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 15.00 FEET; THENCE ALONG THE ARC OF SAID CURVE 21.21 FEET, THROUGH A CENTRAL ANGLE OF 80° 59' 55"; THENCE SOUTH 19° 41' 53" WEST 15.02 FEET TO THE TRUE POINT OF BEGINNING.

BEING AREA 1, AS SAID AREA IS SHOWN OF THAT CERTAIN CERTIFICATE OF COMPLIANCE AND LOT LINE ADJUSTMENT RECORDED JULY 1, 2002 AT INSTRUMENT NO. 2002-229626, IN THE OFFICE OF THE RECORDER OF CONTRA COSTA COUNTY.

EXCEPTING THEREFROM THE DEVELOPMENT RIGHTS CONVEYED TO THE CITY OF PINOLE BY THAT CERTAIN QUITCLAIM DEED RECORDED MAY 3, 2002 AT INSTRUMENT NO. 2002-157194-00, CONTRA COSTA COUNTY RECORDS.

A.P. NO. 402-240-017 (PORTION)

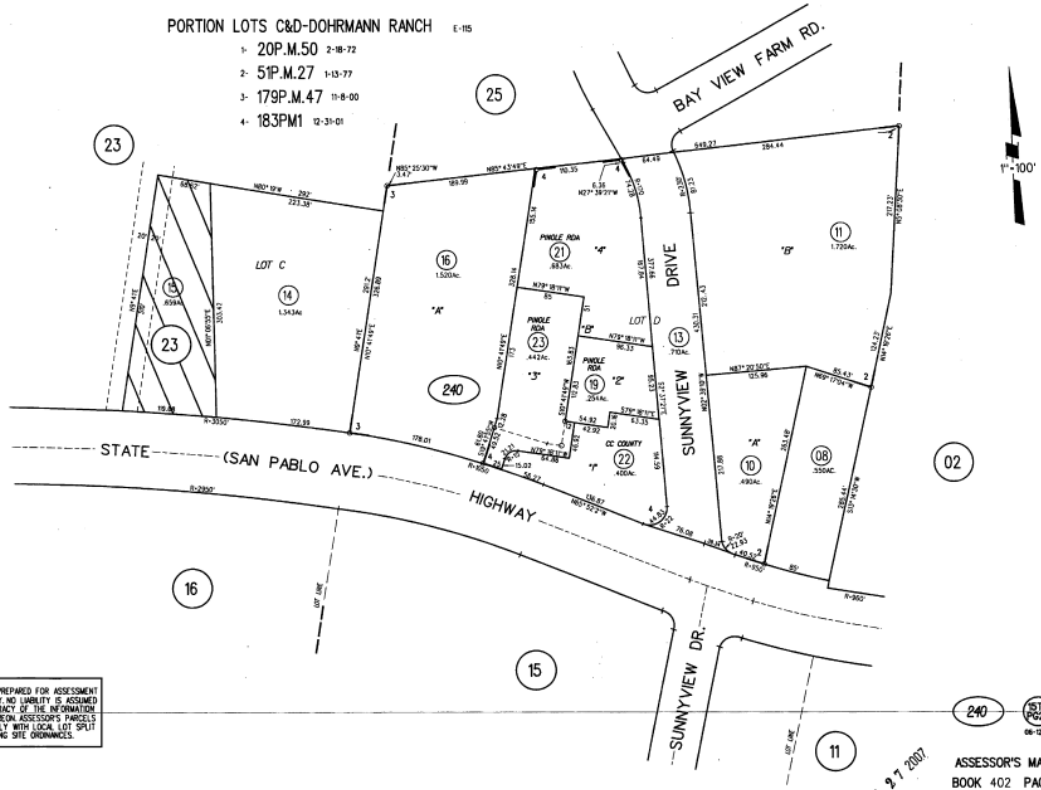
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PARCEL 2:

A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS, AND PUBLIC UTILITIES OVER, UNDER, ALONG AND ACROSS THE REMAINING LANDS OF THE REDEVELOPMENT AGENCY OF THE CITY OF PINOLE, ITS SUCCESSORS AND ASSIGNS LYING WITHIN SUBDIVISION M.S. 654-00 DESIGNATED "P.U.E." AND "P.A.E." ON SAID SUBDIVISION.

PORTION LOTS C&D-DOHRMANN RANCH E-115

- 1- 20P.M.50 2-18-72
- 2- 51P.M.27 1-13-77
- 3- 179P.M.47 11-8-00
- 4- 183PM1 12-31-01



NOTE: THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE INFORMATION DELINEATED HEREON. ASSESSOR'S PARCELS MAY NOT COMPLY WITH LOCAL LOT SPLIT OR BUILDING SITE ORDINANCES.

JUL 27 2007

ASSESSOR'S MAP
BOOK 402 PAGE 24
CONTRA COSTA COUNTY, CALIF.

EXHIBIT B

Recorded at the request of:
Contra Costa County

Return to:
Fix Our Ferals
12226 San Pablo Avenue
Richmond, CA 94805
Attn: Jeannette Goh

**EXEMPT FROM RECORDING FEES PURSUANT TO GOV'T. CODE SECTION 27383 AND DOCUMENTARY TRANSFER TAX
PURSUANT TO REVENUE AND TAXATION CODE SECTION 11922.**

Assessor's Parcel No. 402-240-022

GRANT DEED

For valuable consideration, receipt of which is hereby acknowledged, and subject to the covenants and conditions described herein,

CONTRA COSTA COUNTY, a political subdivision of the State of California, ("Grantor")

Grants to Fix Our Ferals, a California non-profit corporation ("Grantee"), the following described real property in the City of Pinole, County of Contra Costa, State of California,

FOR DESCRIPTION SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF (the "Property").

The Property is granted on the express condition that during the time period that begins on the recordation of this Grant Deed and ends on the day that is twenty-five years after the date of recordation of this Grant Deed, the Property only be used for the purpose of providing services to animals and the community through the sheltering, adoption, and providing of free or low-cost medical treatments to animals, and the administration of such uses, and, if it is not used for such purposes for a period of six months or more, the Grantor and its assigns reserve a Power of Termination, as defined in California Civil Code Section 885.010, to re-enter the Property and terminate the Grantee's estate. The Power of Termination runs with the land for twenty-five years after the date of recordation of this Grant Deed.

CONTRA COSTA COUNTY

Dated _____

By _____

Karen Mitchoff
Chair, Board of Supervisors

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF CONTRA COSTA)

On _____ before me, _____ Clerk of the Board of Supervisors, Contra Costa County, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____
Deputy Clerk

EXHIBIT A

407100

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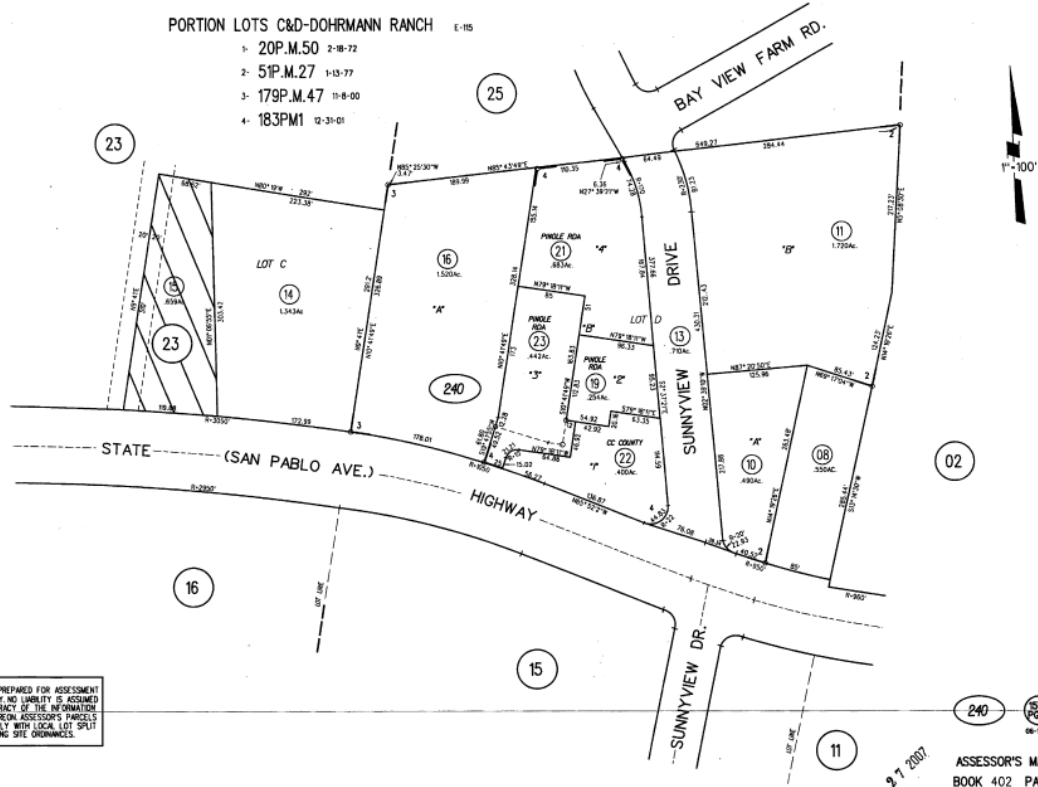
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