

**COOPERATIVE AGREEMENT**  
**between the**  
**COUNTY OF MONTEREY**  
**and the**  
**CHUALAR UNION ELEMENTARY SCHOOL DISTRICT**  
**for**  
**Multi-Use Athletic Field**

THIS COOPERATIVE AGREEMENT (“Agreement”), entered into this \_\_\_<sup>th</sup> day of \_\_\_\_\_, 2015 (“Effective Date”), by and between the COUNTY OF MONTEREY (“County”), and the CHUALAR UNION ELEMENTARY SCHOOL DISTRICT (“District”), is for the construction, use and maintenance of a multi-use athletic field to be located on District property. This Agreement is made with reference to the following facts and circumstances:

**RECITALS**

A. The Community Recreation Act, Education Code sections 10900, *et seq.* (“Act”) authorizes the parties to enter into agreements for community recreations programs and further provides that the governing body of any school district may use or grant the use of grounds of the school district to any other public authority for the purposes of the Act, whenever such use does not interfere with school uses.

B. The District is the owner of certain real property located in the County of Monterey in the unincorporated community of Chualar, near Lincoln Street and Chualar Road (“Property”) identified as Assessor’s Parcel No. 145-031-003 and depicted the site plan attached hereto as Exhibit A and incorporated by reference herein.

C. The parties hereto agree that it is to their mutual benefit, and the benefit of the citizenry, to install an artificial turf, multi-use athletic field (“Field”) on the Property and make it available for public use outside of school hours (“Project”) under certain terms and conditions. The District has no funds available to undertake the Project.

D. The County of Monterey proposes to assist the District by providing \$225,664 of Community Development Block Grant (CDBG) funds and \$274,336 of State of California Housing Related Parks Program (HRPP) funds to implement the design and construction of the Project on the District’s Property. Design and construction of a multi-use athletic field is a permissible and appropriate use of these funds.

E. The proposed Project will include removing the existing natural turf field and replacing it with artificial turf. Because the Field is attached to Chualar Elementary School, the Project may involve construction of fencing to restrict access to the Field and school during school hours. Outside of school hours, fencing will allow access to the Field only.

F. The Agreement is necessary to determine and clarify the roles of each of the parties hereto in regard to funding, implementation, and maintenance of the Project.

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions herein contained, including the Recitals hereof, the County and District hereby agree as follows:

1. Term. The initial term ("Term") of this Agreement shall be sixteen (16) years, commencing on the Effective Date. Joint use of the Field pursuant to the terms of this Agreement shall commence on the completion of the Project, as defined herein, and together with all obligations, excepting the mutual duties of indemnification as provided in Section 7, under this Agreement, shall terminate upon expiration of this Agreement unless renewed by mutual agreement of the parties.

2. Scope of Project. For purposes of this Agreement, improvements ("Improvements") included within the Project are:

- a) Removal of existing turf;
- b) Installation of artificial turf, entry gate, and chain link fencing; and
- c) ADA improvements, as required, for path of travel access and bathroom upgrades

All Improvements are contingent upon State approval of the Project, if required, and sufficient Federal, State and/or local funding. If the total cost of the Project exceeds \$500,000, either further funding will need to be identified and committed or the Project will be scaled back to meet the funding received.

3. District Rights and Responsibilities.

- a. The District agrees to reasonably cooperate with County, at no cost to District., to secure Division of the State Architect ("DSA") approval of the Project as well as all other permits and required environmental reviews. Such cooperation shall include the allocation of reasonable staff and administrative support, to the extent such assistance does not interfere with the District's regular operations or the ability of District staff to perform their assigned duties. However, County acknowledges that it assumes full responsibility for obtaining and maintaining such governmental approvals.
- b. The District agrees to take such actions as are necessary to facilitate planning, construction, and all activities attendant to the Project, including granting rights of entry onto the Property to the County, its contractors, and consultants, so long as such actions are at no cost to District, other than allocating reasonable staff and administrative support to the Project, as set forth above in Section 3.a.; comply with all applicable laws; and, except for the Project site, do not disrupt or interfere with school operations or activities on school grounds. During school hours, County's Contractor and employees will comply with District and school rules and regulations regarding the presence of visitors on campus, and, except when accessing the Project site, shall check in at the school office prior to entering campus.

- c. Upon completion of the Project, as defined by filing of a Notice of Completion by the County Board of Supervisors, and acceptance of the Project by the District, which shall be defined as completion of the Project in accordance with DSA-approved plans and specifications, District shall fund the operation and maintenance of the completed Project at its sole cost for a minimum of fifteen (15) years, and for such renewals of this Agreement as may occur pursuant to Paragraph 1. District agrees to undertake maintenance including, but not limited to:
- i. Conducting inspections and performing minor repairs to avoid playing hazards;
  - ii. Keeping the playing surface clean and free of debris and contaminants;
  - iii. Checking and maintaining proper infill levels to provide a consistent surface;
  - iv. Brushing the surface to preserve appearance, keep grass fibers upright, and maintaining even infill levels, making sure to use only approved bristles that will not overly abrade the fibers; and
  - v. Maintaining a maintenance and activity log.
- d. After completion of the Project, the District shall have exclusive use of the Field during the regular school year from Monday through Friday from 7:00 a.m. until 6:00 p.m., excluding school holidays and other periods when school is not in session.

After completion of the Project, the District shall provide community access to the Field during after school hours and on weekends during the District's regular school year at the following times:

Monday – Friday:	6:00 p.m. – 7:30 p.m.
Weekends:	9:00 a.m. – 5:00 p.m.

The District reserves the right to utilize the Field after-school and on weekends for school-sponsored events or extra-curricular sports activities for a maximum of ten (10) days during each year of the Term of this Agreement. The District shall post notice at the field of its planned use of the Field at least one week in advance of such use.

During the District's summer recess and spring recess, school holidays and other periods when school is not in session, the District shall provide community access to the Project at the following times:

Monday – Friday:	9:00 a.m. – 5:00 p.m.
Weekends:	9:00 a.m. – 5:00 p.m.

- e. No District facilities shall be made available during community use of the Field.

- f. The District reserves the right to establish and promulgate reasonable rules and regulations governing use of the Field, and to modify such rules and regulations at any time, in the District's reasonable discretion, and with approval by the County. Such rules and regulations shall not impede community use of the Field.

4. County Rights and Responsibilities.

- a. The County's Economic Development Department shall implement the design, environmental review, permitting, and construction of the Project, including obtaining the approval of the Division of the State Architect, all at no cost to the District other than allocating reasonable staff and administrative support, as set forth in Section 3.a.
- b. The County agrees to comply with all state and county rules, regulations, protocols, and procedures in regard to the selection of a landscape architectural firm to prepare plans, specifications, and bid documents, issue bids, select a contractor, and provide construction oversight for the implementation of the Project.
- c. The County agrees to consult, inform, and coordinate with District in regard to the progress of the Project. Prior to commencing any construction or Improvements to the Property, County shall meet with District and identify the specific details of all construction and Improvements, including but not limited to the identities and contact information of the County's contractors ("Contractors") and the means and methods of implementation. Upon request, County shall provide District with copies of all plans and specifications for the Project.
- d. All work performed by County for the Project, including but not limited to construction and installation of the Improvements, shall be completed in accordance with DSA plans and specifications.
- e. Construction of the Project by County or its Contractors shall comply with all laws applicable to construction on public school property for use by public school students, including but not limited to: (1) the installation and maintenance of chain link fencing around the perimeter of the work site to prevent County and Contractors' employees from having any contact with students and to prevent students from entering the work site; and (2) the placement of signage at each entrance to the work site with wording approved by the District, notifying students that they are prohibited from entering the work site.
- f. The specific schedule for construction of the Project shall be coordinated in advance with the District.

- g. The County's responsibilities shall continue until the Improvements contemplated herein, as set forth in Section 1, have been completed in accordance with DSA-approved plans and specifications.

5. Warranties; Ownership

- a. The County agrees to obtain appropriate warranties for all Improvements to the Property from its design consultants and contractors.
- b. Upon completion of the Project, the County will transfer all such warranties to the District.
- c. The District represents and warrants that the Property is suitable for the proposed Project.
- d. Prior to, during, and following construction of the Project, title, interest and ownership of the Property shall be retained or vested in the District. At completion of the Project, as defined herein, title, interest and ownership of all Improvements to the Property made by County shall be transferred to District.

6. Entry by District. At no time shall County have sole or exclusive access to or use of the Property or the Field and District personnel may enter at any time for any purpose, except that during construction, the District shall only have access to the Field during the hours of 8-5 and only with permission of and accompanied by the Contractor.

7. Indemnification. Both during construction and implementation of the Project and after completion of the Project, District shall indemnify, defend and hold harmless the County, its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this Agreement by District, and/or its agents, employees or sub-contractors, excepting only loss, injury or damage caused by the negligence or willful misconduct of personnel employed by the County. The District shall reimburse the County for all costs, attorney's fees, expenses and liabilities incurred with respect to any litigation in which the District is obligated to indemnify, defend and hold harmless the County under this Agreement. This indemnification provision shall survive the expiration or termination of this Agreement for a term to include the applicable statute of limitations on any and all claims arising out of or related to the Project.

8. Insurance. The District shall secure and maintain in full force and effect during the term of this Agreement the following insurance from a company or companies which hold a current policy holder's alphabetic and financial size category rating of not less than A-VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Purchasing Manager.

- a. Commercial general liability insurance covering liability risks in the minimum amount of One Million Dollars (\$1,000,000) combined single limit for bodily injury, personal injury, and property damage.

- b. Automobile liability insurance for bodily injury, personal injury, and property damage for vehicles owned, non-owned, or hired, with policy limits of not less than One Million Dollars (\$1,000,000) combined single limit.
- c. Workers' compensation and employer's liability insurance covering all District employees as required by California State law;

Each of the District's policies as required under this Agreement shall name the County as "additional insured" by endorsement and shall provide that it is primary such that self-insurance or insurance maintained by the County shall remain non-contributory. A copy of the declarations page of each insurance policy shall be attached to this Agreement as proof of insurance.

In addition, District shall secure and maintain in full force and effect, during the term of this Agreement, Property and Fire Insurance covering the entire Property, in an amount sufficient to replace the Improvements against loss or damage by fire, at full replacement value, which insurance shall be, at a minimum, comparable to the coverage and amounts of insurance that are carried by reasonably prudent California school districts of comparable size.

9. Insurance Coverage During Construction. At least fifteen (15) days prior to commencement of any construction of the Project or any Improvements to District Property, County shall contractually require its Contractors for the Project to secure and maintain in full force and effect during the entire course of such construction, including but not limited to the Improvements set forth herein, the following insurance or self-insurance and excess coverage from a company or companies lawfully authorized to do business in California which hold a current policy holder's alphabetic and financial size category rating of not less than A-VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Purchasing Manager:

- a. Commercial general liability insurance covering liability risks in the minimum amount of not less than One Million Dollars (\$1,000,000) combined single limit per occurrence or Two Million Dollars (\$2,000,000) in the aggregate for bodily injury, personal injury, and property damage.
- b. Automobile liability insurance for bodily injury, personal injury, and property damage for vehicles owned, non-owned, or hired, with policy limits of not less than One Million Dollars (\$1,000,000) combined single limit.
- c. Workers' compensation insurance for all of Contractors' employees engaged in work on the Project, and in case any of the Contractors' work is sublet, Contractors shall require all subcontractors to provide

workers' compensation insurance for all of the subcontractor's employees engaged in work for the Project under a subcontract. Any class of employee(s) not covered by the subcontractor's insurance shall be covered by the Contractors' insurance;

The County's Contractors shall contractually require all their subcontractors to take out and maintain similar public liability, property damage and automobile liability insurance or self-insurance and excess coverage from a company or companies which hold a current policy holder's alphabetic and financial size category rating of not less than A-VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Purchasing Manager.

The District and the County shall be named as an "additional insured" on County Contractors' insurance language or policies by endorsement. Each of the Contractors' policies must provide that it is primary such that insurance maintained by the District and the County, if any, shall be excess and remain non-contributory.

10. Other Insurance Requirements: All insurance required by this Agreement shall be with a company acceptable to the County and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of fifteen (15) years following the date of completion of improvements under this Agreement.

Each liability policy shall provide that each party shall be given notice in writing by the other party at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof.

Prior to the execution of this Agreement by the County, the District shall file certificates of insurance with the County's contract administrator and the County's Contracts/Purchasing Division, showing that the District has in effect the insurance required by this Agreement. The District shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.

11. Closure or Abandonment of Field. If, within the anticipated service life of the Project, hereby agreed to be a period of fifteen (15) years from the date of Completion, the District closes or abandons the multi-use athletic Field for use by the public, except for any reason outside of the District's control, without the prior written concurrence of the County, the District shall reimburse the County all costs expended to design and construct the Project.

12. Amendments. This Agreement may be amended only by an instrument in writing approved and executed by the parties hereto.

13. Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of California. Litigation, if any, will be venued in the Superior Court of California, Monterey County.

14. Entire Agreement. This Agreement represents the entire agreement between the County and the District with respect to the Project and supersedes all prior discussions, negotiations, representations and agreements, both written and oral, between the County and the District.

15. Notices. All notices or communications that either party may be required or desire to give to the other party under this Agreement shall be in writing and shall be served personally or by certified mail, return receipt requested, or first class mail, postage prepaid, addressed as follows or to such other address as either party may provide to the other party in writing:

Chualar Union Elementary School District  
P.O. Box 188  
Chualar, CA 93935  
Attention: Superintendent

County of Monterey  
Economic Development Department  
168 W. Alisal Street, 3rd Floor  
Salinas, CA 93901  
Attention: Director

16. Future Assurances. Each of the parties agrees to execute such further documents and take such further actions as may be reasonably necessary or appropriate to effectuate the terms of this Agreement.

17. Severability. If any provision or any part of this Agreement is for any reason held to be invalid, unenforceable or contrary to public policy, law, or statute and/or ordinance, the remainder of this Agreement shall not be affected thereby and shall remain valid and fully enforceable.

18. Execution by Facsimile or in Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original of the Agreement.

19. Warrant of Authority. Each of the persons signing this Agreement represents and warrants that such person has been duly authorized to sign this Agreement on behalf of the party indicated, and each of the parties by signing this Agreement warrants and represents that such party is legally authorized and entitled to enter into this Agreement.

20. This Agreement shall not be effective until approved or ratified by the District's Board of Trustees, no later than two weeks after the Agreement has been delivered to the District, and subsequently approved by the County's Board of Supervisors thereafter.



IN WITNESS WHEREOF, the parties hereto executed this agreement as of the date set forth below.

**CHUALAR UNION ELEMENTARY  
SCHOOL DISTRICT**

**COUNTY OF MONTEREY**

By: \_\_\_\_\_  
Roberto Rios  
Superintendent

By: \_\_\_\_\_  
David Spaur  
Economic Development Director

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Approved as to form:  
DISTRICT COUNSEL

Approved as to form:  
COUNTY COUNSEL

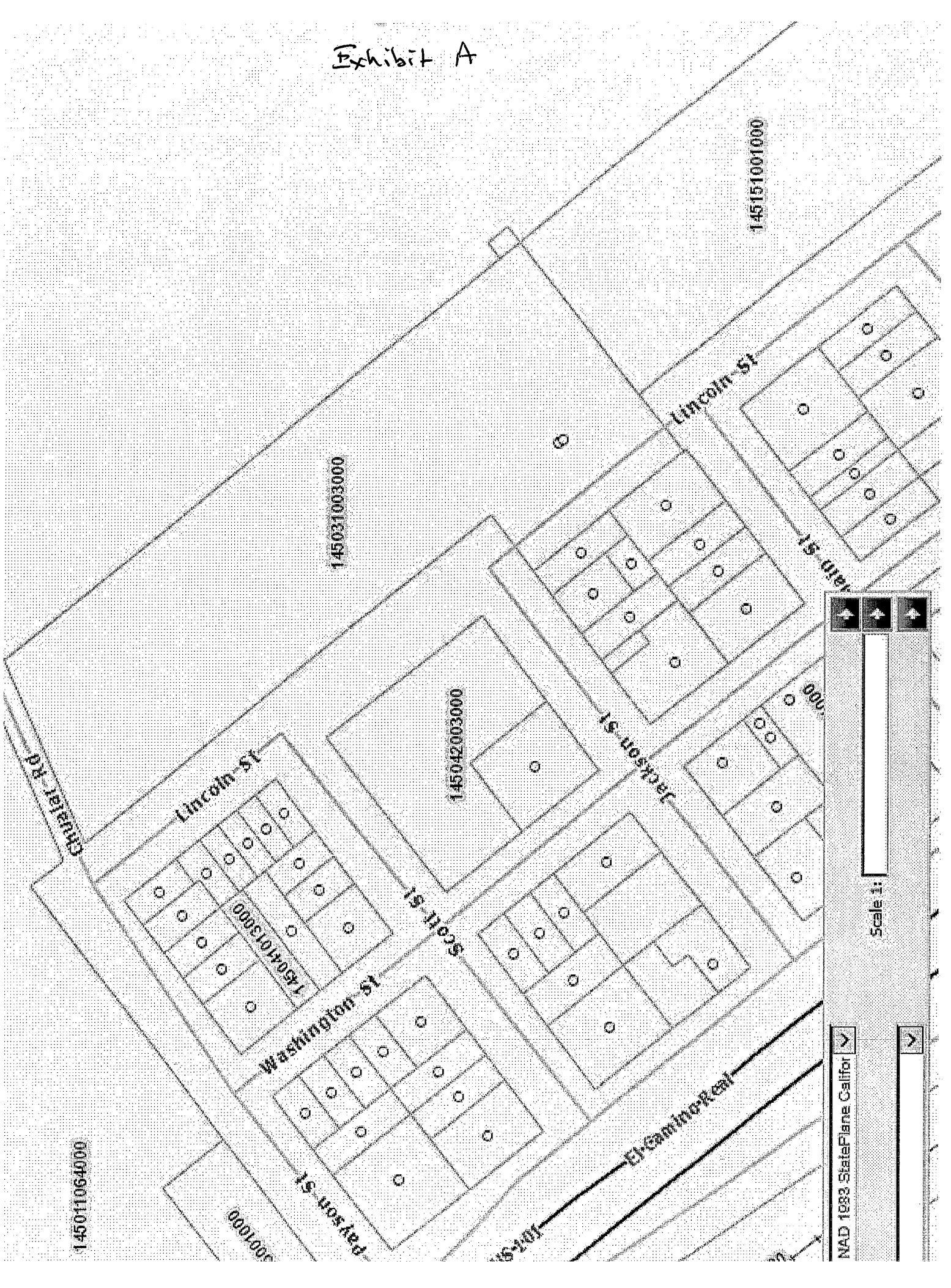
By: \_\_\_\_\_

By: \_\_\_\_\_  
Deputy County Counsel

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Exhibit A



NAD 1983 StatePlane Califor

Scale: 1: