

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO, CALIFORNIA TO DECLARE A PORTION OF THE FRESNO YOSEMITE INTERNATIONAL AIRPORT OWNED BY THE CITY TO BE EXEMPT SURPLUS LAND FOR LEASING PURPOSES ONLY

WHEREAS, the City of Fresno (City) currently owns and operates the Fresno Yosemite International Airport (Airport), and specifically, the parcel numbers (494-020-X1, 494-020-01T, 494-020-02T, 494-020-04T, 494-020-05T, 494-020-09T, 494-020-11T, 494-020-13T, 494-020-15T, 494-020-15T, 494-020-18T, 494-020-19T, 494-020-21T, 494-020-22T, 494-020-23T, 494-020-24T, 494-020-26ST, 494-020-28T, 494-020-29T, 494-020-31T, 494-020-32T, 494-030-37ST, 494-030-38ST, 494-060-43T, 494-060-45T, 494-060-50T, 494-060-51T, 494-071-73T, 494-071-76T and 494-071-78T (collectively, Airfield Parcels), which are within the fenced area of the Airport more particularly described in the maps attached hereto as Exhibit A (Airport Property); and

WHEREAS, the City frequently enters into leases of the Airfield Parcels to third parties for the necessary operation airport facilities and as such must grant certain privileges, uses, rights, and interests at Airport to various lessees, including for hangars, restaurants, airline offices, car rental property, etc.; and

WHEREAS, leases of airport facilities do not fall under the definition of Surplus Land because the properties are necessary for the agency's use and ongoing airport operations and the City has no intention of selling parcels; and

WHEREAS, Lessees frequently wish to enter into leases which require development or demotion of certain buildings and/or capital improvements such and

Date Adopted:

Date Approved:

Effective Date:

City Attorney Approval: 

Resolution No. _____

hangars and facilities in order to engage in necessary airport operations, but which should not fall under the definition of Surplus Land as defined by Government Code Section 54220, et. seq.; and

WHEREAS, the Surplus Land Act (California Government Code sections 54220 through 54236) is generally intended to make a local agency's surplus land (i.e., land not needed for the agency's use) available for potential acquisition by affordable housing sponsors for affordable housing purposes or by other local public entities; and

WHEREAS, California Government Code section 54221(b) and the April 2021 Surplus Land Act Guidelines (SLA Guidelines) published by the California Department of Housing and Community Development (HCD) require that prior to taking any action to dispose of land that is subject to the Surplus Land Act, the City Council must, at a public meeting, declare the land either surplus land or exempt surplus land, as each are defined in California Government Code section 54221; and

WHEREAS, if the Council declares land exempt surplus land, such declaration must be supported by written findings, which must be forwarded to HCD for its review at least thirty days before the City's disposition of the land in accordance with Section 400(e) of the SLA Guidelines; and

WHEREAS, California Government Code section 54221(f)(1) sets forth various categories of exempt surplus land that are not required to be made available for potential acquisition by affordable housing sponsors or other local public entities; and

WHEREAS, the City's interest in the Airfield Parcels is exempt surplus land pursuant to California Government Code section 54221(f)(1)(G) because the Airfield Parcel is subject to valid legal restrictions not imposed by the City, including Federal Grant

Assurances imposed by the Federal Aviation Administration (FAA) pursuant to Section 47107 of Title 49 of the United States Code, prohibiting the City from allowing housing to be developed on the Airfield Parcel, and those legal restrictions cannot be satisfactorily mitigated or avoided; and

WHEREAS, the City is subject to the Federal Grant Assurances because the Airfield Parcel is within the airport boundary line of the Airport, the Airfield Parcel is shown on the City's FAA-approved Airport Layout Plan, and the City, as an Airport sponsor, has accepted numerous Airport Improvement Program Grants as part of operating, maintaining, and developing the Airport over the last several decades; and

WHEREAS, the City is required to seek FAA approval of any disposition of the Airfield Parcel, which approval will be conditioned upon the future use of the Airfield Parcel being compatible with the operations and purposes of the Airport; and

WHEREAS, any lease or sale of the City's interest in the Airfield Parcel for the development of housing may deprive the City of its rights and powers to direct and control Airport development, including preventing the City from ensuring that the Airfield Parcel is only used for purposes that are compatible with the Airport operations, maintenance and development, and would result in a use that is not shown on the City's FAA-approved airport layout plan, in violation of Federal Grant Assurances 5, 19, 21, and 29; and

WHEREAS, the FAA Compliance Manual, Order 5190.68, establishes the policies and procedures that FAA personnel must follow in carrying out the FAA's responsibilities for ensuring an airport sponsor's compliance with federal law, including the Federal Grant Assurances, and sets forth the general rule that residential use on or near airport property is incompatible because of noise, and in some cases, safety; and

WHEREAS, Chapter 20 of Order 5190.68 generally provides that (i) residential use conflicts with Federal Grant Assurances 5, 19, and 21; (ii) airport sponsors must have rules and regulations to control or prevent residential use; (iii) airport sponsors are expected to oppose residential development affecting airport operations; and (iv) airport sponsors are obligated not to make or permit any change or alteration in the airport or its facilities that does not comply with the airport layout plan; and

WHEREAS, City has received numerous Airport Improvement Program Grants, including FAA Airport Improvement Grant Agreement Number 3-06-0087-094-2022, as part of operating, maintaining and developing the Airport and the Airfield Parcels; and

WHEREAS, the FAA Airport Improvement Program Grants, including FAA Airport Grant Agreement Number 3-06-0087-094-2022, requires the City to comply with the Federal Grant Assurances, which generally prohibit residential uses of the Airfield Parcels; and

WHEREAS, there is no feasible way for the City to satisfactorily mitigate or avoid its obligations under the Federal Grant Assurances to allow development of housing on the Property as a part of a lease of the City's interest; and

WHEREAS, representatives of the City and HCD discussed this matter, and HCD sent an email to the City on December 13, 2022, confirming that the City's interest in the Property qualifies as exempt surplus land pursuant to California Government Code section 54221(f)(1)(G) and/or does not meet the definition of Surplus Land as the property continues to be necessary for the agency's ongoing use and airport operations so long as the City retains ownership of the Airfield Parcel.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Fresno as follows:

1. The above recitals are true and correct and are substantive part of this Resolution.

2. That the Airfield Parcel is exempt surplus land pursuant to California Government Code section 54221(f)(1)(G), as it is subject to FAA Airport Improvement Program Grants, including FAA Airport Grant Agreement Number 3-06-0087-094-2022, which generally prohibit residential use of the Airfield Parcels and/or the Airfield Parcel does not meet the definition of surplus land as the property continues to be necessary for the agency's ongoing use and airport operations and therefore is not required to comply with the provisions of Surplus Land Act (Gov. Code Section 54220, et. seq.) so long as the City retains ownership of the Airfield Parcel.

3. This resolution shall be effective upon final approval.

* * * * *

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, TODD STERMER, City Clerk of the City of Fresno, certify that the foregoing resolution was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____ 2023.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2023
Mayor Approval/No Return: _____, 2023
Mayor Veto: _____, 2023
Council Override Vote: _____, 2023

TODD STERMER, CMC
City Clerk

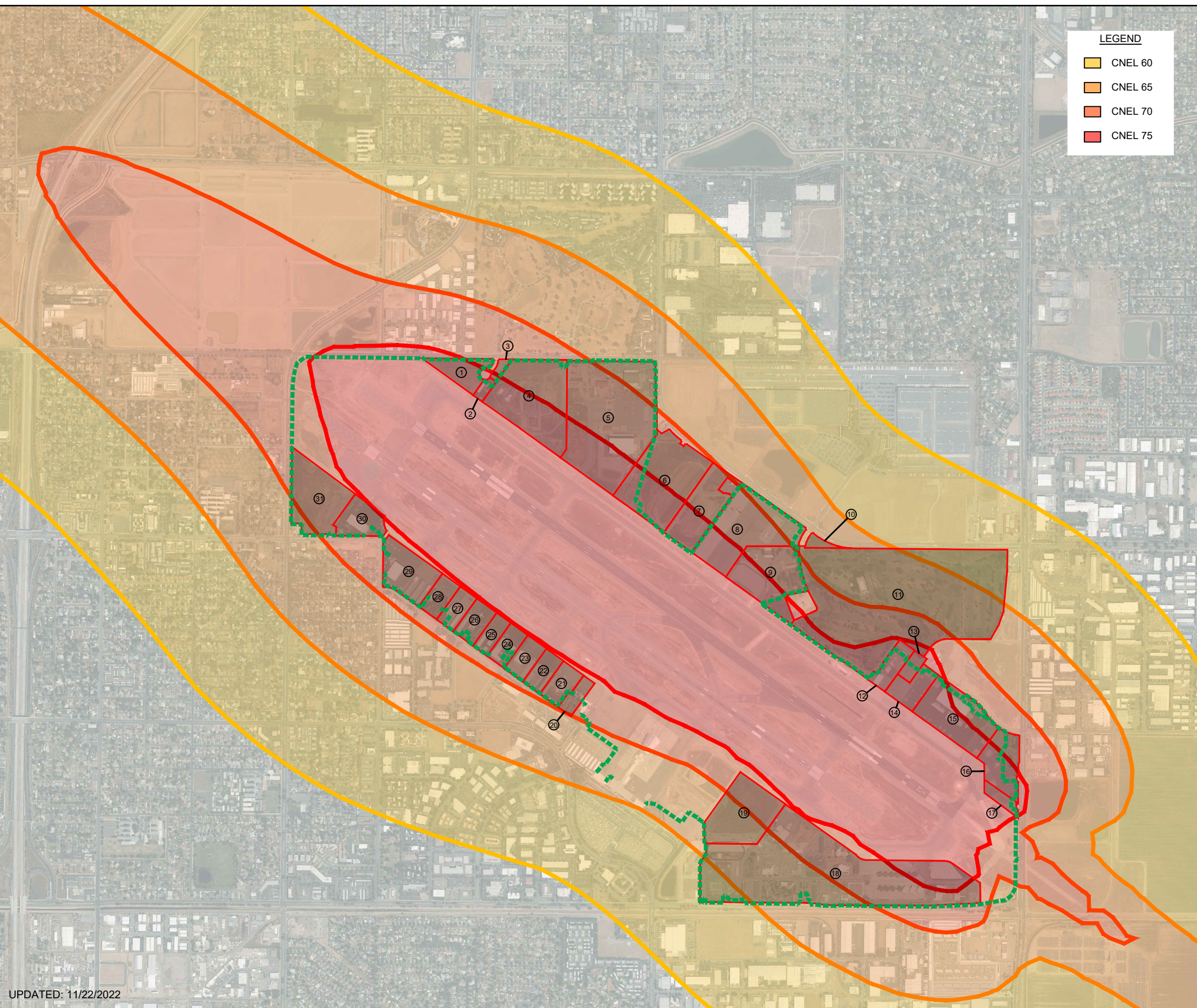
By: _____
Deputy Date

APPROVED AS TO FORM:
ANDREW JANZ
City Attorney

By: _____
Angela M. Karst Date
Deputy City Attorney

Attachment: Exhibit A – Airport Property Description & Maps

EXHIBIT “A”



LEGEND

- CNEL 60
- CNEL 65
- CNEL 70
- CNEL 75

EXEMPT PROPERTIES

PROPERTY/PARCEL NUMBER

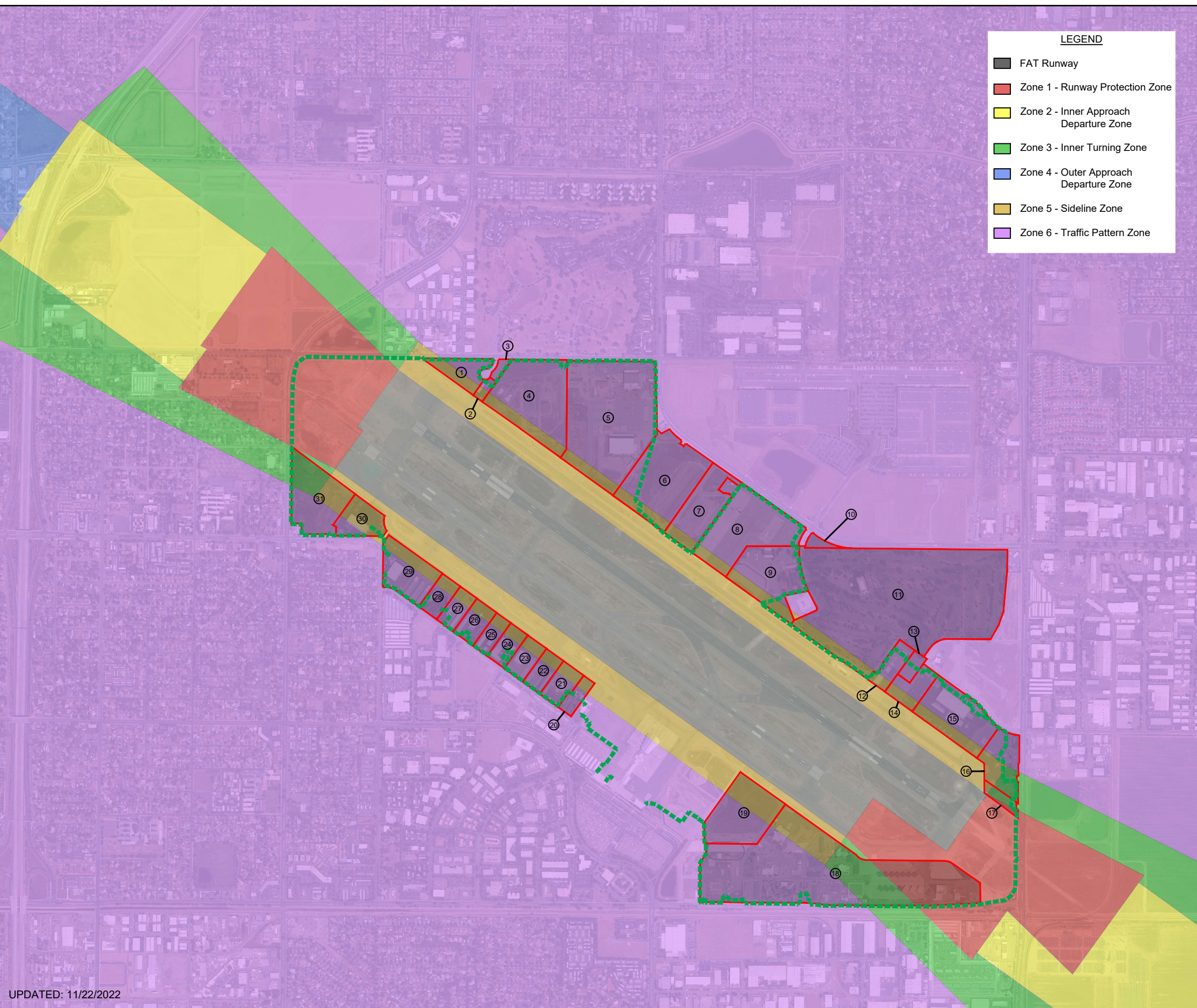
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2. APN(s): 49402018T
3. APN(s): 49402019T
4. APN(s): 49402031T, 49402032T
5. APN(s): 49402032T, 49402021T, 49402022T, 49402023T, 49402024T
6. APN(s): 49402032T, 49402023T, 49402024T, 49403037ST, 49402026ST
7. APN(s): 49403037ST, 494020X1, 49406045T
8. APN(s): 49403037ST, 49406043T, 49406045T
9. APN(s): 49406043T
10. APN(s): 49403038ST, 49406050T
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31. APN(s): 49402029T, 49402001T, 49402002T, 49402004T, 49402005T

UPDATED: 11/22/2022

FRESNO YOSEMITE INTERNATIONAL AIRPORT

SURPLUS LAND ACT EXEMPTION

AERIAL EXHIBIT - CNEL CONTOURS



LEGEND

- FAT Runway
- Zone 1 - Runway Protection Zone
- Zone 2 - Inner Approach Departure Zone
- Zone 3 - Inner Turning Zone
- Zone 4 - Outer Approach Departure Zone
- Zone 5 - Sideline Zone
- Zone 6 - Traffic Pattern Zone

EXEMPT PROPERTIES

PROPERTY/PARCEL NUMBER

1. APN(s): 49402009T, 49402011T, 49402013T, 49402015T
2. APN(s): 49402018T
3. APN(s): 49402019T
4. APN(s): 49402031T, 49402032T
5. APN(s): 49402032T, 49402021T, 49402022T, 49402023T, 49402024T
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30. APN(s): 49402028T, 49402029T, 49402030T
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UPDATED: 11/22/2022

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SURPLUS LAND ACT EXEMPTION

AERIAL EXHIBIT - SAFETY ZONES