



REPORT TO THE CITY COUNCIL

AGENDA ITEM NO.	2A
COUNCIL MEETING	3/28/13
APPROVED BY	
DEPARTMENT DIRECTOR	<i>[Signature]</i>
CITY MANAGER	<i>[Signature]</i>

March 28, 2013

**FROM:** KEVIN R. MEIKLE  
Interim Director of Aviation

**SUBJECT:** ADOPT FINDINGS OF CATEGORICAL EXEMPTION PER STAFF DETERMINATION, PURSUANT TO SECTIONS 15325(A)/CLASS 25 (TRANSFERS OF OWNERSHIP IN LAND TO PRESERVE EXISTING NATURAL CONDITIONS) OF THE CEQA GUIDELINES, FOR THE SALE OF LAND LOCATED EAST OF HIGHWAY 168 AND SOUTH OF ASHLAN AVE AND USED BY THE FRESNO METROPOLITAN FLOOD CONTROL DISTRICT AS A STORM WATER CONTROL FACILITY.

1. **RESOLUTION** – ADOPT A RESOLUTION COMMITTING THE PROCEEDS OF THE SALE OF THE SUBJECT PROPERTY EXCLUSIVELY FOR DEVELOPMENT, IMPROVEMENT, OPERATION AND MAINTENANCE OF THE AIRPORT OR AIRPORT SYSTEM PURSUANT TO FEDERAL REGULATIONS.
2. AUTHORIZE THE INTERIM DIRECTOR OF AVIATION TO TAKE ANY AND ALL ACTIONS NECESSARY TO CLOSE ESCROW FOR THE SALE OF CERTAIN FRESNO YOSEMITE INTERNATIONAL AIRPORT OWNED PROPERTIES TO THE FRESNO METROPOLITAN FLOOD CONTROL DISTRICT, IN THE AMOUNT OF \$648,748.06.

**RECOMMENDATION**

Adopt Findings of Categorical Exemption per staff determination, pursuant to Sections 15325(a)/Class 25 (transfers of ownership in land to preserve existing natural conditions) of the CEQA Guidelines, for the sale of land located east of Highway 168 and south of Ashlan Ave and used by the Fresno Metropolitan Flood Control District as a storm water control facility.

1. **RESOLUTION** – Adopt a resolution committing the proceeds of the sale of the subject property exclusively for development, improvement, operation and maintenance of the Airport or Airport system pursuant to federal regulations.
2. Authorize the Interim Director of Aviation to take any and all actions necessary to close escrow for the sale of certain Fresno Yosemite International Airport (FYI) owned properties to the Fresno Metropolitan Flood Control District (FMFCD), in the amount of \$648,748.06.

**EXECUTIVE SUMMARY**

The Airports Department (Department) owns certain properties generally located adjacent to and east of State Highway 168 and south of Ashlan Ave, ("Property") that is depicted in the attached Site Plan. This Property, (i) is on the direct approach/departure path of FYI, (ii) is noise-impacted (within the 70 CNEL noise contour), (iii) is land-use and height restricted, and, (iv) has no future aviation related use. This Property is currently used by FMFCD as a storm water control facility. The Department has been working for years with the Federal Aviation Administration (FAA) and FMFCD related to the current use, valuation, and proposed sale of this Property.

On June 16, 2011, Council authorized the Department to take interim actions related to the sale of the Property. Authority was given to, (i) apply to, and obtain approval, from the FAA for release from the obligation to use the Property for airport purposes, (ii) negotiate final terms and conditions of the sale with FMFCD, (iii) open a purchase and sale escrow and, (iv) tender documents, instruments and instructions into escrow. All of these actions have occurred and a sales price of \$648,748.06 has been approved by all parties. The FAA has authorized a Land Release Authorization for this Property.

As a condition of the sale, the FAA requires, (i) an Avigation Easement, which will ensure the right of flight and addresses noise, control of wildlife, airspace obstructions (height), etc., and, (ii) a Resolution approved by the City Council that obligates all proceeds for the exclusive use by the Airports Department pursuant to federal requirements. Refer to attached Resolution. The Department is now ready to close escrow.

## **BACKGROUND**

A Right of Entry (ROE) was granted to FMFCD in March 1997 for the purposes of constructing a storm water control facility, and a condition of the ROE is to pursue and ultimately execute a sale of the Property from the Department to the FMFCD.

Once the current administration of the Department became aware of the use of airport property by FMFCD, and, absent of any type of lease that would satisfy FAA requirements related to revenue diversion from use of airport property for non-aeronautical purposes, it was brought to the attention of FMFCD. The FAA generally requires all airport-owned land identified on the approved Airport Layout Plan that is or is proposed to be rented to any non-aeronautical entity be at fair market rental, and that any sale of such land no longer needed for airport purposes be at fair market value. These FAA requirements are based upon federal law and implementing FAA regulations and policies and are meant to make the airport as self-sustaining as possible. These FAA requirements apply to FYI.

Agreement over property valuation methodology was the key element that had to be addressed before any other steps toward sale could be taken. Since 2003, the Department has been working with FMFCD and the FAA to develop a mutually agreeable property valuation methodology related to the sale of the subject Property. In late 2005 the discussions were put on hold by the FAA until the "GAP" issue was resolved. In 2008 the Department was notified by the FAA that they resumed review of our proposed property valuation methodology, which is required as part of the FAA regulatory compliance process for release and sale of federally obligated land. The Department received FAA's approval on our proposed property valuation methodology on May 25, 2011. As agreed upon by FMFCD and as approved by the FAA, the Property value is based on the fair market value (established by appraisal) at the time each party entered their site plus simple interest accrual since that time.

The alternative to selling the Property will be to require FMFCD to vacate and return the Property to its original condition. This option is not desirable by any party. The Property has no future aviation related use due to its location.

## **FISCAL IMPACT**

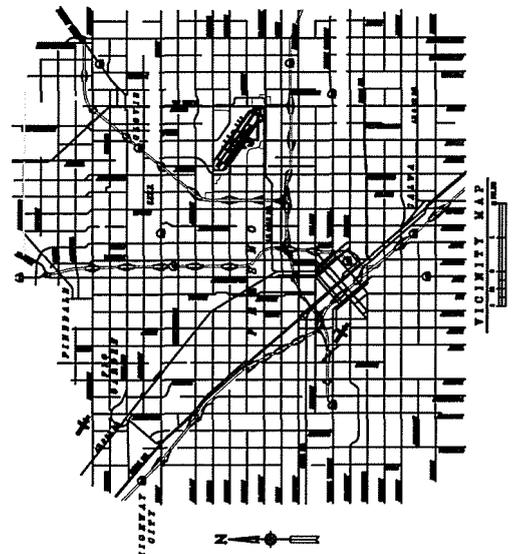
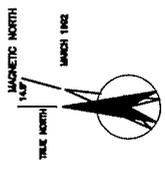
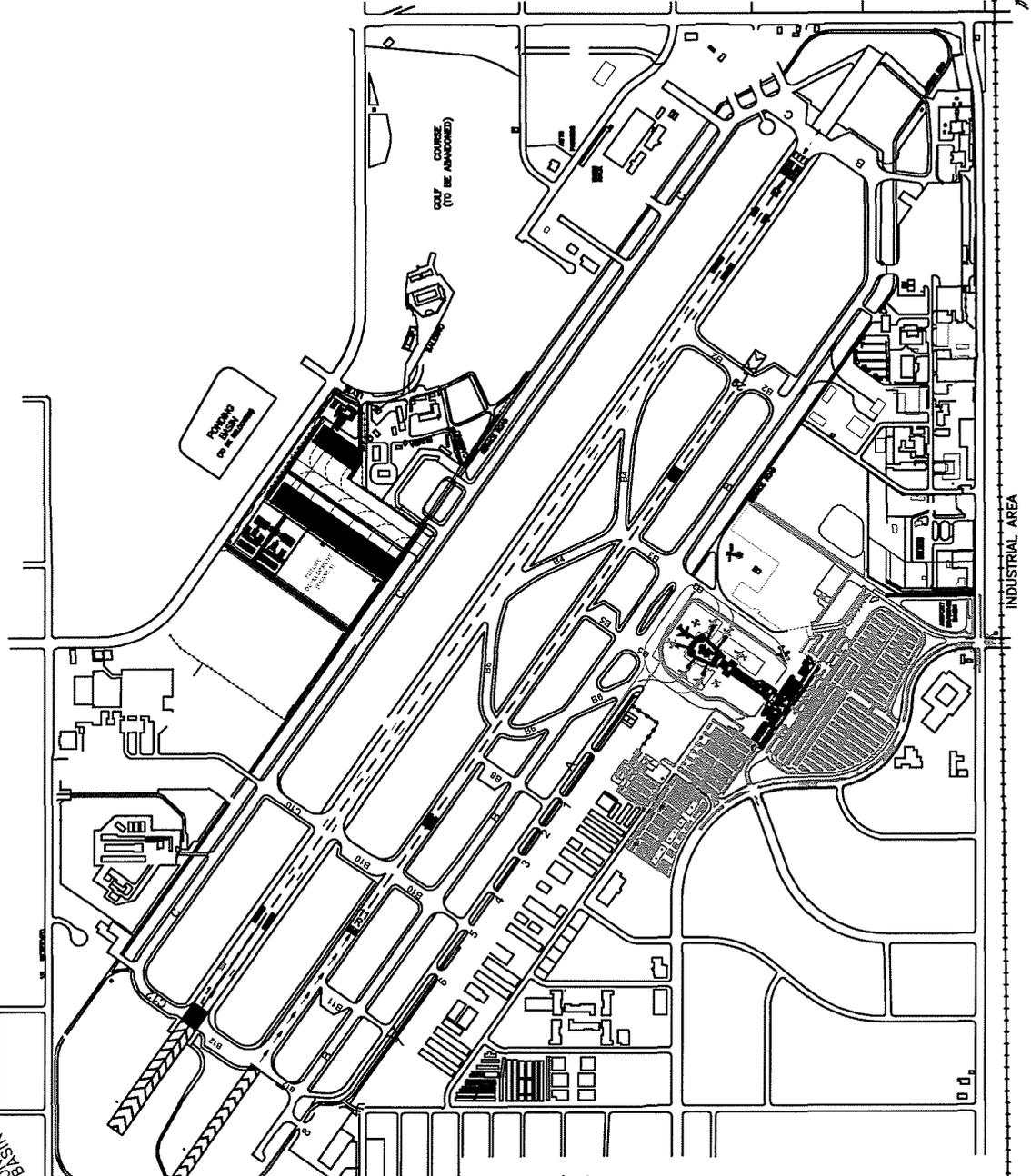
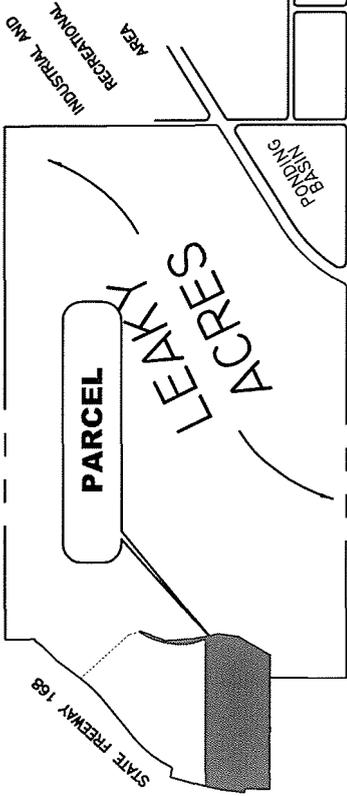
There is no impact to the General Fund from this action. In accordance with FAA regulations, proceeds from this sale will be deposited into the FYI Surplus Revenue Fund and used for airport purposes only.

### **Attachments:**

- Site Plan
- Resolution – Exclusive use of Funds by Airports Department



# FRESNO YOSEMITE INTERNATIONAL AIRPORT



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RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO, CALIFORNIA, COMMITTING THE PROCEEDS OF THE SALE OF LAND DEPICTED IN EXHIBIT A EXCLUSIVELY FOR DEVELOPMENT, IMPROVEMENT, OPERATION, AND MAINTENANCE OF THE FRESNO YOSEMITE INTERNATIONAL AIRPORT OR AIRPORT SYSTEM

WHEREAS, the City of Fresno, Airports Department currently owns property generally located adjacent to and east of State Highway 168 and south of Ashlan Avenue in the City of Fresno generally depicted in Exhibit A, (“Subject Property”); and

WHEREAS, the Subject Property is on the direct approach and departure path for Fresno Yosemite International Airport, is noise impacted by airport operations and is subject to both land use and height restrictions; and

WHEREAS, the Subject Property has no future aviation related use; and

WHEREAS, the City of Fresno desires to sell the Subject Property to the Fresno Metropolitan Flood Control District, and has negotiated a sales price of \$648,748.00 for the Subject Property; and

WHEREAS, the Subject Property was purchased with FAA grant funding and is subject to certain Grant Assurances which restrict and govern revenues from the sale of the Subject Property by the City of Fresno pursuant to the provisions of 49 U.S.C.A. § 47107; and

WHEREAS, the City of Fresno desires to comply with the Grant Assurances and all applicable Federal Aviation Administration (“FAA”) regulations; and

Date Adopted:

Date Approved:

Effective Date:

City Attorney Approval:



WHEREAS, FAA approval of the sale of the Subject Property is required; and

WHEREAS, the FAA has approved the sale of the subject property at a sales price of \$648,748.00, provided the proceeds of said sale are restricted and used exclusively for development, improvement, operation and maintenance of Fresno Yosemite International Airport or airport systems consistent with the Grant Assurances and FAA regulations.

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

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1. Any proceeds from the sale of the Subject Property are hereby restricted and may only be used exclusively for development, improvement, operation and maintenance of Fresno Yosemite International Airport or airport systems.

\* \* \* \* \*

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

I, YVONNE SPENCE, 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 \_\_\_\_\_, 2013.

AYES :  
NOES :  
ABSENT :  
ABSTAIN :

Mayor Approval: \_\_\_\_\_, 2013  
Mayor Approval/No Return: \_\_\_\_\_, 2013  
Mayor Veto: \_\_\_\_\_, 2013  
Council Override Vote: \_\_\_\_\_, 2013

YVONNE SPENCE, CMC  
City Clerk

BY: \_\_\_\_\_  
Deputy

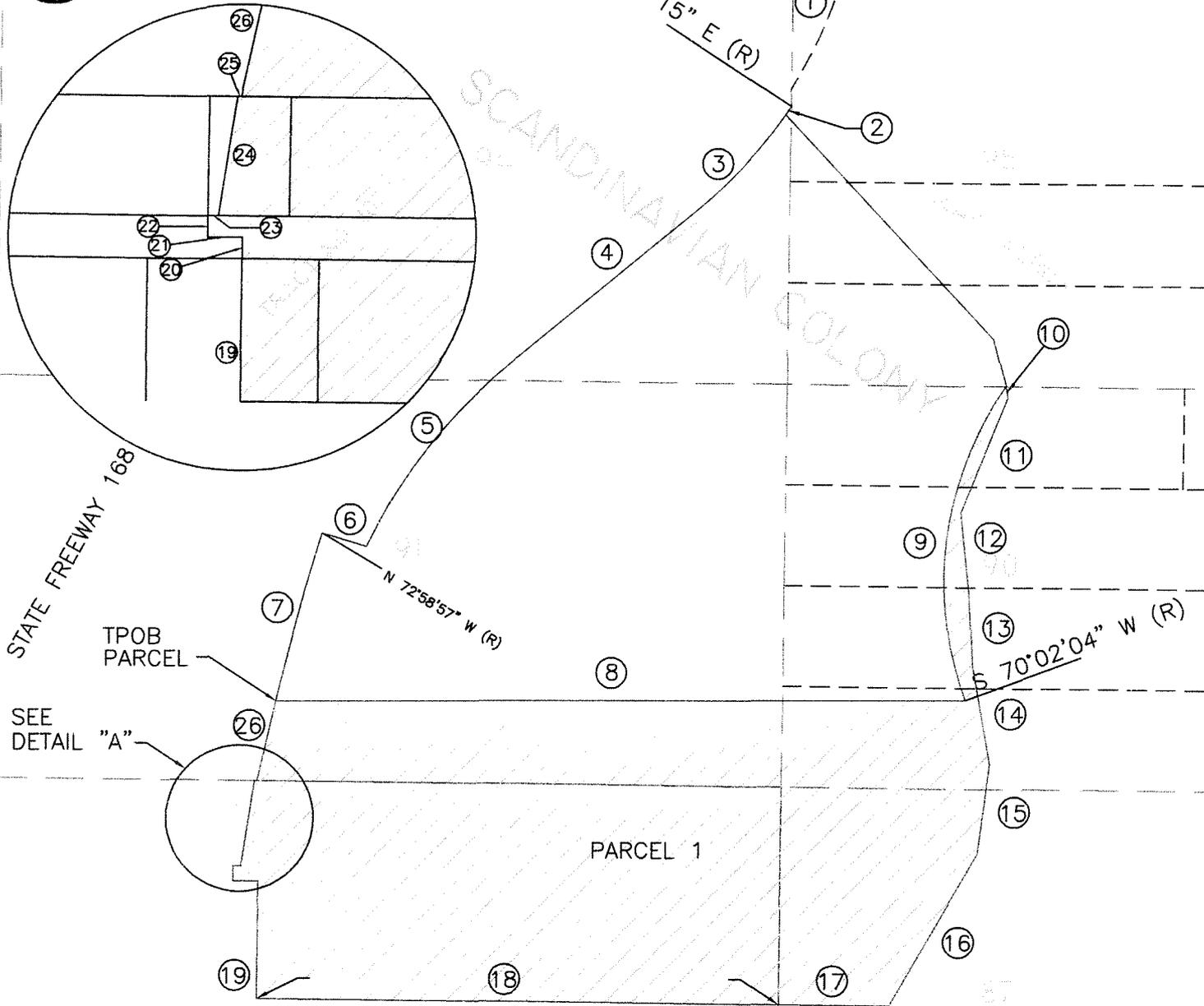
APPROVED AS TO FORM:  
CITY ATTORNEY'S OFFICE

BY: \_\_\_\_\_  
Talia Kolluri-Barbick Dated:  
Deputy City Attorney

TKB:cg[61175cg/RESO].2.28.13



NORTH 1/4 CORNER  
SECTION 24, 13/20



COURSE TABLE

○	RADIUS	BEARING/△	DISTANCE	○	RADIUS	BEARING/△	DISTANCE	○	RADIUS	BEARING/△	DISTANCE
①		S 00°43'32" W	208.36'	⑪		S 22°09'28" W	202.40'	⑲		N 00°43'32" E	166.74'
②	781.05'	01°12'34"	16.49'	⑫		S 05°59'50" E	130.08'	⑳	4860.29'	01°34'27"	133.54'
③	781.05'	16°05'51"	219.44'	⑬		S 02°44'17" E	123.04'	㉑		N 89°14'09" W	40.73'
④		S 50°51'10" W	386.25'	⑭		S 10°04'21" E	162.09'	㉒		N 00°45'51" E	25.00'
⑤	881.05'	25°08'57"	386.72'	⑮		S 07°36'59" W	148.65'	㉓		S 89°14'09" E	12.49'
⑥		N 72°58'56" W	75.80'	⑯		S 29°57'46" W	286.28'	㉔		N 08°59'20" E	141.45'
⑦	4860.29'	03°21'57"	285.52'	⑰		N 89°12'59" W	179.91'	㉕		S 89°14'09" E	4.19'
⑧		N 90°00'00" E	1126.27'	⑱		N 89°16'28" W	855.07'				
⑨	564.73'	54°37'41"	538.44'	㉀		N 00°43'32" E	166.74'				
⑩		S 08°36'44" E	19.80'	㉁		N 00°45'51" E	25.00'				

DEPARTMENT OF AIRPORTS  
DIRECTOR OF AVIATION  
RUSSELL C. WIDMAR, AAE

FRESNO YOSEMITE INTERNATIONAL AIRPORT

CITY OF FRESNO  
DEPARTMENT OF AIRPORTS  
4955 EAST CLINTON WAY  
FRESNO, CALIFORNIA 93727  
PHONE: 569-621-4500

FRESNO YOSEMITE INTERNATIONAL AIRPORT

FMFCD LAND SALE  
PARCEL  
METES AND BOUNDS

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KRA NO. \_\_\_\_\_  
FUND NO. \_\_\_\_\_  
ORG NO. \_\_\_\_\_  
ACTIVITY \_\_\_\_\_  
PROJECT I.D. \_\_\_\_\_

REVISIONS/REFERENCE  
Rev. 6/15/2012

APPROVED  
CONST. ENG. \_\_\_\_\_ OFFICE ENG. \_\_\_\_\_  
CITY DESIGN ENG. \_\_\_\_\_

DR. BY: DJY  
CH. BY: DJY  
DATE: 1/4/2012  
SCALE: 1"=250'

CITY DRAWING NO. 25-A-392

**EXHIBIT A**