

Appendix J.
Section 163 Documentation



U.S. Department
of Transportation
**Federal Aviation
Administration**

Federal Aviation Administration
Dakota-Minnesota Airports District Office
Bismarck Office
2301 University Drive, Building 23B
Bismarck, ND 58504

Federal Aviation Administration
Dakota-Minnesota Airports District Office
Minneapolis Office
6020 28th Avenue South, Suite 102
Minneapolis, MN 55450

July 01, 2021

Mr. John Reed
Rochester International Airport
7600 Helgerson Dr SW
Rochester, MN 55902

Dear Mr. Reed:

The Dakota-Minnesota Airports District Office (DMA ADO) was contacted by the City of Rochester, MN, regarding the purchase and development of approximately 26 acres of airport property for the extension of Runway 02/20. The runway extension will allow the airport to remain open when the intersection of Runway 02/20 and 13/31 begin reconstruction.

Recent changes in federal law require the Federal Aviation Administration (FAA) to revisit whether FAA approval is needed for certain types of airport projects. On October 5, 2018, HR 302, the “FAA Reauthorization Act of 2018” (the Act) was signed into law (P.L. 115-254). In general, Section 163(a) limits the FAA’s authority to directly or indirectly regulate an airport operator’s transfer or disposal of certain types of airport land. However, Section 163(b) identifies exceptions to this general rule. The FAA retains authority:

- To ensure the safe and efficient operation of aircraft or safety of people and property on the ground related to aircraft operations;
- To regulate land or a facility acquired or modified using federal funding;
- To ensure an airport owner or operator receives not less than fair market value (FMV) in the context of a commercial transaction for the use, lease, encumbrance, transfer, or disposal of land, any facilities on such land, or any portion of such land or facilities;
- To ensure that that airport owner or operator pays not more than fair market value in the context of a commercial transaction for the acquisition of land or facilities on such land;
- To enforce any terms contained in a Surplus Property Act instrument of transfer; and
- To exercise any authority contained in 49 U.S.C. § 40117, dealing with Passenger Facility Charges.

In addition, Section 163(c) preserves the statutory revenue use restrictions regarding the use of revenues generated by the use, lease, encumbrance, transfer, or disposal of the land, as set forth in 49 U.S.C. §§ 47107(b) and 47133.

Section 163(d) of the Act limits the FAA's review and approval authority for Airport Layout Plans (ALPs) to those portions of ALPs or ALP revisions that:

- Materially impact the safe and efficient operation of aircraft at, to, or from the airport;
- Adversely affect the safety of people or property on the ground adjacent to the airport as a result of aircraft operations; or
- Adversely affect the value of prior Federal investments to a significant extent.

Proposed Project

The numbering for the project list below matches the overall project exhibit attached to this 163 Determination Letter. The last two project items are not displayed on the exhibit but are still applicable to the 163 Determination Letter.

1. Reconstruct 2,929 feet of Runway 2/20 to C-IV standards to conform to runway LOS requirements and extend Runway 2 by 1,647 feet at full depth.
2. Reconstruct Taxiway B to TDG 4 standards and extend by 1,647 feet to the south and 441 feet to the north to Taxiway A to 401-foot separation from Runway 2/20 centerline resulting in a full-length parallel taxiway.
3. Shorten Runway 20 by 595 feet and relocate threshold to reduce complex pavement geometry.
4. Install 25-foot paved shoulders on Runway 2/20 and 20-foot paved shoulders on Taxiway B.
5. Install 200-foot by 200-foot blast pads on Runway 2/20 ends.
6. Remove all Taxiway B connectors and construct four new connectors south of Runway 13/31; Taxiways B1, B4, and the portion of A between B and D will be constructed to a TDG 5 width of 75-feet with 30-foot paved shoulders, and Taxiways B2 and B3 will be constructed to a TDG 4 width of 50-feet with 20-foot paved shoulders.
7. Remove Taxiways A6, E, F, and G to resolve an FAA-identified hot spot and correct non-standard geometry.
8. Relocate Taxiway D to the end of the terminal ramp to improve gate accessibility and eliminate a direct connection from the ramp to Runway 13/31 and construct to TDG 5 standards.
9. Regrade RVZ southwest and southeast of runway/runway intersection to remove ground penetrations.
10. Construct drainage improvements to Runway 2/20 and Taxiway B.
11. Improve grading in Runway 2 RSA.
12. Extinguish existing petroleum easements in the area of the runway extension and remove existing pipeline. Acquire easements, design, and relocate petroleum pipeline off airport property and outside FAA areas of interest.
13. Remove and relocate portions of 90th Street SW, 95th Street SW, and 31st Avenue SW (north and south of 90th St. SW) to accommodate the Runway 2 extension and precision approach RPZ (includes new and vacated rights-of-way), and add turn and bypass lanes to County Road 8 at intersection with 95th Street SW (includes expanded right of way).
14. Acquire approximately 26.5 acres of property (approximately 26 acres of future airport property in fee simple; 25.5 acres for future Runway 2 RPZ and 0.5 acres of an uneconomic remnant associated with relocation of 90th/95th Street SW; along with an

uneconomic remnant of 0.5 acres associated with vacation of 95th Street SW right-of-way).

15. Extinguish and relocate utility and communication easements/permits and remove lines in conjunction with anticipated road relocations to accommodate the Runway 2 extension and precision approach RPZ outside of the FAA areas of interest.
16. Relocate airport perimeter fencing around the extended runway, its critical areas and where conflicts with the RVZ exist.
17. Extend airport perimeter road along west, south, and east sides of airfield to encompass the full airfield, and adjacent to the MALSR along the extended runway centerline.
18. Install high-intensity runway and medium-intensity taxiway edge lighting and install airfield signage.
19. Install Runway 2 navigational aids (ILS and associated MALSR approach lighting, Runway 2 PAPIs), decommission Runway 2 REILs and VASIs, relocate Runway 20 PAPIs and replace/relocate Runway 20 REILs.
20. Relocate existing midpoint runway visual range (RVR) transmissometer out of future Taxiway Object Free Area.
21. Relocate/modify FAA-owned radar communication line and MTI Reflector to comply with FAA standards.
22. Remove/trim approximately 1.7 acres of trees as necessary for construction, as well as to clear trees that penetrate FAA Threshold Siting Surfaces (TSS)/Part 77 approach and transitional surfaces.
23. Wetland mitigation through bank credit (TBD, approximately 4.65 acres). (Not shown on figure).
24. Implementation of air traffic control, airspace management procedures, and related flight checks for interim and ultimate GPS and ILS approaches to Runway 2/20. (Not shown on figure).

Determination Regarding the Airport Layout Plan

For the purpose of determining whether the proposed project requires FAA ALP approval, we have made the following determinations:

- Portions of the proposed development may have material impact on aircraft operations at, to, or from the airport, therefore, the FAA retains the legal authority to approve or disapprove the following changes to the RST ALP:
 1. Reconstruct 2,929 feet of Runway 2/20 to C-IV standards to conform to runway LOS requirements and extend Runway 2 by 1,647 feet at full depth.
 2. Reconstruct Taxiway B to TDG 4 standards and extend by 1,647 feet to the south and 441 feet to the north to Taxiway A to 401-foot separation from Runway 2/20 centerline resulting in a full-length parallel taxiway.
 3. Shorten Runway 20 by 595 feet and relocate threshold to reduce complex pavement geometry.
 4. Install 25-foot paved shoulders on Runway 2/20 and 20-foot paved shoulders on Taxiway B.
 5. Install 200-foot by 200-foot blast pads on Runway 2/20 ends.

6. Remove all Taxiway B connectors and construct four new connectors south of Runway 13/31; Taxiways B1, B4, and the portion of A between B and D will be constructed to a TDG 5 width of 75-feet with 30-foot paved shoulders, and Taxiways B2 and B3 will be constructed to a TDG 4 width of 50-feet with 20-foot paved shoulders.
 7. Remove Taxiways A6, E, F, and G to resolve an FAA-identified hot spot and correct non-standard geometry.
 8. Relocate Taxiway D to the end of the terminal ramp to improve gate accessibility and eliminate a direct connection from the ramp to Runway 13/31 and construct to TDG 5 standards.
 9. Regrade RVZ southwest and southeast of runway/runway intersection to remove ground penetrations.
 10. Improve grading in Runway 2 RSA.
 14. Acquire approximately 26.5 acres of property (approximately 26 acres of future airport property in fee simple; 25.5 acres for future Runway 2 RPZ and 0.5 acres of an uneconomic remnant associated with relocation of 95th Street SW; along with an uneconomic remnant of 0.5 acres associated with vacation of 90th/95th Street SW right-of-way).
 17. Extend airport perimeter road along west, south, and east sides of airfield to encompass the full airfield, and adjacent to the MALSR along the extended runway centerline.
 19. Install Runway 2 navigational aids (ILS and associated MALSR approach lighting, Runway 2 PAPIs), decommission Runway 2 REILs and VASIs, relocate Runway 20 PAPIs and replace/relocate Runway 20 REILs.
 20. Relocate existing midpoint runway visual range (RVR) transmissometer out of future Taxiway Object Free Area.
 22. Remove/trim approximately 1.7 acres of trees as necessary for construction, as well as to clear trees that penetrate FAA Threshold Siting Surfaces (TSS)/Part 77 approach and transitional surfaces.
- Because the remaining portions of the proposed development would have no material impact on aircraft operations at, to, or from the airport, would not affect the safety of people and property on the ground, and would not have an adverse effect on the value of prior Federal investments to a significant extent, the FAA lacks the legal authority to approve or disapprove changes to the RST ALP for the following project components:
 10. Construct drainage improvements to Runway 2/20 and Taxiway B.
 12. Extinguish existing petroleum easements in the area of the runway extension and remove existing pipeline. Acquire easements, design, and relocate petroleum pipeline off airport property and outside FAA areas of interest.
 13. Remove and relocate portions of 90th Street SW, 95th Street SW, and 31st Avenue SW (north and south of 90th St. SW) to accommodate the Runway 2 extension and precision approach RPZ (includes new and vacated rights-of-way), and add turn and bypass lanes to County Road 8 at intersection with 95th Street SW (includes expanded right of way).

15. Extinguish and relocate utility and communication easements/permits and remove lines in conjunction with anticipated road relocations to accommodate the Runway 2 extension and precision approach RPZ outside of the FAA areas of interest.
16. Relocate airport perimeter fencing around the extended runway, its critical areas and where conflicts with the RVZ exist.
18. Install high-intensity runway and medium-intensity taxiway edge lighting and install airfield signage.
21. Relocate/modify FAA-owned radar communication line and MTI Reflector to comply with FAA standards.
22. Remove/trim approximately 1.7 acres of trees as necessary for construction as well as to clear trees that penetrate FAA Threshold Siting Surfaces (TSS)/Part 77 approach and transitional surfaces.
23. Wetland mitigation through bank credit (TBD, approximately 4.65 acres). (Not shown on figure).
24. Implementation of air traffic control, airspace management procedures, and related flight checks for interim and ultimate GPS and ILS approaches to Runway 2/20. (Not shown on figure).

FAA's Authority to Regulate Land Use

The numbering for the project list below matches the overall project exhibit attached to this 163 Determination Letter.

The land subject to the proposed project was acquired with a mix local and federal funds. Land Parcels 2, 3, 4, 5, 6, 9b, and 11 were acquired in 1957, under federal grant number FAAP 9-21-079-5701. Parcel 15 was acquired under federal grant number FAAP 9-21-079-6305 in 1958. The remaining parcels (17, 21A, 21B, 22) were acquired in 1978-2001, with local funds. The following components of the proposed project fall under a change in land use and as a result require a determination on land regulation:

12. Extinguish existing petroleum easements within in the area of the runway extension and remove existing pipeline. Acquire easements, design, and relocate petroleum pipeline off airport property an outside FAA areas of interest.
13. Remove and relocate portions of 90th Street SW, 95th Street SW, and 31st Avenue SW (north and south of 90th St. SW) to accommodate the Runway 2 extension and precision approach RPZ (includes new and vacated rights-of-way), and add turn and bypass lanes to County Road 8 at intersection with 95th Street SW (includes expanded right of way).
14. Acquire approximately 26.5 acres of property (approximately 26 acres of future airport property in fee simple; 25.5 acres for future Runway 2 RPZ and 0.5 acres of an uneconomic remnant associated with relocation of 95th Street SW; along with an uneconomic remnant of 0.5 acres associated with vacation of 90th/95th Street SW right-of-way).
15. Extinguish and relocate utility and communication easements/permits and remove lines in conjunction with anticipated road relocations to accommodate the Runway 2 extension and precision approach RPZ outside of the FAA areas of interest.

Aeronautical Land Use and Land Federally Acquired:

Under section 163(b) of the Act, the FAA has the legal authority to regulate land acquired with federal funding. However, the proposed project is considered an aeronautical use, consistent with the intended land use when acquired, therefore the FAA will not require a release of obligations of the subject parcel as depicted on the currently approved ALP. The following project pertains to this section:

12. Extinguish existing petroleum easements within Parcel 15 in the area of the runway extension and remove existing pipeline.
13. Remove and relocate portions of 90th Street SW within Parcel 15 to accommodate the Runway 2 extension and precision approach RPZ (includes vacated rights-of-way).
14. Acquire approximately 26.5 acres of property (approximately 26 acres of future airport property in fee simple; 25.5 acres for future Runway 2 RPZ and 0.5 acres of an uneconomic remnant associated with relocation of 90th/95th Street SW; along with an uneconomic remnant of 0.5 acres associated with vacation of 90th/95th Street SW right-of-way).
15. Extinguish utility and communication easements/permits and remove lines within Parcel 15 to accommodate the Runway 2 extension and precision approach RPZ.

Sponsor Acquired Land - No land use authority:

The parcels (17, 20, 21A, 21B, and 22) subject to the proposed project were acquired with local funding, without federal assistance, and the proposed project will not impact the safe and efficient operation of aircraft or safety of people and property on the ground related to aircraft operations. Therefore, the FAA lacks the authority to regulate the use of the land associated with these projects:

12. Extinguish existing petroleum easements within Parcels 17 and 22 in the area of the runway extension and remove existing pipeline. Acquire easements, design, and relocate petroleum pipeline off airport property and outside FAA areas of interest.
13. Remove and relocate portions of 90th Street SW, 95th Street SW, and 31st Avenue SW (north and south of 90th St. SW) to accommodate the Runway 2 extension and precision approach RPZ (includes new and vacated rights-of-way), and add turn and bypass lanes to County Road 8 at intersection with 95th Street SW (includes expanded right of way). This pertains to the portions of road currently located on airport property on Parcels 17, 21A, 21B, and 22 which will be relocated off airport property and outside FAA areas of interest.
15. Extinguish and relocate utility and communication easements/permits and remove lines in conjunction with anticipated road relocations to accommodate the Runway 2 extension and precision approach RPZ outside of the FAA areas of interest. This pertains to all portions of utilities/communications on current airport property within Parcels 17, 21A, 21B, and 22.

Applicability of the National Environmental Policy Act (NEPA)

The FAA's authority to approve the ALP change for portions of the proposed project, along with the FAA's requirement to approve a release of the sponsor's federal obligations (including any other Federal approvals associated with the project, such as funding under the AIP or PFC programs) are federal actions. Therefore, the sponsor will be required to perform an appropriate environmental review consistent with NEPA. All elements of the Airport Sponsor's proposed project above have a causal nexus to the overall runway extension project, therefore require NEPA review regardless if FAA retains ALP approval authority over these elements.

Sponsor Obligations Still In Effect

This determination only addresses FAA's approval authority for this project. It is not a determination that the project complies with the sponsor's federal grant assurances. The sponsor must continue to comply with all of its Federal grant obligations, including but not limited to Grant Assurance #5, Preserving Rights and Powers; Grant Assurance #19, Operation and Maintenance; Grant Assurance #20, Hazard Removal and Mitigation; Grant Assurance #21, Compatible Land Use; and Grant Assurance #25 Airport Revenue.

Section 163 and Grant Assurance 25 require the airport sponsor to receive not less than fair market value for the use, lease, encumbrance, transfer, or disposal of land, any facilities on such land, or any portion of such land or facilities. The sponsor must ensure that all revenues generated as a result of this project may only be expended for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport.

The sponsor also has the responsibility to comply with all federal, state, and local environmental laws and regulations.

Additionally, any development on this parcel is still subject to airspace review under the requirements of 14 CFR part 77, and, Grant Assurance 29 still requires the airport to update and maintain a current ALP. An updated ALP should be submitted to the DMA ADO if the project is completed. An updated ALP and Exhibit A property map should be submitted to the DMA ADO if the project is completed.










If you have further questions or need for clarification, please feel free to contact your assigned FAA program manager, Ben Garrow at Benjamin.A.Garrow@faa.gov.

Sincerely,

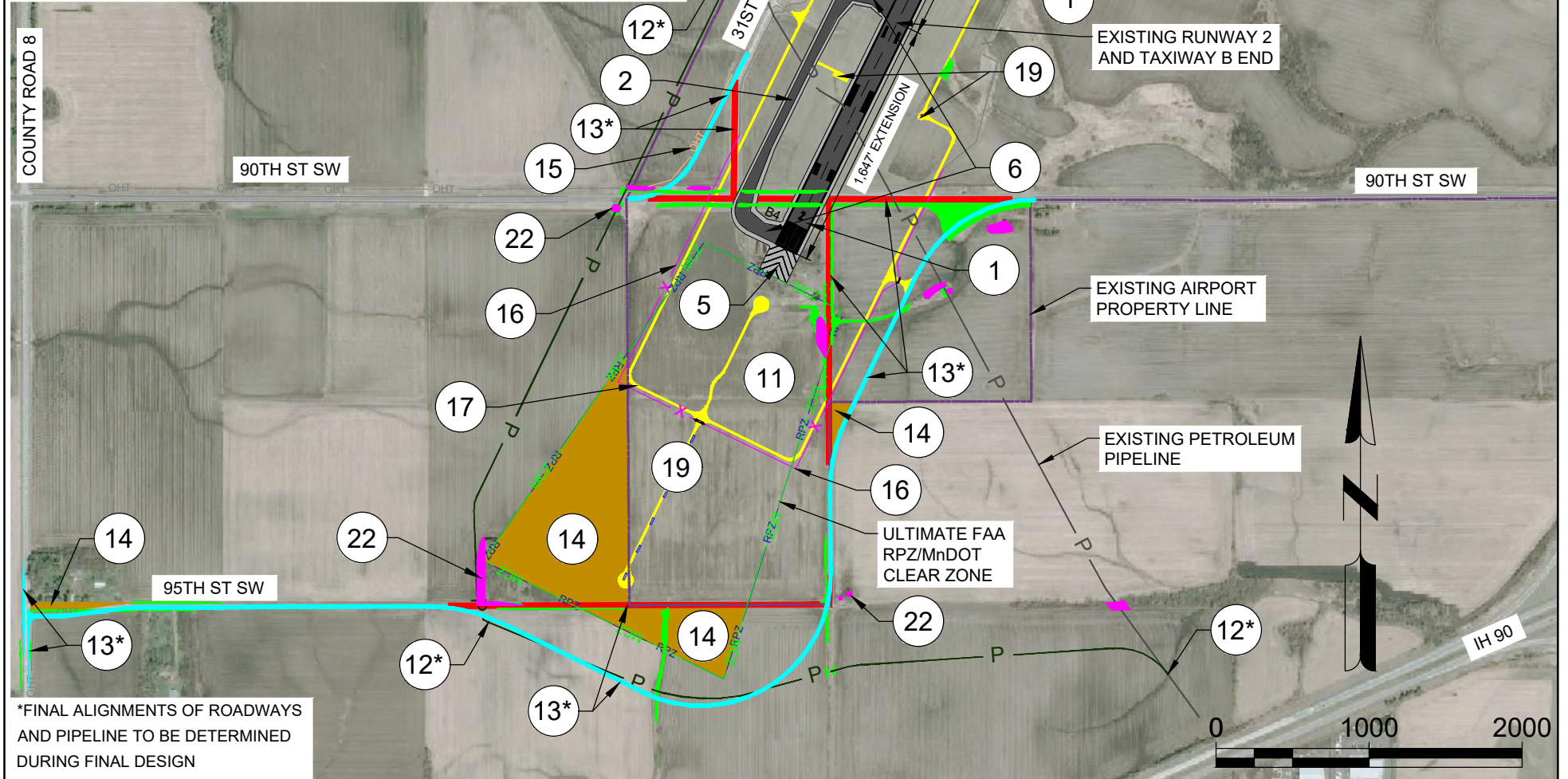


E. Lindsay Butler
Deputy Manager

LEGEND:

	PAVEMENT TO BE REMOVED		PROPOSED AIRFIELD ACCESS ROAD		PROPOSED WETLAND TO BE IMPACTED
	PROPOSED RWY/TWY STRUCTURAL PAVEMENT		PROPOSED NEW/RECONSTRUCTED PUBLIC ROAD		PROPOSED TREE CLEARING/TRIMMING
	PROPOSED RWY/TWY SHOULDER PAVEMENT		PROPOSED LAND ACQUISITION		PROPOSED STORM SEWER/DRAINAGE SWALE

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2. Reconstruct Taxiway B to TDG 4 standards and extend by 1,647 feet to the south and 441 feet to the north to Taxiway A to 401-foot separation from Runway 2/20 centerline resulting in a full-length parallel taxiway.
3. Shorten Runway 20 by 595 feet and relocate threshold to reduce complex pavement geometry.
4. Install 25-foot paved shoulders on Runway 2/20 and 20-foot paved shoulders on Taxiway B.
5. Install 200-foot by 200-foot blast pads on Runway 2/20 ends.
6. Remove all Taxiway B connectors and construct four new connectors south of Runway 13/31; Taxiways B1, B4, and the portion of A between B and D will be constructed to a TDG 5 width of 75 feet with 30-foot paved shoulders, and Taxiways B2 and B3 will be constructed to a TDG 4 width of 50 feet with 20-foot paved shoulders.
7. Remove Taxiways A6, E, F, and G to resolve an FAA-identified hot spot and correct non-standard geometry.
8. Relocate Taxiway D to the end of the terminal ramp to improve gate accessibility and eliminate a direct connection from the ramp to Runway 13/31 and construct to TDG 5 standards.
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12. *Extinguish existing petroleum easements in the area of the runway extension and remove existing pipeline. Acquire easements, design, and relocate petroleum pipeline off airport property and outside FAA areas of interest.
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14. Acquire approximately 26.5 acres of property (approximately 26 acres of future airport property in fee simple; 25.5 acres for future Runway 2 RPZ and 0.5 acres of an uneconomic remnant associated with relocation of 90th/95th Street SW; along with an uneconomic remnant of 0.5 acres associated with vacation of 95th Street SW right-of-way).
15. Extinguish and relocate utility and communication easements/permits and remove lines in conjunction with anticipated road relocations to accommodate the Runway 2 extension and precision approach RPZ outside of the FAA areas of interest.
16. Relocate airport perimeter fencing around the extended runway, its critical areas and where conflicts with the RVZ exist.
17. Extend airport perimeter road along west, south, and east sides of airfield to encompass the full airfield, and adjacent to the MALSAR along the extended runway centerline.
18. Install high-intensity runway and medium-intensity taxiway edge lighting and install airfield signage.
19. Install Runway 2 navigational aids (ILS and associated MALSAR approach lighting, Runway 2 PAPIs), decommission Runway 2 REILs and VASIs, relocate Runway 20 PAPIs, and replace/relocate Runway 20 REILs.
20. Relocate existing Runway 13/31 midpoint runway visual range (RVR) out of future Taxiway Object Free Area.
21. Relocate/modify FAA-owned radar communication line and MTI Reflector to comply with FAA standards.
22. Remove/trim approximately 1.7 acres of trees as necessary for construction, as well as to clear trees that penetrate FAA Threshold Siting Surfaces (TSS)/Part 77 approach and transitional surfaces.
23. Wetland mitigation through bank credit (TBD, approximately 4.65 acres). (Not shown on figure.)
24. Implementation of air traffic control, airspace management procedures, and related flight checks for interim and ultimate GPS and ILS approaches to Runway 2/20. (Not shown on figure.)



*FINAL ALIGNMENTS OF ROADWAYS AND PIPELINE TO BE DETERMINED DURING FINAL DESIGN

6/30/2021 11:47:58 AM X:\2879900\200571.01\TECHCAD\Figure 20 - PROPOSED ACTION EXHIBIT.DWG

FIGURE 3-7
 AIRPORT SPONSOR'S
 PROPOSED PROJECT