

APPENDIX A

Section 163 Determination





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

Eastern Region Airports Division

1 Aviation Plaza
Jamaica, NY 11434-4809
(718) 553-3330 (office)

March 13, 2024

Mr. Jason Terreri
Executive Director
Syracuse Hancock International Airport
1000 Col. Eileen Blvd.
Syracuse, NY 13212

Subject: Determination of Federal Aviation Administration (FAA) Approval Authority – Change in Use of Portions of Five Parcels to Non-Aeronautical on Colonel Eileen Collins Blvd, Syracuse Hancock International Airport (SYR), Syracuse, New York

Dear Mr. Terreri:

This determination outlines FAA approval authority for SYR's proposed change in use of portions of five parcels to non-aeronautical to allow long-term leases on the parcels, as depicted in the enclosed maps and described in the enclosed metes and bounds. The FAA originally issued a Section 163 Determination on March 8, 2023, for this project. This determination supersedes the previous Section 163 determination.

Background

Federal law requires the FAA to determine if the agency has approval authority for certain airport projects. The FAA Reauthorization Act of 2018 (P.L. 115-254) was signed into law on October 5, 2018. In general, Section 163(a) of the Act focuses the FAA's approval authority on the following areas:

1. To ensure the safe and efficient operation of aircraft or safety of people and property on the ground related to aircraft operations;
2. To regulate land or a facility acquired or modified using federal funding;
3. 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;
4. To ensure that that airport owner or operator pays not more than FMV in the context of a commercial transaction for the acquisition of land or facilities on such land;
5. To enforce any terms contained in a Surplus Property Act instrument of transfer; and
6. To exercise any authority contained in 49 U.S.C. § 40117 on Passenger Facility Charges (PFC).

In addition, Section 163(c) preserves the statutory revenue use restrictions on 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.

The law limits FAA authority to directly or indirectly regulate an airport operator's transfer or disposal of certain types of airport land. Section 163(d) of the Act also limits FAA's review and approval authority for Airport Layout Plans (ALPs) to those portions of ALPs, or ALP updates or revisions that:

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

Proposed Project

The Syracuse Regional Airport Authority (SRAA) submitted a proposed land consent package requesting a change in use of 46.47 acres of airport property at SYR, and a long-term non-aeronautical lease to allow for mixed commercial development.

FAA Determination on the Airport Layout Plan

For the purpose of determining whether the proposed project requires FAA ALP approval, we have determined the proposed project 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 adjacent to the airport as a result of aircraft operations; and would not have an adverse effect on the value of prior Federal investments to a significant extent. Therefore, the FAA does not have the authority to approve or disapprove changes to the ALP for the proposed project.

FAA Authority to Regulate Land Use

SYR proposes FAA's concurrence for non-aeronautical use of 46.47 acres of airport property, comprised of portions of five parcels of airport property. The five parcels are Parcel #1 (4.09 Acres), Parcel #2 (8.50 Acres), Parcel #3 (5.68 Acres), Parcel #4 (19.23 Acres), and Parcel #5 (8.97 Acres). All five parcels were acquired in 1963, and conveyed to SYR under the Federal Property and Administrative Services Act of 1949 and the Surplus Property Act of 1944.

Under Section 163(b), FAA has the authority to regulate land or facilities acquired or modified through Surplus Property Act transfers. The FAA considers SYR's proposed 46.47-acre mixed commercial development to be a non-aeronautical land use. Therefore, under Section 163(b) of the Act, FAA has the authority to approve or disapprove the proposed non-aeronautical use of surplus property. A request for approval and/or consent in accordance with FAA Order 5190.6, Chapter 22, is required for these parcels.

Project Funding Source(s)

The FAA has approval authority for any projects funded through the Airport Improvement Program (AIP), any other FAA-administered grant in aid program, and PFCs. In this case, a request for FAA funding and/or PFCs is not anticipated for this project.

Applicability of the National Environmental Policy Act (NEPA)

The FAA's authority to approve of the non-aeronautical use of the subject parcels, and any other Federal approvals associated with the project (such as funding under the AIP or PFC programs), are federal actions subject to NEPA. Please contact Edward Knoesel, Environmental Protection Specialist, New York Airports District Office (NY-ADO) to coordinate the appropriate level of environmental review.

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. This determination is based solely on the description of the project as currently conceived. If the location, height, or physical dimensions of the project as currently conceived materially change, you must seek a new Section 163 determination for the revised project. To the extent that the exact height of the facilities proposed in the project remain unknown at this time, this determination is predicated on the understanding that the project will not impact any approach or departure surface and/or procedure, or otherwise interfere with the functionality of navigational aids or Air Traffic Control facilities. Similarly, if the nature of the proposed use of the subject property were to change (e.g., aeronautical use to non-aeronautical use or vice versa, aircraft hangar to cargo facility or vice versa) the sponsor is also required to seek a new Section 163 determination. The sponsor must 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*.

If the proposed development includes solar energy systems, please note that federally-obligated airports with Air Traffic Control Towers (ATCT) must submit a Notice of Proposed Construction or Alteration (FAA Form 7460-1) for any proposed on-airport solar energy system. Sponsors must assert they conducted a sufficient analysis of the potential for ocular impact (glint and glare) and conclude there is no potential for ocular impact to the airport's ATCT cab. Airport sponsors are also responsible for reorienting solar energy systems if there is glint or glare to the ATCT after a system is installed.¹

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 all revenue generated as a result of this project are only 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 airport, and which are directly and substantially related to the air transportation of passengers or property, or for noise mitigation purposes on or off the airport.

¹ For additional information, see FAA's Policy on Review of Solar Energy System Projects on Federally-Obligated Airports (<https://www.federalregister.gov/documents/2021/05/11/2021-09862/federal-aviation-administration-policy-review-of-solar-energy-system-projects-on-federally-obligated>).

The sponsor is also responsible for complying with all federal, state, and local environmental laws and regulations.

Additionally, any development on this parcel is subject to airspace review under the requirements of 14 Code of Federal Regulations (CFR) Part 77, and Grant Assurance 29 requires the airport to update and maintain a current ALP. Please submit an updated ALP and Exhibit "A" property map to NY-ADO if the project is completed.

This is a preliminary determination. It does not constitute a final agency action or an "order issued by the Secretary of Transportation" under 49 U.S.C. § 46110.

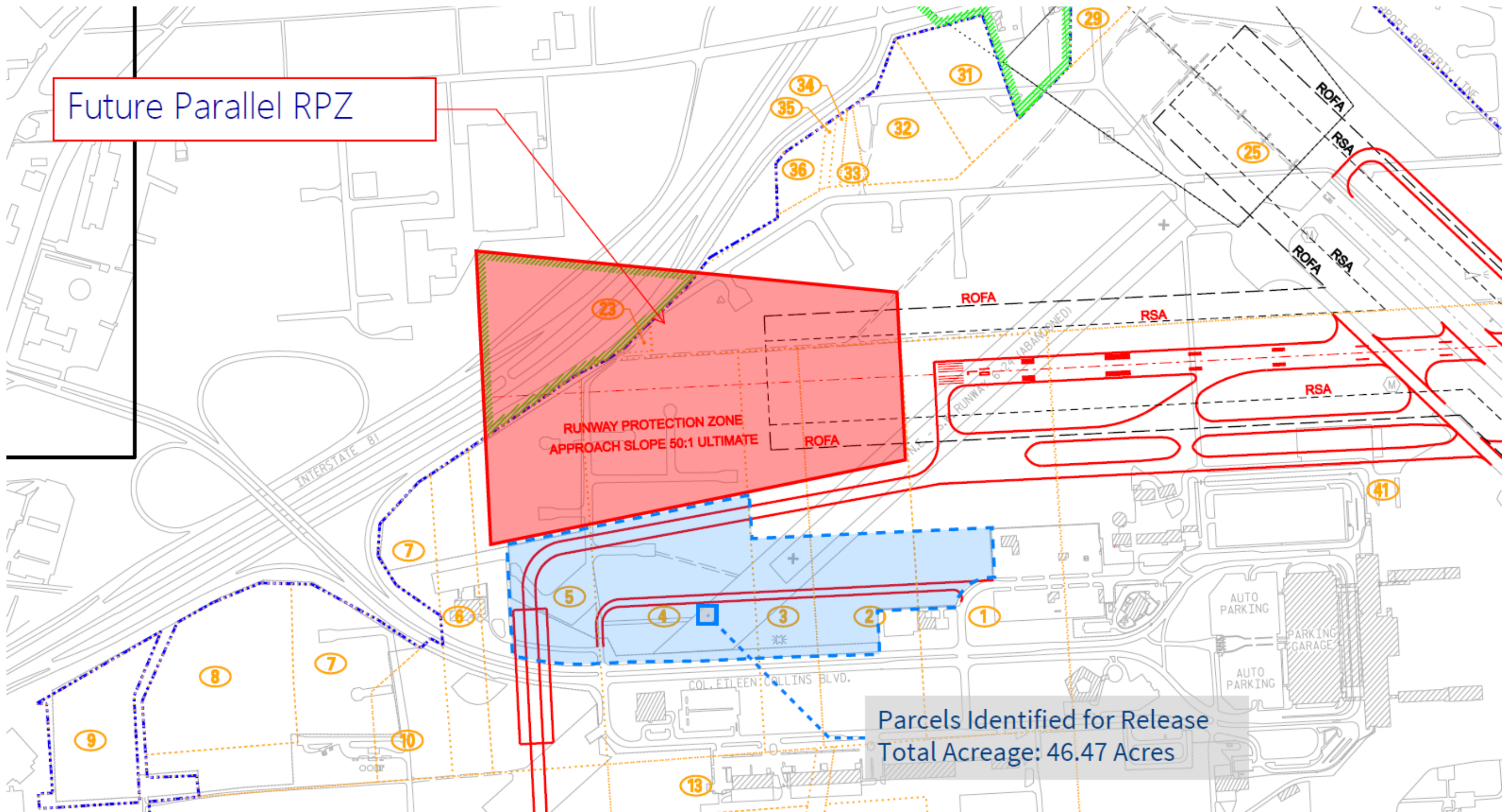
For any questions, please contact Mr. Rob Costa, Assistant Manager, NY-ADO, at (718) 995-5778 or via email at robert.costa@faa.gov.

Sincerely,

David A. Fish
Director, Eastern Region Airports Division

Enclosures

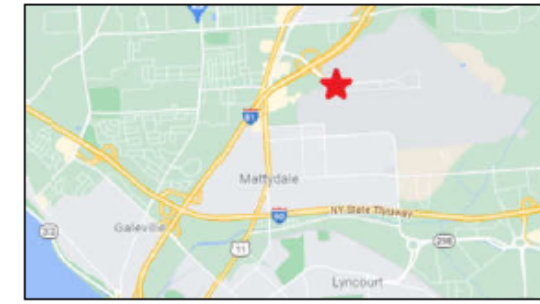
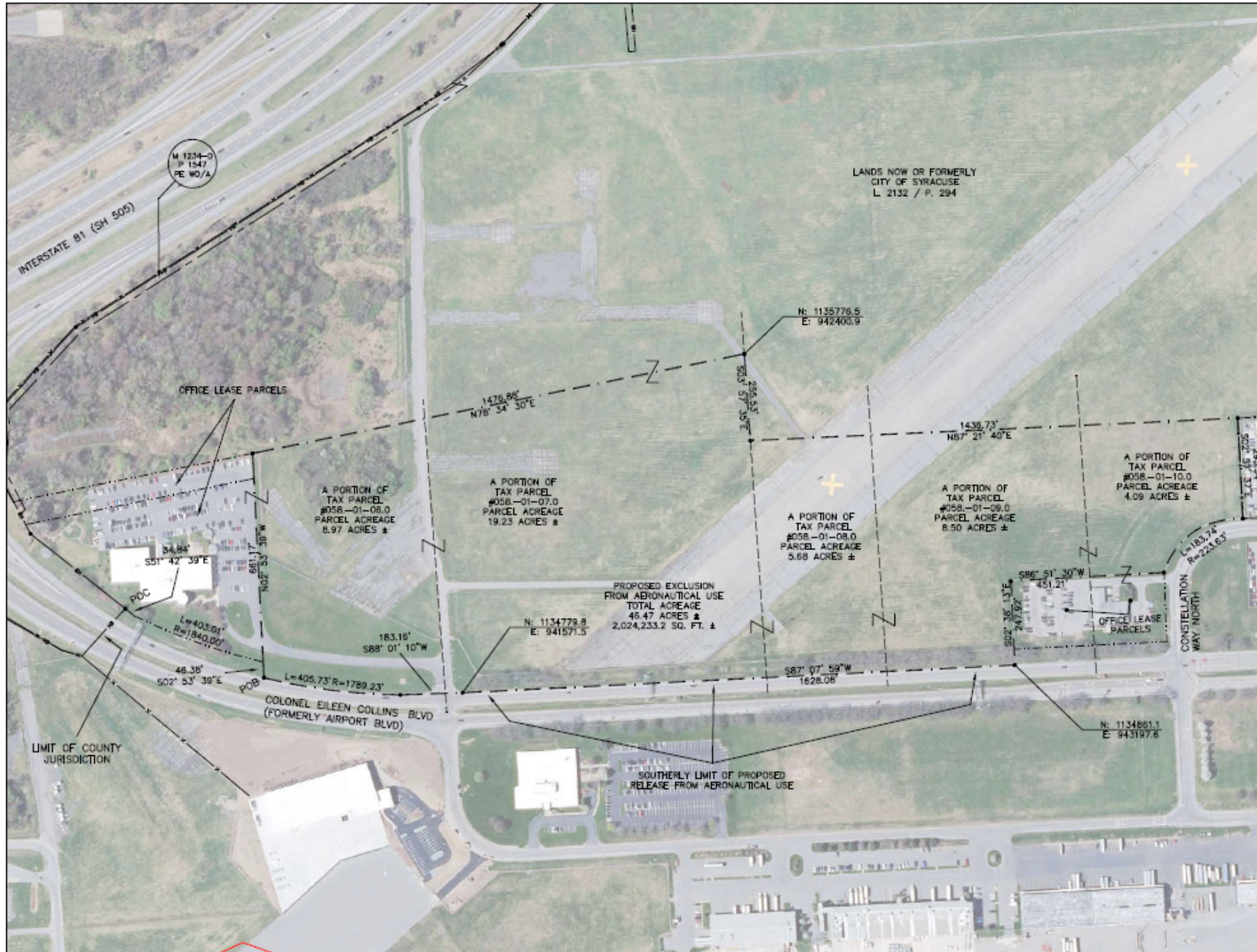
Airport Layout Plan Section



Parcels Identified for Release
Total Acreage: 46.47 Acres

Parcel Consent Map

- 1) EXCEPT AS SPECIFICALLY STATED OR SHOWN ON THIS PLAT, THIS SURVEY DOES NOT PURPORT TO REFLECT ANY OF THE FOLLOWING WHICH MAY BE APPLICABLE TO THE SUBJECT REAL ESTATE: EASEMENTS, OTHER THAN POSSIBLE EASEMENTS THAT WERE VISIBLE AT THE TIME OF MAKING THIS SURVEY; BUILDING SETBACK LINES; RESTRICTIVE COVENANTS; SUBDIVISION RESTRICTIONS; ZONING OR OTHER LAND USE REGULATIONS; AND ANY OTHER FACTS THAT AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE.
- 2) BURIED UTILITIES MAY BE ENCOUNTERED. NO EXCAVATIONS WERE MADE DURING THE PROGRESS OF THIS SURVEY TO LOCATE BURIED UTILITIES / STRUCTURE. BEFORE EXCAVATIONS ARE BEGUN, DIGSAFE NY SHOULD BE CONTACTED. (M).
- 3) NORTH IS REFERENCED TO NEW YORK STATE PLANE COORDINATE SYSTEM - CENTRAL ZONE GRID NORTH.
- 4) SUBJECT TO ANY AND ALL EASEMENTS AN ACCURATE TITLE SEARCH MAY DISCLOSE.



VICINITY MAP
NOT TO SCALE

LEGEND

- REBAR
- ⊕ ANGLE IRON
- IRON PIPE
- PARCEL BOUNDARY
- - - EXISTING LEASE PARCELS
- X - X - FENCE LINE
- HB --- ROAD RIGHT OF WAY
- EASEMENT BOUNDARY LINE
- TAX PARCEL BOUNDARY
- POB POINT OF BEGINNING
- POC POINT OF COMMENCEMENT
- Z SHOWS COMMON OWNERSHIP



GRAPHIC SCALE
0 400 800
(IN FEET)
1 inch = 400 ft

CERTIFICATE BY SURVEYOR
I, MICHAEL A. VENTURO, HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR IN THE STATE OF NEW YORK. I FURTHER CERTIFY THAT THIS PLAT CORRECTLY REPRESENTS A SURVEY COMPLETED UNDER MY DIRECTION AND THAT ALL MONUMENTS AND MARKERS SHOWN HEREON ACTUALLY EXIST AND THAT THEIR LOCATION RELATIVE TO THE DETERMINED BOUNDARY, TYPE AND MATERIAL ARE ACCURATELY SHOWN.

DATE 7-27-2023 SIGNATURE *[Signature]*

PRUDENT ENGINEERING, LLP
6380 FLY ROAD EAST SYRACUSE, NY 13057
TEL: 315-466-7700
FAX: 315-466-7780

SYRACUSE HAMCOCK INTERNATIONAL AIRPORT
PROPOSED EXCLUSION FROM AERONAUTICAL USE
PARCEL SURVEY

SHEET 1 OF 1 SHEETS

Metes and Bounds

All that tract or parcel of land situate in the Town of Salina, County of Onondaga, and State of New York, being a portion of Lot No. 4 in said town, and also part of Tracts B246, B247, B248, B249 and B250 of lands conveyed by the United States of America to the City of Syracuse by deed dated February 15, 1963, recorded in the Onondaga County Clerk's Office in Book 2132 of Deeds at Page 293, being more particularly described as follows:

Commencing at a point in the northerly boundary of the existing Colonel Eileen Collins Boulevard, at the southeast corner of the lands acquired by the People of the State of New York (under the present jurisdiction of the New York State Department of Transportation) for the construction of Interstate Highway 81 as described on Map No. 1234-D P 1545; thence along the aforementioned northerly road boundary South $51^{\circ} 42' 39''$ East a distance of 34.84 feet to a point; thence on a curve to the left having a radius of 1,840.00 feet and a length of 403.01' to a point; thence South $02^{\circ} 53' 39''$ East a distance of 46.38 feet to the Point of Beginning; thence through the lands of the City of Syracuse the following four (5) courses and distances:

- 1) North $02^{\circ} 53' 39''$ West a distance of 661.17 feet, to point; thence
- 2) North $78^{\circ} 34' 30''$ East a distance of 1,476.88 feet, to point; thence
- 3) South $03^{\circ} 57' 35''$ East a distance of 255.53 feet, to point; thence
- 4) North $87^{\circ} 21' 40''$ East a distance of 1,436.73 feet, to point; thence
- 5) South $02^{\circ} 57' 37''$ East a distance of 295.54 feet to a point in the northerly bounds of an interior airport road known as Constellation Way North;

Thence Westerly and Southerly along the bounds of said road on a curve to left having a radius of 223.63 feet and a length of 183.74 feet to point; thence through the lands of City of Syracuse the following two (2) courses and distances:

- 1) South $86^{\circ} 51' 30''$ West a distance of 451.21 feet, to point; thence
- 2) South $02^{\circ} 38' 13''$ East a distance of 247.92 feet to a point in the northerly edge of Colonel Eileen Collins Boulevard;

Thence South $87^{\circ} 07' 59''$ West a distance of 1,628.08 feet to a point; thence South $88^{\circ} 01' 10''$ West a distance of 183.16 feet to a point; thence on a curve to the right having a radius of 1,789.23 feet and a length of 405.73 feet to the point and place of beginning.

Intending to describe a parcel of land 46.47 acres (2,024,233.2 sq. ft.) more or less and being portions of existing Onondaga County Tax Parcel Numbers 058.-01-06.0, 158.-01-07.0, 158.-01-08.0, 158.-01-09.0, and 058.-01-10.0.