

U.S. DEPARTMENT OF TRANSPORTATION FEDERAL AVIATION  
ADMINISTRATION

RECORD OF DECISION

FAA APPROVAL OF THE CITY OF FORT SMITH REGIONAL AIRPORT  
AIRPORT LAYOUT PLAN UPDATE

TO ACCOMMODATE

U.S. AIR FORCE PROPOSED FOREIGN MILITARY SALES TRAINING  
CENTER RELOCATION



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## **GENERAL INFORMATION ABOUT THIS DOCUMENT**

**WHAT'S IN THIS DOCUMENT?** This Record of Decision (ROD) discusses the Federal Aviation Administration determinations in reaching a decision to implement federal actions needed to support the Department of the Air Force (DAF) proposal to establish a Foreign Military Sales Pilot Training Center at Ebbing Air National Guard (ANG) Base located at Fort Smith Regional Airport (FSM), Arkansas. This ROD also documents the alternatives considered, the environmentally preferable alternative, and how those factors entered into the decision. The FAA prepared this ROD in accordance with the Council on Environmental Quality (CEQ) regulations that implement the National Environmental Policy Act (NEPA) at Title 40 Code of Federal Regulations (CFR) Section 1505.2 (Record of decision in cases requiring environmental impact statements).

**SUMMARY.** On September 2, 2022, DAF published a Draft Environmental Impact Statement (EIS), and the U.S. Environmental Protection Agency (EPA) published the Notice of Availability of the Draft EIS in the Federal Register on September 2, 2022. The DAF accepted comments on the Draft EIS between September 2<sup>nd</sup> and October 17<sup>th</sup>, 2022. The DAF hosted public hearings to discuss the Draft EIS on September 21<sup>st</sup>, 28<sup>th</sup> and October 5<sup>th</sup>, 2022. The FAA participated in those public hearings. The USAF, in coordination with the FAA, prepared the Final EIS using the information in the Draft EIS and comments received during the public comment period. The EPA published the Notice of Availability for the Final EIS on February 3, 2023. The DAF published its Notice of Availability for the Final EIS in the local newspapers on February 3, 2023. Copies of this ROD are available for inspection at the co-located FAA Southwest Regional Office and Arkansas/Oklahoma Airports District Office at 10101 Hillwood Parkway, Fort Worth, TX 76177. The Final EIS document is available online at <https://www.fmsptceis.com/documents.aspx>.

**WHAT SHOULD YOU DO?** Read the ROD to understand the actions the FAA will take in connection with the DAF proposed action.

**WHAT HAPPENS AFTER THIS?** The USAF may begin to design and construct infrastructure necessary to support the Foreign Military Sales operations and training activities at Ebbing ANG Base, located on FSM.

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## **I. Introduction and Purpose**

The Department of Air Force (DAF) prepared a Final Environmental Impact Statement (FEIS) to evaluate the potential environmental impacts associated with its proposal to establish a permanent Foreign Military Sales (FMS) Pilot Training Center (PTC) at a single location in the United States. The Alternatives evaluated in the DAF's FEIS for implementing their Proposed Action consisted of Ebbing Air National Guard (ANG) Base, located at Fort Smith Regional Airport (FSM), Arkansas (Preferred Alternative) and Selfridge ANG Base, Michigan (Alternative 2).

The DAF's Preferred Alternative involves basing (beddown) up to 36 military aircraft, (relocate 12 of the Republic of Singapore Air Force (RSAF) F-16's from Luke Air Force Base and beddown of up to 24 F-35's from various foreign nation partners) incrementally, from about 2023 through 2029 and the construction or renovation of various facilities on Ebbing ANG Base and the installation of aircraft barrier arresting kits along Runway 08/26 and berms along the existing arm/de-arm pads at FSM. Since the alternative selected involves construction of infrastructure necessary to support the military aircraft training and operations at FSM, the City of Fort Smith (airport sponsor) would need to request approval from the Federal Aviation Administration (FAA) for certain changes to its Airport Layout Plan (ALP). FAA approval, consistent with provisions under the Airport and Airway Improvement Act of 1982 (49 U.S.C 47101) and Section 163 of the 2018 FAA Reauthorization Act is a major federal action requiring FAA compliance with the National Environmental Policy Act (NEPA) (42 USC §§ 4321–4374).

When serving as a cooperating agency, FAA may satisfy its independent NEPA compliance obligation by either preparing a separate NEPA analysis for its ALP approval or, if appropriate, by adopting the NEPA analysis prepared by a lead agency. Therefore, the purposes of this Record of Decision (ROD) are twofold. First, this ROD explains FAA's responsibilities and rationale for determinations it may make regarding ALP approval associated with the City of Fort Smith's pending request. Second, this ROD explains FAA's determination to adopt the DAF's FEIS for the NEPA review that is required for FAA's consideration whether to approve the City of Fort Smith's request to update its ALP.

FAA prepared this ROD in accordance with the Council on Environmental Quality (CEQ) regulations that implement NEPA at Title 40 Code of Federal Regulations (CFR) Section 1505.2 (Record of decision in cases requiring environmental impact statements).

## **II. Background**

The DAF was the lead agency responsible for the development of the EIS and the FAA served as a cooperating agency pursuant to 40 CFR § 1501.8 because the FAA has jurisdiction by law and special expertise relating to the DAF's basing proposal at the civil airport, FSM. FAA's authorities and special expertise is based on its statutory responsibilities under 49 U.S.C. § 47101 and Section 163 of the 2018 FAA Reauthorization Act and relevant implementing regulations. The FAA is also responsible for providing leadership in planning and developing a safe and efficient national airport system and satisfying the needs of aviation interests of the United States, with due consideration for economics, the environment, local proprietary rights and safeguarding the public investment. This includes oversight and administration of airport planning and development, airport noise compatibility planning, safety of airport operations, protection of airspace on

and immediately adjacent to an airport, and environmental reviews of airport improvement projects. The FAA's Office of Airports was the lead within the FAA for the development of this EIS and coordinated internally to address all resources of concern under the FAA's jurisdiction to ensure that the environmental review under NEPA and other regulatory processes are efficient and completed in a timely manner.

The City of Fort Smith is responsible for appropriate airport planning<sup>1</sup> which includes proposed updates to an ALP. ALPs are drawings used to graphically depict current and future airport facilities. The ALP serves as a record of present and future aeronautical requirements and is a blueprint for airport development by which the airport authority and FAA can ensure that all proposed development is consistent with FAA airport design standards and safety requirements as well as airport and community land use plans.<sup>2</sup> When the City of Fort Smith completes their process for updating their ALP, they will submit the proposed changes to the FAA to obtain the necessary planning review and approvals from the FAA.<sup>3</sup> The City of Fort Smith also had a role in the environmental review process associated with this proposal because they could provide input and expertise on relevant issues associated with the civil airport location and served in an advisory capacity,<sup>4</sup> as appropriate, throughout the environmental review process for this FEIS.

### **III. Proposed Action and Alternatives Summary**

#### **A. Purpose and Need**

The purpose and need of the DAF's Proposed Action is to establish a permanent FMS PTC and provide a centralized location for FMS pilot training. Multiple foreign nations, including the RSAF have agreements with the DAF to purchase F-35 aircraft which requires a location suitable for initial F-35 training before returning to their home countries. In addition, the RSAF also desires to consolidate its pilot training to the PTC, which includes relocating F-16 aircraft. (*FEIS, Vol. 1, Section 1.3*).

The purpose and need of the FAA's action is to evaluate the City of Fort Smiths request to update their ALP and meet its statutory obligations under 49 U.S.C. 47101 and Section 163 of the 2018 FAA Reauthorization Act. This includes ensuring that the DAF's proposed project subject to FAA approval does not derogate the safety of aircraft and airport operations at FSM, consistent with 49 U.S.C. § 47101 (a)(1).

#### **B. Proposed Federal Actions and Alternatives**

As described in detail in the FEIS Vol. 1, Sections 2.1, 2.2, 2.3, and 2.5, the DAF (and the FAA through its adoption of the FEIS) identified the Proposed Action as its Preferred Alternative, one action alternative, and a no action alternative for locating the FMS PTC at Ebbing ANG Base.

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<sup>1</sup> Airport planning is integral and necessary to ensure efficient development at civil airports that is consistent with local, state, and federal requirements, guidelines and goals. A key objective of airport planning is to assure the effective use of airport resources to satisfy aviation demand in a financially feasible manner.

<sup>2</sup> An up-to-date FAA-approved ALP ensures the safety, utility, and efficiency of the Airport and is required for the Airport to receive financial assistance from the FAA.

<sup>3</sup> FAA requires sufficient detail from the civil airports for FAA to determine its approval authority under Section 163 of the FAA Reauthorization Act of 2018, as well as the impact of the safety and efficiency of aircraft operations based on details included in proposed changes to ALPs.

<sup>4</sup> Civil Airport Owner/Operator input is advisory only and does not hold the same legal significance as federal agencies.

**Alternative 1 (Preferred Alternative and Proposed Action).** Ebbing ANG Base would receive up to 36 total aircraft (12 RSAF F-16s and 24 F-35s) incrementally during the period from about 2023 through 2029. Primary flight operations would occur at Ebbing ANG Base and associated designated airspace. No changes to established Special Use Airspace configurations (i.e., size, shape, or location) are proposed to support the operations of the FMS aircraft. Mission enhancements as part of recapitalization would increase the number of personnel on Ebbing ANG Base by approximately 384. Concurrently, 23 facilities sustainment, restoration, and modernization projects would occur at Ebbing ANG Base to provide modern facilities and infrastructure to support the FMS aircraft's maintenance, training, and operational requirements. (*FEIS, Vol. 1, Section 2.2.3*). The number of training operations would vary over the implementation period and would continue to include daytime training operations and introduce up to 600 additional annual nighttime training operations (*FEIS, Vol. 1, Table 2.2-4, Page 2-9*). The nighttime operations would occur at Ebbing ANG Base and within associated airspace.

The DAF evaluated three different scenarios under the Proposed Action for F-35A and F-35B afterburner use: (1) 5% of departures, (2) 50% of departures, and (3) 95% of departures (hereinafter referred to as the 5%, 50%, and 95% afterburner scenarios). Noise levels are slightly higher under the 95% afterburner scenario than scenarios in which F-35 afterburner use would be limited to 50% or to 5% of total departures. Each afterburner scenario resulted in a relative amount of land area exposed to aircraft-related noise more than day-night average sounds levels (DNL) of 65 decibels (dB), with lower afterburner use resulting in less land area exposed (*FEIS, Vol. 1, Section 3.3.4*).

The FAA's federal action would be a direct outcome of responding to a request from the City of Fort Smith for approval to update their ALP. As explained in section I. of this ROD, the DAF's basing proposal under the Preferred Alternative will involve construction of infrastructure within the airport boundary requiring FAA approval of certain changes to the City of Fort Smiths ALP.

**Alternative 2 Selfridge ANG Base, Michigan.** Alternative 2 entails the beddown of the FMS PTC at Selfridge ANG Base, MI. The number of aircraft and personnel, as well as the roll-out timeframe would be the same as the Proposed Action, w Alternative 1 also requiring modern facilities and infrastructure to support the FMS aircraft's maintenance, training, and operational requirements (*FEIS, Vol. 1, Sections 2.3.2 and 2.3.3*). Aircraft operations would use existing designated airspace (*FEIS, Vol. 1, Section 2.3.1*).

The FAA has no approval authorities under Alternative 2.

As with the Alternative 1 the DAF evaluated 5%, 50%, and 95% afterburner usage scenarios for Alternative 2, with lower afterburner use resulting in less land area exposed to aircraft-related noise more than DNL 65 dB. Because areas in the vicinity of Selfridge ANG Base are in a marginal nonattainment area for ozone and a maintenance area for carbon monoxide and particulate matter, nitrogen oxides (NOx) emissions from Alternative 2 would exceed the conformity threshold of 100 tons per year. Even under reduced afterburner scenarios, the net change in emissions would exceed the General Conformity Rule (GCR) emissions de minimis value for NOx. While this alternative could be selected with a waiver (AFMAN 32-7002, Section 4.4.4), the NOx emissions increase

would trigger the requirement for a positive general conformity determination before implementation.

**No Action Alternative:** Under the No Action Alternative, the DAF would not consolidate and relocate the FMS training activities and RSAF operations to Ebbing ANG Base or Selfridge ANG Base to establish a permanent PTC at a single location. This alternative would negatively impact the DAF's and multiple FMS nation partners' ability to train effectively as airspace and F-35 simulator availability at Luke Air Force Base move toward full capacity (*FEIS, Vol. 1, Section 2.5*). The affected environment (*FEIS, Vol. 1, Section 3*) for each resource area would remain the same under the No Action Alternative.

#### **IV. Environmentally Preferred Alternative**

Of the alternatives considered, the environmentally preferred alternative is the No Action Alternative because taking no action would result in the lowest number of acres and people exposed to noise impacts and the least amount of air emissions from aircraft operations. Additionally, there would be no impacts to environmental resources from construction, such as soil and water resources.

#### **V. Public and Agency Involvement**

The public, tribal governments, as well as local, state and federal agencies were involved in the development of the EIS from the Federal Register Notice of Intent to Prepare an EIS on January 14, 2022, through the EPA's Federal Register Notice of Availability of the Final EIS on February 23, 2023.

The scoping comment period ran from January 14<sup>th</sup> to February 14<sup>th</sup>, 2022, with scoping meetings held on February 1<sup>st</sup> and 3<sup>rd</sup>, 2022. One comment was received via mail, with 26 comments submitted via the EIS website and 40 oral comments given during the scoping meetings.

The Notice of Availability of the Draft EIS was published in the Federal Register on September 2, 2022 with a 45-day public comment period that ended on October 17, 2022. Public Hearings on the Draft EIS were held on September 21<sup>st</sup>, 28<sup>th</sup> and October 5<sup>th</sup>, 2022. Thirty public comments were received via the EIS website with 6 written and 56 oral comments received during the public hearings. Agencies commenting on the Draft EIS included the Michigan Department of Environment, Great Lakes and Energy, U.S. Department of Interior, and U.S. Environmental Protection Agency

No comments were received as a result of the Notice of Availability of the Final EIS. For more information, please read Chapter 5 and Appendix A of the FEIS.

#### **VI. Government to Government Consultation**

Federally recognized tribes were notified of the proposed action and its Area of Potential Effect via government-to-government consultation letters on January 11, 2022, as well as subsequent email outreach to unresponsive tribes in February and March 2022. A list of those tribes may be found in Appendix A. Most of tribes had no objection to the project or were unresponsive. Several tribes wanted to be contacted if unanticipated discoveries were made during construction. The Citizen Potawatomi Nation was only interested in the



Selfridge proposal and not the proposed action. The Cherokee Nation expressed concerns regarding inadvertent discoveries of resources and human remains stemming from the Trail of Tears. The National Park Services map of Trail of Tears generally locates the resource outside the APE. See *IX. Mitigation Summary*, below for information concerning unanticipated discoveries during construction. For more information concerning tribal interests and consultation, see Sections 3.7, 4.7 and Appendix A, Section A.3 for more detailed discussion.

## VII. Agency Coordination and Consultations

During development of the EIS, local, state and federal agencies with jurisdiction that could be affected by the various alternatives were contacted. Agencies contacted included, but were not limited to, the U.S. Fish and Wildlife Service, Michigan State Historic Preservation Officer (SHPO), Arkansas SHPO, Oklahoma SHPO, Michigan Department of Environment, and Arkansas Department of Environmental Quality. All correspondence with federal, state, and local agencies is included in Appendix A, Section A.2, *Regulatory Consultations*. The Department of Interior commented on potential impacts to wilderness areas, national parks, and endangered species by the Proposed Action. The Michigan Department of Environment, Great Lakes and Energy commented on water resource issues at the Alternative 2 location. The U.S. Environmental Protection Agency comment on potential impacts on noise, Environmental Justice communities, water resources, pollinator habitat, floodplains, and cultural resources. The U.S. Fish and Wildlife Service commented with endangered species concerns. For more information about these concerns and their disposition, please see Chapter 3 and Appendix A, Section A.1.3 for more detailed discussion.

## VIII. Environmental Consequences

The EIS was prepared to disclose the analysis and the potential environmental effects of the Proposed Action and its alternatives, including the No Action Alternative in accordance with the requirements of NEPA, the *CEQ Regulations for Implementing the Procedural Provisions of NEPA* (40 CFR Parts 1500-1508); FAA Order 1050.1F, *Environmental Impacts: Policies and Procedures*, and 5050.4B, *National Environmental Policy Act (NEPA) Implementing Instructions for Airport Actions*; and DAF's procedures for environmental impact analysis outlined in 32 CFR, Part 989, *Environmental Impact Analysis Process*. This Section includes a brief summary of the potential impacts resulting from implementation of the Proposed Action. More detailed discussions are contained in Chapter 3 of the Final EIS.

**Noise.** The Proposed Action would result in 10 to 18 decibel increases to representative noise-sensitive locations within the 65 dbA noise contour (see Table 3.3-5 of the Final EIS). That is greater than a 1.5 dB increase within the 65 DNL noise contour, which is considered a significant impact as described in Exhibit 4-1 of FAA Order 1050.1F and Table 7-1 of FAA Order 5050.4B. Under the Proposed Action there would be an estimated 12,654 people living within the 65 DNL noise contour as shown in Table 3.3-4 of the Final EIS.

The DAF evaluated three different scenarios under the Proposed Action for F-35A and F-35B afterburner use: (1) 5% of departures, (2) 50% of departures, and (3) 95% of departures (hereinafter referred to as the 5%, 50%, and 95% afterburner scenarios). Noise levels are slightly higher under the 95% afterburner scenario than scenarios in which F-35 afterburner use would be limited to 50% or to 5% of total departures. Each afterburner scenario resulted

in a relative amount of land area exposed to aircraft-related noise more than day-night average sounds levels (DNL) of 65 decibels (dB), with lower afterburner use resulting in less land area exposed (*FEIS, Vol. I, Section 3.3.4*). See XI. *Mitigation Summary* below for proposed noise mitigation.

**Cultural Resources.** There are no effects to archaeological resources or traditional cultural properties, and no adverse effects to architectural resources under the airspace or on and surrounding the installation. There were concerns raised during government-to-government tribal consultation due to the proximity of the Trail of Tears to the APE of the Proposed Action. See Section 3.7 of the Final EIS and Section XI. *Mitigation Summary* below for how that concern was addressed.

**Water Resources.** Construction activities associated with the Proposed Action would result in increased surface water runoff and potential for soil erosion, thus resulting in direct and indirect minor impacts to surface water, groundwater, and wetlands. See Section 3.9 of the Final EIS and Section XI. *Mitigation Summary* below for how potential impacts to water resources was addressed.

## IX. Mitigation Summary

As indicated in their ROD, the DAF has adopted all practicable means to avoid or minimize environmental harm from the alternative selected based on the identification and assessment of mitigation measures in the FEIS. The Air Education and Training Command (AETC) proponent shall implement the mitigations listed below by resource area. The AETC proponent will develop a Mitigation Plan within 90 days of the signature of their ROD, which was March 11, 2023, that identifies principal and subordinate organizations with responsibility for oversight and execution of specific mitigations identified in this ROD in a measurable fashion. The proponent shall not implement any impact-inducing actions related to the FMS PTC before the applicable mitigation measures described in this ROD are funded and put in place. The proscriptioin includes conducting ongoing monitoring of the amount of afterburner use associated with number of flight operations as analyzed in the FEIS. In addition, and if appropriate, the FAA and City of Fort Smith may review and provide input to the proponent's mitigation and monitoring plan. Thus, the DAF will ensure that AETC coordinates review of their mitigation and monitoring plan with the FAA and the City of Fort Smith.

The mitigations identified to be implemented by the AETC are summarized below and the details are in the FEIS (Vol. 1, Section 3 and 3.11).

### *Noise:*

- Limiting afterburner usage to up to 5% of all takeoffs and ensure pilots record afterburner use for tracking, monitoring, and reporting biannually.
- Increase the distance between aircraft and noise-sensitive locations by adjusting routing.
  - F-35 aircraft departures from RWY 8 to the Hog MOA airspace complex will turn from runway heading after crossing the river rather than before.
  - F-35 aircraft will route directly into the MOA complex from the north rather to the southwest over inhabited areas.
  - Departures of F-35 aircraft from RWY 26 to the Hog MOA complex will delay the turn from runway heading until after crossing into Oklahoma, reducing time spent directly over densely populated areas.

- When maneuvering to make practice approaches to the airfield, F-35 aircraft will turn at the end of the runway rather than several thousand feet past the end of the runway when maneuvering for non-radar-assisted practice approaches.
- F-35 aircraft will conduct reduced-power departures. Full power will be used during departures to get the aircraft to 300 knots, at which point the engine power would be reduced to maintain 300 knots during the continued climb.

*Cultural Resources.* In response to the Cherokee Nation concern about the project's proximity to the Trail of Tears, and as mitigation for potential impacts to undiscovered archaeological sites, contracting for the construction phase of the project will require monitoring of all ground-disturbing activities by an archaeologist meeting the Secretary of Interior's Standards. At the conclusion of monitoring, a report will be prepared and submitted to the Tribe and the Arkansas State Historic Preservation Officer.

*Water Resources.* A wetland delineation and jurisdictional determination in the area proposed for aircraft barrier arresting kits and supporting road infrastructure is required. Barrier arresting kits and supporting access roads will be built to avoid any discharge into any wetlands observed in the wetland delineation unless a Clean Water Act Section 401 certificate is acquired and any unavoidable wetland impacts are compensated for. If the construction of any barrier arresting kits or supporting access roads requires the discharge of dredged or fill material into the delineated wetlands, a Clean Water Act Section 404 permit will also be required.

The FAA, through review of the AETC's mitigation and monitoring plan, is committed to working with the DAF and AETC to develop future mitigation measures, should those cited above are not effective.

## **X. Environmental Review Summary and Adoption**

The CEQ regulations and FAA policy and procedures for implementing NEPA provide for FAA to adopt another agency's FEIS. Specifically, when FAA, as a cooperating agency, reviews the lead agency's FEIS and determines that it is sufficient and adequately addressed FAA's comments and suggestions, FAA may adopt the FEIS without recirculating it (40 CFR 1506.3).

FAA, as a cooperating agency, participated substantially and meaningfully throughout the NEPA process, including preparation of the DEIS and FEIS, to ensure the FEIS included adequate information and evaluation of the impacts of the DAF's proposed actions, including military and civil aircraft noise. The FAA independently reviewed the DAF's FEIS and determined the FEIS to be comprehensive in analyzing the scope of the DAF's proposed F-35 and F-16 aircraft basing and training activities at Ebbing ANG and FSM and that the evaluation of the impacts on the human environment is adequate to support FAA's required evaluation of the City of Fort Smith's request to update their ALP. FAA also concludes that the impacts evaluated therein are substantially the same as the impacts that FAA must analyze under its proposed action whether to approve the City of Fort Smiths ALP update request. The DAF's FEIS also addresses FAA's required components for adoption because it meets the requirements for an adequate EIS under 40 CFR Parts 1500-1508 and FAA Order 1050.1F and reflects the comments and expert input provided by FAA as a cooperating agency. Based on our determination of the sufficiency of the DAF's FEIS and adequacy of its incorporation of our comments, FAA decided to adopt the document

without the need for recirculation in accordance with 40 CFR 1506.3.

The CEQ regulations also specify the contents of a ROD at 40 CFR §1505.2. FAA reviewed the ROD prepared by the DAF, selecting Alternative 1 (*Preferred Alternative and Proposed Action*) as described in the FEIS. The DAF's ROD clearly stated the decision being made and identified Alternative 1 as the preferred action alternative. Per the cooperating agency commitment, the DAF provided FAA with preliminary versions of the draft and final EIS documents for review, and FAA provided comments in support of the analysis regarding areas of FAA's subject matter expertise and jurisdiction. FAA also circulated the draft and final documents to relevant FAA offices and programs, compiled comments received, and submitted them to the DAF. Subsequently, the FAA and DAF participated in comment resolution meetings, in which the DAF addressed FAA-related comments or resolved any outstanding issues.

## **XI. Agency Findings and Determinations**

The following determinations are prescribed by the statutory provisions set forth in the Airport and Airway Improvement Act of 1982, as codified in 49 U.S.C. § 47106 and 47107.

**The project will be depicted on the ALP pursuant to 49 U.S.C. § 40103(b) and 47107(a)(16); 14 C.F.R. Part 77, Objects Affecting Navigable Airspace; and 14 C.F.R. Part 157, Notice of Construction, Alteration, Activation, and Deactivation of Airports.** The proposed project is currently undergoing final design by the AETC and is going through FAA review for airspace impacts on FSM. The final design of all proposed development at FSM will be depicted on the ALP by the airport sponsor.

**The project is consistent with existing plans of public agencies for development of the area (49 U.S.C. § 47106(a) and Executive Order 12372).** The determination prescribed by statutory provision. To make this determination, the FAA considered local land use and development plans and requested confirmation from local authorities concerning consistency determinations. The FAA considered the plans, goals and policies of local governments and provided opportunities for local governments and the public to comment on the scope and findings of the EIS. Consistency with local plans is evidenced by local planning authorities moratorium on noise-sensitive land use development until the environmental process is complete. At that point, local planning authorities may make informed decisions regarding future land use planning and approval actions for noise-sensitive land uses and development.

**The project is reasonably necessary for use in air commerce or in the interests of national defense pursuant to (49 U.S.C. § 44502(b)).** The FAA has determined that the proposed project would maintain the safety, utility, and efficiency of FSM, and is therefore reasonably necessary for use in the interest of air commerce and national defense. The proposed action will be developed to ensure that FSM operates in the safest manner possible and to reduce risk of runway incursions to the extent practicable.

**The FAA has given the project an independent and objective evaluation required by the Council on Environmental Quality (40 C.F.R. § 1506.5).** As documented in the FEIS and in this ROD, the FAA has objectively evaluated all reasonable alternatives for meeting the Purpose and Need (see 40 C.F.R. § 1502.14(a)). The environmental review included identifying the Purpose and Need, identifying reasonable alternatives, fully analyzing and

disclosing potential environmental impacts, and developing appropriate mitigation measures. The FAA consulted on the technical analysis provided in the Draft and Final EIS. The FAA furnished guidance and participated in the preparation of the EIS by providing input, advice, and expertise throughout the planning and technical analysis, along with administrative direction and legal review of the project. From its inception, the FAA has taken a strong leadership role in the environmental evaluation of the Project and has maintained its objectivity.

## **XII. Decision**

Approval by the FAA to implement the DAF's Proposed Action signifies that applicable federal requirements relating to airport development and planning have been met and permits the City of Fort Smith to proceed with the projects, including construction of the barrier kits and arm/de-arm berms at FSM.

We have carefully considered the FAA's goals and objectives in relation to the various aeronautical aspects of the DAF's Proposed Action at Ebbing ANG Base, located on FSM as discussed in the Final EIS. We have considered the purpose and need that this project would serve; the alternative means of achieving the purpose and need; the environmental impacts of these alternatives; and the mitigation to preserve and enhance the human, cultural, and natural environment. Under the authority delegated by the Administrator of the FAA, we find that the DAF's Proposed Action, including construction of the arresting barrier kits and arm/de-arm berms at FSM is reasonably supported. We, therefore, direct that the following Agency Actions and Approvals be taken to carry out this decision, including the following:

1. Approval of the ALP to depict the proposed improvements pursuant to 49 U.S.C. § 40103(b) and 47107(a)(16); 14 C.F.R. Part 77, Objects Affecting Navigable Airspace; and 14 C.F.R. Part 157, Notice of Construction, Alteration, Activation, and Deactivation of Airports, subject to required airspace review coordination and successful completion of said coordination.
2. Determination under 49 U.S.C. § 44502(b) that the airport development is reasonably necessary for use in air commerce or in the interests of national defense.
3. Determination under 49 U.S.C. § 47106(a)(1) that the Selected Alternative is consistent with Existing Plans of Public Agencies Responsible for Development in the Area.
4. Approval of a Construction Safety and Phasing Plan to maintain aviation and airfield safety during construction pursuant to FAA Advisory Circular 150/5370-2F, Operational Safety on Airports During Construction, [14 C.F.R. Part 139 (49 U.S.C. § 44706)].

### **Approved and Ordered**

**D CAMERON**  
**BRYAN**

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CAMERON BRYAN  
Date: 2023.05.19  
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D. Cameron Bryan, Acting Director  
Airports Division, Southwest Region  
Federal Aviation Administration

### **RIGHT OF APPEAL**

This ROD constitutes a Final Order of the FAA Administrator and is subject to exclusive judicial review under 49 U.S.C. § 46110 by the U.S. Circuit Court of Appeals for the District of Columbia or the U.S. Circuit Court of Appeals for the circuit in which the person contesting the decision resides or has its principal place of business. Any party having substantial interest in this order may apply for review of the decision by filing a petition for review in the appropriate U.S. Court of Appeals no later than 60 days after the order is issued in accordance with the provisions of 49 U.S.C. § 46110.

Any party seeking to stay the implementation of this ROD must file an application with the FAA prior to seeking judicial relief, as provided in rule 18(a) of the Federal Rules of Appellate Procedure.