

**ORDER WITHDRAWING  
Record of Decision (ROD)  
dated July 20, 2021  
for the LaGuardia Airport (LGA) Access Improvement Project**

This Order withdraws the Record of Decision (ROD) issued by the Federal Aviation Administration (FAA) on July 20, 2021, for the LaGuardia Airport (LGA or the Airport) Access Improvement Project (Project) requested by the Port Authority of New York and New Jersey (Port Authority). The FAA issued the ROD subsequent to public release of the Final Environmental Impact Statement (EIS) for the Project. The ROD was informed by the analysis in the Final EIS, which was prepared and issued by the FAA as the lead federal agency<sup>1</sup> in compliance with the National Environmental Policy Act (NEPA) of 1969 (42 United States Code [U.S.C.] §§ 4321 to 4335); the Council on Environmental Quality (CEQ) implementing regulations<sup>2</sup> for NEPA (40 Code of Federal Regulations [CFR] parts 1500–1508); FAA Order 1050.1F, *Environmental Impacts: Policies and Procedures*;<sup>3</sup> the FAA Order 1050.1F Desk Reference;<sup>4</sup> and FAA Order 5050.4B, *National Environmental Policy Act (NEPA) Implementing Instructions for Airport Actions*.<sup>5</sup> The ROD was issued pursuant to 49 U.S.C. § 40101, *et seq.* (Part A) and 49 U.S.C. § 47101, *et seq.* (Part B), and constituted a final order of the FAA Administrator.

**Background**

In 2018, the Port Authority, as operator of the Airport, proposed the Project to construct and operate a new Automated People Mover (APM) system to provide a reliable transit alternative for air passenger and employee access to the Airport. The Project would connect two on-Airport stations with an off-Airport transfer station at Willets Point. The off-Airport station would provide connections to the Mets-Willets Point stations of the LIRR Port Washington Branch and the New York City Transit (NYCT) Subway Flushing Station (7 Line). The off-Airport station would also provide a connection to a new off-Airport employee parking option located at Willets Point.

**Project Description**

The Project included construction of the following components:

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<sup>1</sup> The FAA served as lead federal agency for preparation of the EIS; however, the EIS was developed in consultation with 6 cooperating agencies and 11 participating agencies, as discussed in Section 2 of the ROD.

<sup>2</sup> The NEPA review documented in the Final EIS was conducted under the regulations at 40 CFR parts 1500-1508 in effect as of the issuance of the Notice of Intent on May 3, 2019. The Council on Environmental Quality issued a final rule to update the regulations implementing NEPA on July 16, 2020 (see 85 Federal Register 44303). These regulatory revisions, which took effect on September 14, 2020, applied to any NEPA process begun after that date. Pursuant to 14 CFR § 1506.13 of the September 2020 regulations, an agency could apply the updated regulations to ongoing activities and environmental documents started before September 14, 2020. The FAA determined that the Final EIS would be completed under the regulations in effect as of the issuance of the Notice of Intent on May 3, 2019. All citations in this Order are to the CEQ regulations that were in effect at the time of the issuance of the Notice of Intent on May 3, 2019.

<sup>3</sup> US Department of Transportation, Federal Aviation Administration, Order 1050.1F, *Environmental Impacts: Policies and Procedures*, July 16, 2015.

<sup>4</sup> US Department of Transportation, Federal Aviation Administration, *Order 1050.1F Desk Reference*, Version 2, February 2020.

<sup>5</sup> US Department of Transportation, Federal Aviation Administration, Order 5050.4B, *National Environmental Policy Act (NEPA) Implementing Instructions for Airport Actions*, April 28, 2006.

- An aboveground, elevated fixed guideway APM system with three APM stations (two on-Airport and one off-Airport) connecting the Airport to the NYCT subway and the LIRR commuter rail. The APM system would include:
  - passenger walkway systems connecting the APM stations to passenger terminals, on- and off-Airport parking garages, public transportation, and ground transportation facilities;
  - connections to the Airport Central Hall, Airport parking garage connector, and existing subway and LIRR stations, to support the APM walkway system connections, including elevators, escalators, and stairs (that is, vertical circulation cores) to garage levels, terminals, and mass transit;
  - an APM operations, maintenance, and storage facility (OMSF);
  - three traction power substations to provide electrical power to the APM system;
- Parking for Airport, APM, and MTA employees, as well as replacement Citi Field parking, located at the OMSF;
- Utilities infrastructure, both new and modified, to support the Project;
- A new Consolidated Edison 27-kilovolt electrical industrial station located adjacent to the OMSF;
- Acquisitions of temporary and permanent easements on portions of certain parcels to facilitate construction of the Project; and
- Connected actions to allow construction of the Project, including:
  - temporary MTA bus storage/parking facility during construction of the OMSF;
  - relocation of Citi Field parking spaces temporarily displaced during construction;
  - Passerelle Bridge replacement to accommodate the proposed off-Airport APM station;
  - operational improvements to the Mets-Willets Point LIRR Station and supporting physical improvements; and
  - relocation of World's Fair Marina facilities to accommodate the proposed APM guideway.

### **Environmental Impact Statement**

The FAA initiated the EIS by publishing a Notice of Intent to prepare an EIS and request for scoping comments for the Project in the *Federal Register* on May 3, 2019.<sup>6</sup> Subsequently, the Draft EIS was developed to provide a fair and full discussion of all environmental impacts of the Project and any potential reasonable alternatives, including cumulative and significant impacts. The EIS process included appropriate planning and design for avoidance, minimization, and/or compensation of impacts, as required by NEPA, the CEQ implementing regulations, other special purpose environmental laws, and the appropriate FAA environmental directives.

The Notice of Availability (NOA) announcing the availability of the Draft EIS, initiating the public comment period, and advertising the public workshops and hearings was published in the *Federal Register* on August 19, 2020.<sup>7</sup> The original deadline for the FAA to receive comments was 5:00 p.m. Eastern Time, Monday, October 5, 2020; however, in response to requests from the public to extend the

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<sup>6</sup> Notice of Intent to Prepare an Environmental Impact Statement (EIS) and Initiate Section 106 Consultation for the Proposed LaGuardia Access Improvement Project at LaGuardia Airport (LGA), New York City, Queens County, New York, 84 Federal Register 19151 (May 3, 2019).

<sup>7</sup> Notice of Availability of a Draft Environmental Impact Statement (EIS) and Notice of Public Workshops and Hearings for the Proposed LaGuardia Access Improvement Project at LaGuardia Airport (LGA), New York City, Queens County, New York, 85 Federal Register 51142 (August 19, 2020).

comment period, the FAA was able to accommodate a 15-day extension of the comment period.<sup>8</sup> Thus, the comment period was extended to 5:00 p.m. Eastern Time, Tuesday, October 20, 2020. As a part of the Draft EIS process, the FAA held two public workshops (September 22 and 23, 2020) and three public hearings (September 22, 23, and 24, 2020). These workshops and hearings were held virtually via Zoom due to the ongoing COVID-19 pandemic. During the public comment period, the FAA received a total of 4,228 comment submissions on the Draft EIS.

As part of the EIS process, the FAA took into consideration all comments received on the Draft EIS and responded to the substantive comments in the Final EIS.<sup>9</sup> The Final EIS included revisions to reflect comments received, issues raised through the public involvement, and public workshop and hearing process, and other applicable considerations.<sup>10</sup> The Final EIS was also updated with new/updated information not available when the Draft EIS was released in August 2020. In consideration of the changes and revisions to the analysis, the FAA found that the Final EIS did not include any substantial changes to the Project or significant new circumstances or information relevant to environmental concerns and bearing on the Project or its impacts. The NOA announcing the availability of the Final EIS was published in the *Federal Register* on March 18, 2021.<sup>11</sup>

Subsequent to the release of the Final EIS, the ROD was issued on July 20, 2021, approving federal actions requested by the Port Authority related to funding for construction of the Project.<sup>12</sup> Based on the facts and circumstances at the time, as documented in the administrative record, the ROD was accurate, well-supported, and warranted.

### **Current Status and Changed Circumstances**

In making my decision to withdraw the ROD dated July 20, 2021, I have considered the change in status of the LGA Access Improvement Project and substantial new information that has been brought to my attention.

In October 2021, New York Governor Kathy Hochul directed the Port Authority to review alternative mass transit options to the Airport. Per the governor's request, in November 2021, the Port Authority assembled a 3-person panel to oversee the study and provide recommendations based on the study's results.

In March 2023, the Port Authority released the "Options for Mass Transit Solutions to LGA" report, which included the panel's independent analysis of 14 different mass transit options to the Airport. The panel recommended that the Port Authority proceed with implementing improvements to the existing MTA

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<sup>8</sup> Notice of Additional Public Comment Period—Notice of Availability of a Draft Environmental Impact Statement (EIS) and Notice of Public Workshops and Hearings for the Proposed LaGuardia Access Improvement Project at LaGuardia Airport (LGA), New York City, Queens County, New York, 85 Federal Register 63333 (October 7, 2020).

<sup>9</sup> US Department of Transportation, Federal Aviation Administration, *Order 1050.1F, Environmental Impacts: Policies and Procedures*, 7-1.2(e), July 16, 2015.

<sup>10</sup> US Department of Transportation, Federal Aviation Administration, *Order 1050.1F, Environmental Impacts: Policies and Procedures*, 7-1.2(g), July 16, 2015.


<sup>11</sup> Notice of Availability of a Final Environmental Impact Statement (EIS) for the Proposed LaGuardia Access Improvement Project at LaGuardia Airport (LGA), New York City, Queens County, New York, 86 Federal Register 14796 (March 18, 2021).

<sup>12</sup> Availability of Record of Decision for the Environmental Impact Statement (EIS) for the Proposed LaGuardia Access Improvement Project at LaGuardia Airport (LGA), New York City, Queens County, New York, 86 Federal Register 39097, (July 23, 2021).

Q70 LaGuardia Link service and constructing a new non-stop airport shuttle service from Ditmars Boulevard, the terminus of the N/W subway line in Astoria, Queens. Due to foreseeable construction and cost constraints, the expert panel recommended that the Port Authority focus on improving bus services at LGA in the near-term to provide more efficient transit capabilities, and to focus on implementing the shuttle service in the long-term. The Port Authority indicates that improved bus service is projected to serve approximately 5 million passengers annually and cost an estimated \$500 million compared to costs ranging from \$2.4 billion to \$6.2 billion for alternative light rail options.<sup>13</sup> On June 22, 2023, the Port Authority Board of Commissioners approved \$30 million in funding to plan and develop preliminary designs for the bus service improvements at LGA as recommended by the panel. On July 20, 2023, the Port Authority notified the FAA of its intent to officially abandon the Project as approved by the FAA's ROD in favor of pursuing the recommended bus service improvements from the "Options for Mass Transit Solutions to LGA" report.

Based on my consideration of this substantial new information and the changed circumstances concerning access improvements at LGA as discussed above, I am withdrawing the July 20, 2021 ROD for the LGA Access Improvement Project. Accordingly, all approvals for FAA actions within the ROD are also withdrawn. The Port Authority must reinitiate any requests for FAA review and approval as necessary for all aspects of the Project contained within the now-withdrawn ROD should it wish to proceed with any component of the Project, in part or as a whole.

**DAVID A FISH**

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David Fish  
Director, Office of Airports  
Federal Aviation Administration  
Eastern Region

### **Right of Appeal**

This decision constitutes a final order of the FAA Administrator and is subject to exclusive judicial review under 49 U.S.C. § 46110 within sixty days of the date of this order by the U.S. 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.

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<sup>13</sup> Port Authority of New York New Jersey, *Port Authority Board of Commissioners Approves \$30 Million for Planning and Preliminary Design to Improve Mass Transit Access to LaGuardia Airport*, <https://www.panynj.gov/port-authority/en/press-room/press-release-archives/2022-press-releases1/port-authority-board-of-commissioners-approves--30-million-for-p.html> (accessed August 1, 2023).