



**UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.**

Issued by the Department of Transportation  
on the 3<sup>rd</sup> day of January, 2017

Essential Air Service at

**VISALIA, CALIFORNIA**

under 49 U.S.C. § 41731 *et seq.*

**DOT-OST-2004-19916  
DOT-OST-2016-0084**

**ORDER SETTING TOTAL COSTS UNDER THE COMMUNITY  
FLEXIBILITY PILOT PROGRAM**

**Summary**

By this Order, the United States Department of Transportation (the Department) approves the application submitted by the City of Visalia and Visalia Municipal Airport (Visalia) for funding under the Community Flexibility Pilot Program. The Department will enter into a grant agreement with Visalia to provide funding for the construction of two 10-unit tee hangers to serve small single-engine aircraft, and one corporate hanger to serve business jets and large aircraft. In accordance with 49 U.S.C. § 41745(b)(2), Visalia will forego subsidized Essential Air Service (EAS) for a period of 10 years in exchange for a grant of not more than \$3,703,368,<sup>1</sup> twice the amount of the EAS compensation the Department paid during the most recent subsidized 12-month period of EAS pursuant to 49 U.S.C. § 41745(b)(2).

**Background**

By Order 2014-12-7, issued on December 11, 2014, SeaPort Airlines, Inc. (SeaPort) was selected to provide Visalia with 12 nonstop round trips per week to Oakland International Airport (OAK) and 12 nonstop round trips per week to Burbank Bob Hope Airport (BUR), 24 total round trips per week, using 9-seat aircraft at an annual subsidy rate of \$1,990,563. Less than one month later, on January 6, 2014, SeaPort requested that the Department alter the service pattern for Visalia by changing the 12 nonstop round trips per week to Oakland, with 12 nonstop round trips to Sacramento International Airport (SMF). The City of Visalia supported the carrier's request. SeaPort then inaugurated service at Visalia on February 9, 2015.

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<sup>1</sup> See Appendix B.

By Order 2016-1-9, issued on January 20, 2016, the Department issued an emergency request for proposals for replacement service at Visalia<sup>2</sup> as a result of SeaPort abruptly suspending its subsidized EAS, without advance notice, on January 15, 2016, leaving the community without any scheduled air service. In response to the Department’s solicitation for proposals, Boutique Air, Inc. (Boutique Air), Great Lakes Aviation, Ltd. (Great Lakes), and Mokulele Flight Service, Inc. d/b/a Mokulele Airlines, Inc. (Mokulele) submitted proposals for consideration.

**Proposals**

Boutique Air proposed two options, both using 8- or 9-seat Pilatus PC-12 aircraft. Option One proposed 12 nonstop round trips per week to Los Angeles International Airport (LAX) and 12 nonstop round trips per week to OAK, at an annual subsidy rate of \$3,517,077. Option Two proposed 12 nonstop round trips per week to LAX and 12 nonstop round trips per week to Sacramento Executive Airport (SAC), at an annual subsidy rate of \$3,685,196.

Great Lakes proposed to provide Visalia with 12 round trips per week to LAX, using 9-seat Beech 1900-D aircraft, at an annual subsidy rate of \$2,611,510.

Mokulele proposed the following bid to provide EAS at both El Centro and Visalia consisting of the service options in the chart below. The proposals for both communities were separate and distinct and included a \$375,000 annual savings each if a four-year term was selected. Mokulele was later selected to serve El Centro by Order 2016-3-31 (March 25, 2016).

<b>Mokulele Airlines Option One (two-year term):</b>				
<u>EAS Community</u>	<u>Round Trips/Hub</u>	<u>Aircraft</u>	<u>Total two-year subsidy if selected at both El Centro and Visalia</u>	<u>Total two-year subsidy if selected at only one community</u>
El Cento	24 weekly to LAX	9-Seat Cessna Grand Caravan	\$ 4,481,268	\$ 4,681,268
Visalia	24 weekly to LAX	9-Seat Cessna Grand Caravan	\$ 4,256,338	\$ 4,456,338

<b>Mokulele Airlines Option Two (four-year term):</b>				
<u>EAS Community</u>	<u>Round Trips/Hub</u>	<u>Aircraft</u>	<u>Total four-year subsidy if selected at both El Centro and Visalia</u>	<u>Total four-year subsidy if selected at only one community</u>
El Centro	24 weekly to LAX	9-Seat Cessna Grand Caravan	\$ 8,587,536	\$ 8,787,536
Visalia	24 weekly to LAX	9-Seat Cessna Grand Caravan	\$ 8,137,676	\$ 8,337,676

<sup>2</sup> Additionally by that Order, the Department requested proposals to serve El Centro, CA, and Great Bend, KS. Those communities’ EAS have been addressed in separate Orders.

### **Request for Community Comments**

On February 4, 2016, the Department requested community comments regarding this air carrier-selection case. In response, the community requested an extension of the deadline to provide comments. Therefore, the Department extended the due date for community comments until March 9, 2016.

By letter dated March 9, 2016, the Honorable Steve Nelsen, Mayor of the City of Visalia, stated to the Department, “Based on a thorough review of all proposals and consideration of industry trends and the recent history of declining air service performance in Visalia, it is the Council’s belief that none of the carriers have a strong enough proposal to guarantee that Visalia would maintain eligibility in the EAS program and therefore, the City Council has authorized a grant application to the DOT requesting funding under the Community Flexibility Pilot program to fund airport improvements.”

By application dated June 28, 2016, Visalia submitted its proposal for federal assistance under the Department’s Community Flexibility Pilot Program. That application, as well as the complete public file for EAS at Visalia, may be accessed online at [www.regulations.gov](http://www.regulations.gov) by entering Docket “DOT-OST-2004-19916” in the search block.

### **Community Flexibility Pilot Program Background**

On December 12, 2003, the President signed into law Vision 100 -- Century of Aviation Reauthorization Act, P.L. 108-176. Section 405 of that Act established, among other things, a Community Flexibility Pilot Program, under which as many as 10 communities whose scheduled services are currently subsidized or eligible for subsidized service under 49 U.S.C. § 41733(c)(1), may obtain a federal grant by agreeing to forgo their subsidized services for a period of 10 years in exchange for a grant equal to twice the compensation paid to provide EAS during the most recent subsidized 12-month period.<sup>3</sup> By Order 2016-5-8, issued on May 17, 2016, the Department re-solicited applications for the program.

### **Visalia’s Community Flexibility Pilot Program Application**

The Visalia Municipal Airport serves as a general aviation airport for the Visalia and Tulare County Area. Many aircraft ranging from small single-engine aircraft to business jets are based at the airport. The community seeks \$3,703,368 in federal funding under the Community Flexibility Pilot Program to construct two 10-unit tee hangars to serve small single-engine aircraft and one corporate hangar to serve business jets and larger propeller aircraft.<sup>4</sup> The airport is contributing \$269,981, and the State is contributing \$166,651, for a total project cost of \$4,140,000.

These hangars will be located in the hangar development area at the airport. The project will consist of constructing the following features:

- Hangar Building with Concrete Floors;
- Hangar access parking; and
- Utilities.

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<sup>3</sup> See 49 U.S.C. § 41745(b)(2), which is attached to this Order as an appendix.

<sup>4</sup> The actual subsidy paid during the last 12 months of full service (January 2015 through December 2015) for air carriers to serve Visalia was \$1,851,684. Two times this amount is \$3,703,368, the amount the community is eligible to receive through the Community Flexibility Pilot Program. See Appendix B for monthly payout amounts.

The construction of the proposed hangars will provide storage for existing aircraft based at Visalia and attract other aircraft based in the area to relocate to Visalia, which will potentially increase usage at the Visalia Municipal Airport.

### **Eligibility Discussion**

The Department of Transportation and Related Agencies Appropriations Act, 2000, Pub. L. No. 106-69 (Oct. 9, 1999), prohibits the Department from subsidizing EAS for communities located within the 48 contiguous States when per passenger subsidy amounts exceed \$200, unless the communities are located more than 210 miles to the nearest large- or medium-hub airport (the “Subsidy Cap”). On October 9, 2014, the Department issued a Notice of Enforcement Policy announcing how the Department intended to enforce compliance with the Subsidy Cap.<sup>5</sup> As stated in the Notice of Enforcement Policy, all communities receiving subsidized EAS had until September 30, 2015, based on data from October 1, 2014, through September 30, 2015, to ensure compliance with the Subsidy Cap or face possible termination of EAS eligibility. The Federal Aviation Administration Modernization and Reform Act authorized the Secretary of Transportation to waive the Subsidy Cap, subject to the availability of funds, on a case-by-case basis, for a limited period of time.

By Order 2016-8-21, issued on August 29, 2016, the Department made final its tentative determinations in Order 2016-5-17, that Visalia and 21 other communities failed to meet certain eligibility criteria and, thus, were no longer eligible for EAS. These communities were provided an opportunity to petition for a waiver, in accordance with the procedures described in that Order.

On September 26, 2016, Visalia requested a waiver from the Subsidy Cap. That waiver request explained that the community has suffered from poor service provided by their EAS air carriers which contributed to Visalia’s subsidy per passenger being \$204 based on enplanement data from October 1, 2014, through September 30, 2015.<sup>6</sup>

By Order 2016-11-8, issued on November 10, 2016, the Department determined that the service issues Visalia faced arose from the air service provided to the community and granted the requested waiver from the \$200 subsidy cap, thereby making Visalia eligible for the Community Flexibility Pilot Program.

The community’s project is on airport property, and, thus, meets the eligibility criterion in 49 U.S.C. § 41745(b)(3)(B).

### **Decision**

After careful consideration of this matter, including the comments of local officials, the Department has decided to approve Visalia Municipal Airport’s application for federal assistance under the Community Flexibility Pilot Program, pending execution of a Grant Agreement.

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<sup>5</sup> On May 1, 2014, the Department published a Notice of Proposed Enforcement Policy for the Subsidy Cap in the Federal Register, 79 Fed. Reg. 24632, for comment. After a 60-day public comment period and review, the Department issued the Final Notice of Enforcement Policy on October 9, 2014, 79 Fed. Reg. 60951.

<sup>6</sup> Poor service is being defined as excessive cancellations and delays, frequent changes in aircraft type, and/or lack of responsiveness from the incumbent airline to address air service problems.

**ACCORDINGLY,**

1. The Department approves the application of Visalia, California, as submitted by the Visalia Municipal Airport, for a total of \$3,703,368 in funding under the Community Flexibility Pilot Program, for ten years upon execution of a Grant Agreement with the Department and beginning on or about March 1, 2017, ending April 30, 2026;
2. The Department directs Visalia, California, to retain all books, records, and other source and summary documentation to support claims for payment, and to preserve and maintain such documentation in a manner that readily permits its audit and examination by representatives of the Department. Such documentation shall be retained for seventeen years from the service date of this Order or until the Department indicates that the records may be destroyed, whichever comes first. The community may forfeit its compensation for any claim that is not supported under the terms of this Order;
3. This docket will remain open pending further Departmental action; and
4. The Department will serve copies of this Order on the civic officials of Visalia, California, the Manager of Visalia Municipal Airport, Boutique Air, Inc., Great Lakes Aviation, Ltd., and Mokulele Flight Service, Inc. d/b/a Mokulele Airlines.

By:

**JENNY T. ROSENBERG**  
Acting Assistant Secretary for Aviation  
and International Affairs

(SEAL)

*An electronic version of this document is available at*  
<http://www.regulations.gov>

**49 U.S.C. §41745 Community and Regional Choice Programs**

(b) Community Flexibility Pilot Program.-

(1) In general.-The Secretary shall establish a pilot program for not more than 10 eligible places or consortia of units of local government.

(2) Election.-Under the program, the sponsor of an airport serving an eligible place may elect to forego any Essential Air Service for which compensation is being provided under this subchapter for a 10-year period in exchange for a grant from the Secretary equal in value to twice the compensation paid to provide such service in the most recent 12-month period.

(3) Grant.-Notwithstanding any other provision of law, the Secretary shall make a grant to each airport sponsor participating in the program for use on any project that-

(A) is eligible for assistance under chapter 471 and complies with the requirements of that chapter;

(B) is located on the airport property; or

(C) will improve airport facilities in a way that would make such facilities more usable for general aviation.

**Most recent 12 full months of actual subsidy paid for EAS at Visalia, CA**

<b>Month</b>	<b>Actual subsidy paid</b>	<b>Air carrier</b>
Jan-15	\$121,095.00	Great Lakes Airlines
Feb-15	\$29,835.00	Great Lakes Airlines
Feb-15	\$112,420.00	SeaPort Airlines
Mar-15	\$170,236.00	SeaPort Airlines
Apr-15	\$167,024.00	SeaPort Airlines
May-15	\$153,373.00	SeaPort Airlines
Jun-15	\$154,176.00	SeaPort Airlines
Jul-15	\$170,236.00	SeaPort Airlines
Aug-15	\$165,418.00	SeaPort Airlines
Sep-15	\$165,418.00	SeaPort Airlines
Oct-15	\$150,161.00	SeaPort Airlines
Nov-15	\$141,328.00	SeaPort Airlines
Dec-15	\$150,964.00	SeaPort Airlines
	\$1,851,684.00	12 months of subsidy
	<b>\$3,703,368.00</b>	<b>12 months x 2</b>