



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

Issued by the Department of Transportation
On the 14th day of February, 2020

Essential Air Service at

BAR HARBOR, MAINE
(FAIN 69A3452060461)¹

DOCKET DOT-OST-2011-0185

Under 49 U.S.C. § 41731 *et seq.*

ORDER EXTENDING CURRENT CONTRACT

Summary

By this Order, the U.S. Department of Transportation (the Department) is extending the contract of Silver Airways LLC (Silver) to provide Essential Air Service (EAS) at Bar Harbor, Maine, from September 8, 2020, through October 14, 2020. As described in Order 2018-5-9 (May 3, 2018), Silver will continue to provide Bar Harbor with 14 nonstop round trips per week to Boston Logan International Airport (BOS) using 34-passenger Saab 340 aircraft at an annual subsidy rate of \$1,399,714.²

Background

By Order 2018-5-9, the Department selected Silver to provide EAS at Bar Harbor with 14 nonstop round trips per week to BOS using Saab 340 aircraft from July 1, 2018, through September 7, 2020, for an annual subsidy of \$1,399,714.³

The complete public file for EAS at Bar Harbor may be accessed online through the Federal Dockets Management System at <http://www.regulations.gov> by entering "DOT-OST-2011-0185" in the "SEARCH" field.

¹ Federal Award Identification Number.

² Such subsidy is calculated and distributed on a fiscal year basis, subject to the availability of funds.

³ Hyannis Air Service, Inc. d/b/a Cape Air provides part of Bar Harbor's EAS for the contract term from July 1, 2016, through June 30, 2020.

Bar Harbor Request

By letter dated November 20, 2019, Mr. Brad Madeira, Airport Manager for Hancock County-Bar Harbor Airport, requested that Silver's contract be extended beyond September 7, 2020, to end on October 14, 2020. Silver also submitted a letter seeking approval for the extension of its contract.

The Airport Manager further requested reconsideration of the definition of peak season. The Department is not making a decision on the community's peak season definition at this time.

Decision

The Department is extending the contract term of Silver at Bar Harbor, as described in Order 2018-5-9, until October 14, 2020, at the current annual subsidy of \$1,399,714 (see Appendix A of this Order).

An Order Requesting Proposals for Bar Harbor's EAS for a new contract term starting October 15, 2020, will be forthcoming.

This Order is issued under authority delegated in 49 CFR Part 1.25a(b)(6)(ii)(D).

ACCORDINGLY,

1. The Department extends the contract term in Order 2018-5-9 (May 3, 2018) of Silver Airways LLC to continue to provide Essential Air Service at Bar Harbor, Maine, from September 8, 2020, through October 14, 2020, with all other terms and conditions of Order 2018-5-9 remaining in effect;
2. The Department sets the rate of compensation for Silver Airways LLC for the provision of Essential Air Service at Bar Harbor, Maine, as described in Appendix A;
3. The Department directs Silver Airways LLC 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 seven years from the issuance date of this Order or until the Department indicates that the records may be destroyed, whichever comes first. Copies of flight logs for aircraft sold or disposed of must be retained. The air carrier may forfeit its compensation for any claim that is not supported under the terms of this Order;
4. This docket will remain open until further order of the Department; and

5. The Department will serve a copy of this Order on the mayor of Bar Harbor, Maine, the airport manager of Hancock County-Bar Harbor Airport, Hyannis Air Service, Inc. d/b/a Cape Air, and Silver Airways LLC.

By:

David E. Short
Deputy Assistant Secretary
Aviation and International Affairs

(SEAL)

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

Silver Airways LLC
Essential Air Service to be provided at Bar Harbor, Maine
DOT-OST-2011-0185

<u>Annual Subsidy:</u>	\$1,399,714
<u>Effective Period:</u>	September 8, 2020, through October 14, 2020
<u>Scheduled Service:</u>	14 nonstop round trips per week
<u>Hub:</u>	Boston Logan International Airport (BOS)
<u>Aircraft:</u>	34-passenger Saab 340
<u>Rate per Eligible Flight:</u>	\$3,499 ¹
<u>Weekly Ceiling:</u>	\$97,972 ²

Note: The air carrier understands that it may forfeit its compensation for any flights that it does not operate in conformance with the terms and stipulations of the rate Order, including the service plans outlined in the Order and any other significant elements of the required service, without prior approval. The air carrier understands that an aircraft take-off and landing at its scheduled destination constitutes a completed flight; absent an explanation supporting subsidy eligibility for a flight that has not been completed, such as certain weather cancellations, only completed flights are considered eligible for subsidy. In addition, if the air carrier does not schedule or operate its flights in full conformance with the Order for a significant period, it may jeopardize its entire subsidy claim for the period in question. If the air carrier contemplates any such changes beyond the scope of the Order during the applicable period of these rates, it must first notify the Office of Aviation Analysis in writing and receive written approval from the Department to be ensured of full compensation. Should circumstances warrant, the Department may locate and select a replacement air carrier to provide service on these routes. The air carrier must complete all flights that can be safely operated; flights that overfly points for lack of traffic will not be compensated. In determining whether subsidy payment for a deviating flight should be adjusted or disallowed, the Department will consider the extent to which the goals of the program are met and the extent of access to the national air transportation system provided to the community.

If the Department unilaterally, either partially or completely, terminates or reduces payments for service or changes service requirements at a specific location provided for under this Order, then, at the end of the period for which the Department does make payments in the stipulated amounts or at the stipulated service levels, the air carrier may cease to provide service to that specific location without regard to any requirement for notice of such cessation. Those adjustments in the levels of subsidy and/or service that are mutually agreed to in writing by the Department and air carrier do not constitute a total or partial reduction or cessation of payment.

Subsidy contracts are subject to, and incorporate by reference, relevant statutes and Department regulations, as they may be amended from time to time. However, any such statutes, regulations, or amendments thereto shall not operate to controvert the foregoing paragraph.

Funds may not be available for performance under this Order beyond December 20, 2019. The Government's obligation for performance under this Order beyond December 20, 2019, is subject to the availability of funds from which payment for services can be made. No legal liability on the part of the Government for any payment may arise for performance under this Order beyond December 20, 2019, until funds are made available to the Department for performance. If sufficient funds are not made available for performance beyond December 20, 2019, the Department will provide notice in writing to the carrier.

All claims for payment, including any amended claims, must be submitted within 90 days of the last day of the month for which compensation is being claimed. For example, claims for service provided in July must be filed by October 31st; August claims must be submitted by November 30th and so on.

1 Annual compensation of \$1,399,714 divided by 400 annual departures (102 days x 4 flights per day x 98 percent completion).

2 28 arrivals and departures per week multiplied by \$3,499 per flight.