

RESOLUTION NUMBER R- 283509

ADOPTED ON MAR 07 1994


BE IT RESOLVED, by the Council of The City of San Diego, as follows:

1. That the City Manager is hereby directed to not pursue diversion of revenues from Montgomery Field to the General Fund;
2. That the issue of privatization be included as part of the City's overall competitivization program;
3. That the shortlist of three management companies, as recommended by the review committee, is hereby approved;
4. That the Request for Proposal ("RFP") development process continue so that the RFP will be submitted for approval to the Public Facilities and Recreation Committee immediately after a Competitivization Policy is adopted by the City Council;

all as described in the City Manager's Report attached hereto.

APPROVED: JOHN W. WITT, City Attorney

By

  
Harold O. Valderhaug  
Chief Deputy City Attorney

HOV:ps  
02/10/94  
Or.Dept:Prop.  
R-94-1183

DATE ISSUED:

REPORT NO.:

ATTENTION: Public Facilities and Recreation Committee, Docket  
of February 16, 1994

SUBJECT: Privatization of Montgomery Field

REFERENCES: City Manager's Report: 93-256, 10/11/93  
P F & R Report 93-256, 8/26/93  
Resolution R-282781

SUMMARY:

Issue: - Should the City Council direct the City Manager to pursue privatization of Montgomery Field and diversion of revenues from the airports enterprise fund to the general fund?

Manager's Recommendation: - (1) That the City Council not pursue diversion of revenues to the general fund, and (2) that the issue of privatization be included as part of the City's overall competitivization program, and (3) the Council approve the shortlist of three management companies as recommended by the review committee, and (4) that the RFP development process continue so that the RFP will be submitted for approval to the Public Facilities and Recreation Committee immediately after a Competitivization Policy is adopted by the City Council.

Other Recommendations: - At their meeting of August 26, the Airports Advisory Committee unanimously agreed that the city should not pursue privatization and diversion of revenues to the general fund.

Fiscal Impact: - There is no cost associated with this action.

BACKGROUND

During the Fiscal 1994/1995 budget hearings, Staff was asked to investigate the possibility of privatizing Montgomery Field. It was suggested that revenues from Montgomery Field could be diverted

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to the general fund. In FY 93, Montgomery Field's revenues exceeded expenses by approximately \$600,000. Pursuant to FAA requirements, these funds were used for airport purposes such as subsidizing Brown Field, capital improvement projects and matching share for federal grants.

In a subsequent staff report it was recommended that a way to proceed with privatizing Montgomery Field would be to: 1) issue a Request for Qualifications, 2) short list the respondents to two or three, 3) negotiate with these firms for the purpose of developing a common set of assumptions that would serve as the basis for an RFP, 4) share these assumptions and the draft RFP with the Council, 5) issue an RFP to only those involved in the process, and 6) return to Council with a recommendation for an award.

Regarding the diversion of revenues to the general fund, the staff report suggested that this is not in conformance with existing FAA procedures. Nevertheless, it was suggested that if there was a way revenues could be diverted, the private sector would be in the best position to figure out how it could be done. On November 11, 1993, the City Manager was directed to issue a Request for Qualifications and begin the process as outlined above.

#### DISCUSSION:

Four firms responded to the RFQ issued in November -- Johnson Controls, Lockheed Air Terminal, Edgemon/CMS and the County of San Diego. A committee of six professionals was assembled; their task being to select two or three of the four respondents that would proceed to the next round of talks. The selection committee consisted of:

Mr. Joe Conte	President, Southwestern College
Mr. Jack Koerper	Manager, Special Projects, SANDAG
Ms. Sandra Eisberg	Principal, Consultants in Transportation
Mr. John King	President, King Videos
Mr. George Codling	Real Estate Broker
Mr. Larry Selleck	U.S. Air Captain

On December 13, the Committee met and unanimously agreed to recommend the City Council continue discussions with Johnson Controls, Lockheed Air Terminal and The County of San Diego. Committee members felt Edgemon/CMS lacked the experience necessary to continue.

According to the plan as presently developed, the next step is for these three agencies to meet with city officials for the purpose of outlining a common set of assumptions that would serve as the foundation for the RFP. (Parameters need to be established that delineate the extent of authority the City will exercise on a number of airport related issues such as airport noise, rates and charges, land use/development, etc.) These "ground rules" serve to ensure that the respondents will all be bidding on the same package. More importantly, however, they establish the degree of control the City will retain in the management and operation of

airport and consequently its revenue generating potential -- the more control the City is willing to give up, the greater the revenue development potential.

On November 22, Mayor Golding issued a memorandum outlining her proposal to allow private industry and non-profit agencies to directly compete with City departments. To this end, the City Manager is preparing a Competitization Policy that should be ready for Council review within the next few months. Inasmuch as the Montgomery Field privatization issue closely parallels the direction presently being taken by the City, staff respectfully requests the Airports Division be added to the three agencies listed above as potential providers of airport management services for Montgomery Field.

Regarding revenue diversion, this issue has become a highly charged topic of discussion in the aviation industry and United States Congress. Fueled by Mayor Richard Riordan's pledge to utilize excess revenues from Los Angeles International Airport to fund more police officers for the city, the U.S. Department of Transportation responded by auditing a number of airports across the country to ensure compliance with their respective Sponsor's Assurances.

The audits have served to send a message to the industry that revenue diversion is a violation of federal regulations and failure to comply will not only result in repayment of previously issued grants, but possible forfeiture of all future DOT funding -- including funds for projects other than airports.

The Airport and Airway Improvement Act of 1982, as amended, requires (at 49 U.S.C. 2210(a)(12)) that the Secretary of Transportation receive written assurances, before granting funds under the Act, that (among other things):

"...all revenues generated by the airport, if it is a public airport,...will be 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 owner or operator of the airport and directly and substantially related to the actual air transportation of passengers or property..."

The Department of Transportation's Office of Inspector General has undertaken audits of more than two dozen airports over the past two years to verify compliance with this provision (and one other which requires airports maximize financial self-sufficiency). The audits have been focusing on whether FAA's procedures have been adequate to assure that airport sponsors were complying with the revenue accountability requirements imposed when they accepted federal grants-in-aid under the AIP program. The IG has found that in numerous instances, airports have failed to comply with FAA's requirements. Other audits are in process. It was recently learned that the audits will increase in the future.

Reinforcing the federal government's position that revenue diversion will not be tolerated, the United States Congress included language in the fiscal 1994 spending bill for DOT specifically denying all federal transportation funding to any municipality that illegally diverts airport revenues.

In separate legislation to reauthorize Airport Improvement Program (AIP) for three years (H.R. 2739), the House Public Works and Transportation Committee attacked the concept of diversion by directing the DOT secretary to consider, "as a factor mitigating against a grant," the fact that an airport is using revenues for non-airport purposes..."

The most recent indication of the government's position on revenue diversion came in early January when DOT Secretary Pena unveiled the Clinton Administration's five-point aviation initiative, which includes a proposal to create a government corporation to operate the nation's air traffic control system. To promote airport investment and economic growth, Secretary Pena said the administration will prepare multi-year Airport Improvement Program legislation in the next several weeks that sets stricter criteria for obtaining funds. Specifically noted in the initiative was the following statement:

"DOT will continue to enforce prohibitions against the diversion of airport revenues for non-airport related purposes..."

It is interesting to note that in addition to the four firms responding to the RFQ issued in November, a fifth, COMARCO, (the firm managing 5 general aviation airports for Los Angeles County) declined stating, "...because diversion of funds runs contrary to the expressed intent of the Congress, COMARCO has determined it would be inappropriate for us to submit a proposal..."

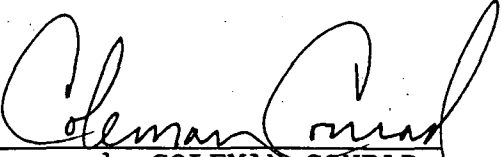
In light of the unprecedented interest being expressed in revenue diversion, staff recommends that the subject of diverting revenues from the airports enterprise fund to the general fund be abandoned.

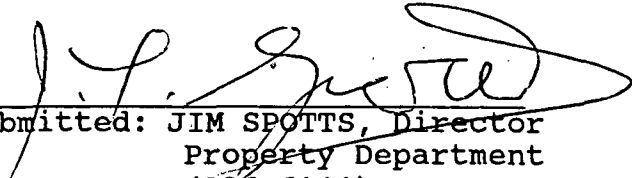
It is further recommended that Council include privatization of City airports as part of the overall competitivization process to be determined in the next few months. The process that has been proceeding would continue, but would be expanded to allow the Airports Division of the General Services Department to compete. Specifically, we will initiate discussions with the three proposers recommended by the evaluation panel and the Airports Division in an effort to develop a common set of assumptions which would be included in an RFP. The RFP would next be submitted for approval to the Public Facilities and Recreation Committee immediately after a Competitivization Policy is adopted by the City Council. An approved RFP would then be submitted to the three proposers recommended by the evaluation panel and a fourth to the

Airports Division to allow for a competition.

ALTERNATIVES:

- 1) Continue efforts to privatize Montgomery Field without allowing for a competitive Airports Division proposal.

  
Approved: COLEMAN CONRAD  
Deputy City Manager

  
Submitted: JIM SPOTTS, Director  
Property Department  
(236-6144)