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NAPA COUNTY BOARD OF SUPERVISORS
Board Agenda Letter

TO:	Board of Supervisors
FROM:	Liz Habkirk for Steven Lederer - Director of Public Works Public Works
REPORT BY:	Liz Habkirk, Deputy Dir. of PW-Gen Services - 259-8321
SUBJECT:	Discussion and Direction to Airport Staff on RFP for Fixed Based Operators

RECOMMENDATION

Director of Public Works requests discussion and direction on the issuance of a Request for Proposals for a Fixed Based Operator to enter into a lease at the Napa County Airport.

EXECUTIVE SUMMARY

Based on Board of Supervisors direction received on August 28, 2018, staff has provided updated management and compliance policy documents for Board consideration and is now prepared to develop a Request for Proposals (RFP) that would facilitate a possible long-term lease for property at the Napa County by a Fixed Based Operator (FBO). A RFP will ensure the Airport can meet Federal Aviation Administration grant assurances for non-exclusivity and will create a competitive process to maximize Airport and County revenue generation. Staff is seeking further discussion on the components of a possible RFP and direction from the Board of Supervisors to initiate the process.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

The Napa County Airport is an important community asset that plays a significant role in the local tourism industry, in addition to its contribution to the larger national aviation community. The Napa County Airport was originally constructed in 1942 by the United States Army as part of the war efforts, and soon after in 1945 was deeded to the Napa County. Over the years following the transfer of ownership, the Napa County Airport (Airport) became a thriving General Aviation airport supporting various aviation businesses, numerous jobs, and thousands of newly trained pilots.

At general aviation airports, a Fixed Based Operator (FBO) is typically a commercial enterprise that is granted the right by the governing body to operate at the airport and provide aviation services, such as fueling, parking, hangar space, and maintenance services. The Airport has been served by a single FBO since 1946, originally Bridgeford Flying Service, then Napa Jet Center, which was purchased by Lynx FBO Network in June of 2018. The Airport maintains a series of lease agreements that were assigned to Lynx which collectively allow their commercial FBO enterprise to operate at the Airport.

Beginning in 2016, the County engaged in discussions and negotiations with Napa Jet Center (NJC), regarding the possibility of extending their current leases, expanding their leasehold on the property, and committing NJC to a series of capital improvements on the property. The former Airport Manager presented a conceptual level overview of terms to the Board of Supervisors in August 2016, and staff proceeded in discussions at the Board's direction with NJC over the following several months. As negotiations continued and NJC provided more detailed proposals, staff began to consider how the proposals would impact future leases and long term development at the Airport. Recognizing the significance of this possible lease agreement, set to be 30-45 years in length, staff engaged consultants from Business Aviation Group (BA) with expertise in FBO business models and valuation of airport properties to increase staff and Board understanding of the County's negotiating position along with the possibilities for increased development opportunities at the airport.

Several issues with continuing the negotiations were identified. First, the interaction between the Airport's existing policy documents and the proposed lease agreement was problematic. The Airport's existing documents had not been updated in decades, and there was a disconnect between these guiding documents and the terms of the leases being discussed with NJC. To resolve this issue, staff recommended that the negotiations be suspended in order to engage in an extensive policy update process which included updates to what is collectively known as the Airport's Primary Management and Compliance Documents (PMCDs). The PMCDs are a compendium of policy documents including the Rules and Regulations, Minimum Standards, Development Standards, and the Leasing/Rents and Fees Policy. As presented earlier at this Board meeting, collectively these documents provide comprehensive guidance on operations, leasing, and development at the Airport, and as such, would be critical to continuing any significant lease negotiations at the Airport.

Secondly, there was a larger recognition that some of the proposals put forward by NJC may run counter to guidance from the Federal Aviation Administration (FAA). As a recipient of FAA grant funding, the Airport is considered a federally obligated airport. Napa County, or any other sponsor of a federally obligated airport, cannot prohibit additional commercial operators from conducting business at this airport provided they meet established minimum standards. To do so would be considered a granting of exclusive rights which would be in violation of the grant assurances the County commits. Exclusive rights may pertain to a contractual exclusive right to provide a service like fueling as well as functional equivalents such as leasing out property to only one entity, leasing underutilized space, effectively allowing "land banking," writing rules and regulations in a way to prohibit competition, and not entertaining requests from legitimate businesses to attempt to open a competing business.

For fixed based operators, the code provides further guidance: 49 USC § 40103(e) states in relevant part as follows "providing services at an airport by only one fixed-based operator is not an exclusive right if--(1) it is

unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide the services; and (2) allowing more than one fixed-based operator to provide the services requires a reduction in space leased under an agreement existing on September 3, 1982, between the operator and the airport." In staff's interpretation of the County's obligation as a federally obligated airport, it does not appear that any of these exceptions apply to the Airport. These concerns have been reinforced by the requests by other commercial operators for an opportunity to conduct business at the Airport, and specifically to establish a second FBO. Operating counter to FAA requirements in this area could result in complaints issued and the possibility of the Airport incurring penalties, including putting previous, current, and future FAA funding for Airport Capital projects at risk.

Based on this significant issue, as well as the continued interest the County receives from commercial operators regarding opportunities to provide fixed based operator services on site, staff complied with FAA regulations and ensured that the proposed rules and regulations and minimum standards of the Airport would not prohibit competition.

Under any future development/re-development scenario where current underutilized space at the airport is made available, it would be difficult to deny future qualified service providers the right to develop based on the lack of leasable space. Given the importance of adhering to grant assurance provisions, staff believes that being proactive with a competitive request for proposals (RFP) process as outlined by the FAA is in the best interest of the County. This proactive approach involving the RFP process has been discussed in public forums including Board of Supervisors and Airport Advisory Commission meetings on August 28, 2018 and October 1, 2018 respectively.

With the assistance of consultants from BA Group and Mead & Hunt, staff analyzed the potential for accommodating multiple FBO's on Airport property. Leveraging the professional airport planning services of Mead & Hunt, staff has developed a conceptual Terminal Area Plan to physically identify the potential areas for accommodating multiple FBO's on the property, which is included as Attachment 1. As demonstrated in the attachment, if there Airport were to support two FBO's, each of them would have equal access from both the airside and the landside. Customers would come in via a central driveway on the landside and have access to either FBO. On the airside, most traffic enter the apron where the taxiways converge at which point a customer could again choose either FBO. Significant consideration was given to the need to ensure that all operators on the property have the potential for financial success primarily through fuel sales, but also through other service areas, and that such success would also benefit both the Airport as an enterprise fund and the County as a whole. Throughout the development of the conceptual Terminal Area Plan that had a focus on commercial service providers, equal consideration was given to the importance of space, access, and accommodations for "smaller" general aviation users desiring airport use and access outside of an FBO leasehold.

Today, with the adoption of the Primary Management and Compliance Documents, staff is requesting a discussion and direction on proceeding with a competitive process to meet our FAA Grant assurances and gain market information regarding the value of leaseholds, including lease rates, fuel flowage rates, and other fees. The Board's direction is requested in proceeding with this process and establishing the goals of the RFP, as well as to receive direction from the Board on the criteria to include in the RFP.

Overall goals of this competitive process could be to fulfill our FAA obligations, establish market verified interest regarding lease and fuel flow rates, increase on-airport competition resulting in a benefit to users of the airport, and ultimately provide the Board with sufficient information to facilitate well-informed decisions as the County negotiates future long-term leases. Success in fulfilling these goals will allow the Airport to better support the local community of general aviation pilots by leveraging the revenues and investments made by commercial operators.

Initial staff discussions on scoring criteria have included requirements for similar operations experience at other Airports with demonstrated success and a comprehensive proposal for capital expenditures to improve the Airport, including increasing the Apron area. Additionally, staff would recommend that the RFP scoring criteria be weighted towards providers who can commit to minimum annual guarantees for categories including fuel sales and rental

income, and demonstrate ways in which their operation would also benefit the County general fund. There may also be components of a proposal that demonstrate plans for capital improvements, including a realistic phasing process that acknowledges the need for compliance with the California Environmental Quality Act and that addresses issues of infrastructure moves.

In order to address the issue of exclusive right, staff is seeking Board direction on the exclusion of the current FBO from participating in the process. Such a prohibition is expressly allowed by the FAA (see excerpt from FAA Airport Compliance Manual within Attachment 2) to increase on-airport competition and preclude the granting of an exclusive right. Staff is recommending this RFP exclude the current provider in order to meet these goals.

Additionally, staff would recommend that the RFP expressly state that any future lease agreement will include provisions requiring Board of Supervisor's approval for the assignment of any lease. This will allow the County to manage compliance issues related to exclusive rights on the property. This will also provide an avenue for the County to ensure all provisions of lease agreements are being fully met and that the Airport receives compensation as a condition of the assignment's approval.

Taken together, these steps of issuing a competitive RFP, excluding the incumbent provider from participating, and requiring Board approval of any lease assignments ensure the County is proactively working to avoid exclusivity issues in the view of the FAA. It will also provide the Board with valuable market information for future lease negotiations.

Staff would anticipate the following timeline related to a RFP:

- Issue RFP in March 2019
- Proposals due early May 2019
- Review of proposals and interviews with top proposers in late May 2019
- Staff returns to Board of Supervisors with recommendations in June 2019

Once RFP proposals are received and staff has reviewed them, the Board will have several decision-making avenues available which may include:

1. Proceed with exclusive negotiations with a second FBO based on the recommended proposal;
2. Proceed with exclusive negotiations with a second FBO based on the recommended proposal and simultaneously renegotiate existing leases with current FBO;
3. Reject all proposals and enter into renegotiations of existing leases with current FBO; or
4. Reject all proposals and defer renegotiations with current FBO.

Information received from the RFP process would help to determine future recommended actions. Today's action is a request for discussion and Board direction related to the release of a competitive RFP. Staff will use this direction to finalize components of a RFP including the stated goals, scoring criteria, review process and timeline.

SUPPORTING DOCUMENTS

A . Attachment 1 - Conceptual Terminal Area Plan

B . Attachment 2 - FAA Compliance Manual Excerpt

CEO Recommendation: Approve

Reviewed By: Mary Booher