Midway Advisory Panel

Report on the process
December 2013

Contents

Executive Summary

Midway Airport: Valuable Lessons for Future Public-Private Partnerships

Although Mayor Emanuel decided not to move forward with the privatization of Midway Airport because the deal did not meet his core principle of a competitive bidding process, the Midway Advisory Panel believes it is important to share the lessons learned leading up to that decision because these lessons may be valuable for future public-private partnership efforts in Chicago and elsewhere.

When Mayor Emanuel began to consider leasing Midway Airport, he immediately decided on core principles, based on past experiences, that would drive any deal. A Midway Airport lease would be capped at 40 years, which is significantly shorter than prior “asset monetization” P3 transactions in Chicago, including the 99-year Chicago Skyway and Chicago Loop Parking transactions and the 75-year parking meter deal. Any deal would include a revenue share arrangement between the private investors and the City to help align interests and promote an open partnership. Additionally, the revenue share would have potentially provided ongoing financial benefit to the City from the future success of the airport, with net proceeds invested in the City’s infrastructure consistent with the Illinois law authorizing the lease of Midway. Further, all outstanding debt at Midway must be paid. The Mayor also required a transparent, competitive bidding process and committed to a 30-day review by City Council. Travelers’ experience at the airport must be preserved and improved including through required capital improvements. Labor and employees must be protected and rigorous safety and security requirements met.

Why Consider Leasing Midway Airport

Federal law mandates that revenues generated at U.S. airports from airline fees, retail leases, etc., be spent within airport boundaries. The Federal Aviation Administration (FAA) Privatization Pilot Program, which is the federal program that would have allowed for private management and operations of Midway, established a unique opportunity for monetary benefit to be used off of the airport facility. That opportunity prompted the City to explore a public private partnership to find out if it was possible to derive future value generated at Midway Airport to help fund needed infrastructure projects throughout the City.

Furthermore, the precedent exists. It is fairly typical that an airport outside of the U.S. be managed by a private operator, with most of the 450 privately operated airports across the world continually ranking highly in customer satisfaction polls. In addition, much of airport operations are already operated by private parties, such as the airlines, the concession vendors and services. While Midway ranks as one of the most efficiently run airports in the U.S., the FAA pilot program allowed the City to see if there was an opportunity to further enhance service and realize untapped value for Chicago taxpayers.

The Midway Advisory Panel

At the outset, Mayor Emanuel established the Midway Advisory Panel ("MAP" or the "Panel"), an independent group comprised of civic, labor, public and private experts, which worked parallel to the City process to ensure any deal reasonably afforded protections to residents of Chicago and users of Midway. The Metropolitan Planning Council's (MPC) Peter Skosey chaired the Panel. Members included Aldermen Carrie Austin (34th Ward) and Michael Zalewski (23rd Ward); Frank Beal, Metropolis Strategies; James Connolly, Chicago Laborers District Council (and MAP Vice-Chair); Martin Nesbitt, The Vistria Group; and Martin Oberman, Attorney and former Alderman. MPC's Chrissy Mancini staffed the Midway Advisory Panel, and its advisors, KPMG Corporate Finance LLC and Loop Capital Markets, added another layer of professional experience to help keep the public's interest at the forefront.

To our knowledge, the Advisory Panel was the first of its kind to be established to review the public-private partnership process/transaction. It was specifically charged with asking three key questions that the public would want answered:

- Should the City even consider a privatization and if so, why?
- Was the process fair, transparent and competitive, in the spirit of how the public would want it to be?
- Did the resulting transaction reflect fair value for the City's taxpayers given what they were asked to give up?

The Panel also was tasked with assuring that any agreement would uphold the Mayor's Traveler's Bill of Rights, to assure that the private operator upheld and improved the standards of Midway by providing reasonable parking facilities and prices; high safety standards; a clean and efficient terminal; convenient and timely baggage services; reasonably-priced food and beverage choices; sufficient and clean restrooms; curbside services; medical options; and more. Further, the Midway Advisory Panel vetted the draft lease agreement, time schedules, due diligence materials, and most materials presented by interested bidders throughout the process to ensure protections created by State law (IL Public Act 094-0750), including labor standards, were followed.

How the Midway Advisory Panel Worked

The Panel's role was to review the work of the City and its team of advisors, led by Credit Suisse on the financial side and Mayer Brown as lead transaction counsel. Importantly, the Panel's role was not to negotiate the transaction but rather to review the work of others. The Panel began bi-weekly meetings in January 2013, learning about the status of the process, the work plan envisioned by the City, project timing, and receiving project documentation, including drafts of the airline use agreement, concession agreement, due diligence reports, consultant presentations and draft operating standards. Part of the Advisory Panel's responsibility was to anticipate how a lease would affect the future of Midway Airport and the City to guarantee its crafting was in the best interest of the public. The Midway Advisory Panel was given access to City personnel and its advisors throughout the entire process.

While each member of the Panel has considerable experience in a wide array of issues including public policy, transportation, finance and the law, the Panel determined that it was essential to retain advisors with specific, current and relevant expertise in the design of public-private partnerships. The Panel solicited interest and qualifications from the City's pre-qualified list of 60+ financial services firms, reviewed written submissions from those firms and interviewed a shortlisted group. The Panel selected KPMG and Loop Capital Markets to serve as paid consultants to the Panel. Compensation to each firm was fixed upfront, eliminating any financial incentive to achieve a particular outcome or to unnecessarily prolong the work. Representatives of the Panel's advisors participated in Panel meetings throughout the process.

In the end, the Midway Advisory Panel agreed that Mayor Emanuel made the right decision to terminate lease negotiations at the point it became clear that there would only be one bidder. Without a competitive process where the City received more than one bid, the City did not believe it could assure taxpayers they would receive fair value for the airport and negotiate the best deal.

Public-private partnership deals are highly complex. Heightening competitive pressure can increase the value of the transaction for taxpayers. This is best achieved by setting very clear rules at the outset of the process that include mandatory confidentiality from interested bidders, providing all information through a virtual data room to assure all bidders receive information at the same moment in time and protecting information about individual bidders. Therefore, it is difficult for such a process to be examined in the public realm. An independent, third party, such as the Midway Advisory Panel, can serve as a proxy to help ensure public interests are protected while preserving process integrity and optimizing value for taxpayers. It gives an independent body access from a citizen's perspective to balance commercial requirements and taxpayer needs. Had the transaction proceeded to implementation, the Midway Advisory Panel's independent report on the transaction's parameters would have been provided to the City Council and public well in advance of any vote by the Council. This would have been the first time the public would receive an independent review of a public-private partnership prior to Council consideration. Past agreements in Chicago not only lacked sufficient time for review and deliberation, but also lacked an independent evaluation or the risks and rewards of entering into such agreements. Had a panel like the Midway Advisory Panel been in place prior to the parking meter or other transaction, the Council may have voted differently.

The lesson learned is that an independent, third party review of public-private partnership opportunities can work effectively for reviewing highly complex transactions. This can help ensure the proper safeguards are in place to protect the public's interest. While government officials have jobs to do and should be held accountable for doing them, third party review of selected projects can help address the gap in understanding between the public and the professionals hired to execute the transactions.

We recommend that the City provide ample time to establish an independent review process for all potential public-private partnership opportunities, similar to that undertaken by the Midway Advisory Panel. Because of the wide variety of the type of assets and/or services which may be considered for potential public-private partnerships, it may be advisable to structure such review panels to fit the particular task rather than to establish a "one size fits all" approach. Not all such opportunities will involve the complexity presented by the privatization of Midway Airport. In addition, with more advance planning, the review panel will be able to more appropriately assess its need for outside financial consultants and to more efficiently design the assignments for such consultants, if any are needed.

Why Public-Private Partnerships

While the demand for new infrastructure, better roads, transit, water and sewer networks, and schools continues to grow, sources of revenues have not kept up with inflation and state and local governments face tightening budgets. Given the scarcity of public funds available to make even the most essential of these infrastructure investments, governments have begun to tap innovative delivery approaches such as public-private partnerships to enhance their capital programs and provide additional resources. These tools can help address aging infrastructure problems, deliver projects sooner, transfer long-term operating risks and responsibilities and enable innovation. Further, well-written agreements can create incentives for efficiencies and shift risk to private operators and investors, who can bear responsibility for cost overruns or revenue shortfalls. At the same time it is important that potential investments are chosen based on their ability to generate much-needed economic growth, improve our global competitiveness, and promote community livability and sustainability.

By rethinking how (and where) we invest in our communities and rewarding the public and private sectors for working together to more efficiently and effectively deploy resources, we can regain the Chicago region's competitive edge, secure good jobs, and shape a new era of sustainable economic prosperity that supports cities' and regions' growth plans.

Opportunity for long-term effort

The panel was impressed with the potential of Midway Airport to generate substantial additional revenues from both increased concession opportunities and increased airline operations. However, in the absence of privatization, current federal law forbids diverting such revenue growth to other City government functions, infrastructure projects or the Board of Education. Still, this potential points to an opportunity to work with Congressional leaders to change federal law and allow Chicago and other cities to benefit from such airport efficiencies and growth while still maintaining sufficient revenues to operate a first class facility. We urge the City to seriously consider such a long-term effort to maximize the benefits to be derived from its ownership of Midway Airport.

More information on the Midway privatization exploration is available at:

http://www.cityofchicago.org/city/en/depts/fin/supp_info/midway_transaction.html

Appendix 1: Background and Situation Overview

On Dec. 28, 2012, the City of Chicago ("City") submitted a Revised Preliminary Application to the Federal Aviation Authority ("FAA") for authorization for the City to execute a long-term lease on the Chicago Midway International Airport under the Airport Privatization Pilot Program ("Pilot Program"). The City was seeking reauthorization of the long-term lease after an unsuccessful competitive procurement process in 2008. On Jan. 18, 2013, the FAA accepted the Revised Preliminary Application, allowing Midway Airport to fill one of ten spots in the Pilot Program and the only slot allocated for large hub airports.

The City of Chicago initiated the procurement process by releasing a Request for Qualification ("RFQ") in January 2013 inviting parties interested in entering into a long-term lease of Midway Airport to submit Statements of Qualification.

Appendix 2: City of Chicago Objectives

The City stated the following objectives in the "Revised Preliminary Application under 49 U.S.C. §47134 for Chicago Midway International Airport" to the Federal Aviation Administration ("FAA") dated Dec. 28, 2012.

- **Increased Operating Efficiencies:** Improved Customer Amenities and Satisfaction: The proposed lease of Midway Airport would improve operating efficiency and provide for the highest levels of safety and security, through the ability to leverage the "best practices" knowledge and expertise of the Private Operator. In addition, the Private Operator would increase efficiency of airport operations and improve comfort and responsiveness for airport users. The experience and expertise that the selected Private Operator must possess would also allow it to make innovative and "best practices" business decisions regarding airport operations and management.
- **Travelers' Bill of Rights:** Mayor Rahm Emanuel established the Traveler's Bill of Rights as a framework to help ensure that any concession of Midway Airport preserved and ultimately improved the traveler's experience at the Airport. The City stated that if the Travelers' Bill of Rights was not effectively reflected in the contract, then the potential concession of Midway would not take place; therefore, the Panel considered how the Traveler's Bill of Rights was articulated vis-à-vis the contract that would ultimately govern the long-term partnership between Midway's potential Operator and the City. The Panel noted that any comparable Traveler's Bill of Rights or other statement of goals was not established as part of the prior 2008 Midway transaction. . The Panel further noted, and appreciated, the fact that City officials began every meeting regarding the Midway transaction by directing all parties back to the promises it had articulated to the public, as outlined in that document.

Based on discussions between MAP and the City of Chicago, as well as the City's advisors, it was MAP's view that the following were also key objectives the City intended to achieve through a long-term private operation of Midway. The Panel acknowledged that the City may have had additional goals; however, these appeared to be the desired outcomes.

- **Participation in a long-term revenue share arrangement:** The City made clear from the start that any potential transaction must have a meaningful revenue share between the private party and the City. The City would have received ongoing payments from the Operator over the course of the concession lease term of 39 years. Per Illinois Public Act 094-0750, at least 90 percent of revenues received by the City must have been used on infrastructure projects and/or to reduce pension deficits. The City stated its intention to use any resulting funds for infrastructure purposes.
- **Defeasance of outstanding debt:** Under the long-term lease of Midway Airport, the City anticipated receiving an upfront payment sufficient to pay off the outstanding debt at the Airport. Under IRS guidelines, tax-exempt debt must first be defeased before private activity is allowable.
- **Reduce exposure to future liabilities:** A long-term lease may have minimized the City's exposure to long-term risks and liabilities associated with Midway Airport such as

future capital improvements, debt service, operational issues and changes in commercial airport usage by shifting these risks to a private Operator.

- **Labor and Employee Protections**: The proposed lease of Midway Airport was structured to ensure fair and equitable treatment of all City airport employees. No collective bargaining agreement in effect on the effective date of the proposed long-term lease for Midway Airport would be abrogated. In addition, under the terms of the draft agreement, the City and the Private Operator would comply with all of the employee and labor protection provisions mandated by the Illinois General Assembly in Public Act 94-750 (a copy of which is included in Attachment A, the statement of the City's authority to lease Midway Airport). Discussions with City officials made it clear to all Panel members that City officials were committed to upholding these labor provisions and had reviewed such provisions in detail with each of the prospective bidders.
- **Public Comment, Review and Evaluation:** From the outset, it was clear to all Panel members that the City was committed to full transparency that would ensure that all aspects of the process for implementation of the proposed lease of Midway Airport, the terms of the lease agreement and the qualifications of the proposed Private Operator were consistent with the interests of the City, its residents and taxpayers. The creation of the Midway Advisory Panel was a significant step forward in assuring that Chicagoans had a seat at the table as this transaction unfolded. Representation from members of the City Council, organized labor, business and civic leaders provided a diversity of viewpoints designed to reflect various community voices and concerns. The advisory panel was asked to select an independent advisor to provide expertise in finance and public-private partnership design, review all aspects of the proposed transaction and deliver a written report to the City Council and the public prior to Council consideration of any proposed lease of the Airport. The City also committed to provide additional opportunities for the general public to learn about and provide input and comment regarding the proposed transaction. For example, the City created a dedicated website containing information about the proposed transaction and the status of the solicitation and bidding process. Documents were posted to that website as they were finalized.

  Throughout the process, the City also consulted with, and provided information to, airport users about the proposed transaction throughout the solicitation and bidding process described above. The airlines serving Midway had access to the same information at the Panel and members of the City's transaction team. The City expected that these various transparency and outreach efforts would complement the public comment and review process required by the FAA under the Pilot Program regulations. It should be noted that the FAA program itself required a rigorous, 60-day public review and comment period that would have commenced upon passage of enabling legislation by the City Council. While this transaction did not reach this point, representatives of the FAA were briefed at each juncture in the process. Interested bidders were also provided the opportunity to meet with the FAA and the TSA to learn more about the responsibilities of operating Midway.
- **Oversight of Private Operator**: As part of the process, t\he City required that the Private Operator would comply with all applicable provisions of Public Act 94-750, specifically including the limitation on any expansion of airport property for runway

purposes; the continued compliance with applicable ordinances governing contracting with minority-owned and women-owned businesses and prohibiting discrimination and requiring appropriate affirmative action; and requiring that any lease must be undertaken in accordance with all appropriate federal laws and regulations. In addition, the City was committed to ongoing and rigorous oversight of the Private Operator's compliance with the terms and conditions of the lease agreement and would require regular operational and financial management audits of the Private Operator's performance under the lease agreement. The Panel had the opportunity to review the Operating Standards considered in 2008 and the draft standards for the proposed transaction. These standards addressed all areas of Midway operations in detail and appeared to be comprehensive and well-planned to Panel members and their advisors.

- **Safety and Security Requirements:** Any potential transaction had to meet rigorous safety and security procedures in accordance with all applicable federal, state and local requirements. The Private Operator would be required to be certified in accordance with Part 139 standards and all other applicable FAA and Transportation Security Administration (TSA) standards for airport Operators, and the TSA would be required to approve the Private Operator's airport security program. Passenger and luggage screening would continue to be handled by TSA personnel. "Premises security" would continue to be provided by the Chicago Police Department and fire protection would continue be provided by the Chicago Fire Department, all in coordination with the City's Office of Emergency Management and Communication. The Panel noted that the City placed security as an essential pre-condition to any potential transaction. Continuing to use Chicago Police and Fire would ensure that Midway's safety would be treated with the same high regard as it is today.
- **Environmental Considerations:** The City required that any potential Private Operator must ensure that any adverse effects on the environment from airport operations would be mitigated to the same extent as is currently required at Midway Airport. Further, the Private Operator would be responsible for other environmental sustainability initiatives, such as air and water quality, recycling and various LEEDs programs to ensure that Midway Airport remained a "green airport."
- **Economic Benefits for the City**: The City made clear that net proceeds derived by the City from the lease of Midway Airport, after defeasance of outstanding Midway debt, would be allocated by the City for construction and maintenance of critical infrastructure projects within the City. As such, the proposed transaction would directly benefit the City and its residents in the form of increased capital expenditures for essential infrastructure needs, thereby enhancing its continued ability to provide essential City services.
- **Future Capital Improvements:** The proposed transaction would have required that the Private Operator maintain, improve and modernize Midway Airport, in accordance with comprehensive standards that would be set forth in the transaction documents. Compliance with these requirements would actively be monitored by the City. Further, the City would obligate the Private Operator to satisfy detailed capital investment requirements set forth in the transaction documents. To assure compliance with these requirements, the Private Operator would be required regularly to submit detailed, multi-

year capital improvement plans for Midway Airport to the City and the airlines using Midway Airport. The Private Operator would also be required to ensure that Midway Airport was always in full compliance with currently applicable safety and security standards, with a corresponding obligation to provide for necessary capital improvements to satisfy such standards.

- **Public Use and Competition:** The proposed lease of Midway Airport would have required that the airport would continue to be available for public use on reasonable terms and without unjust discrimination; the interests of general aviation users would not be adversely affected; and there would be no unfair or deceptive trade practices or unfair methods of competition. The City would also require the Private Operator to comply with all obligations set forth in the currently approved Competition Plan for Midway, including continued adherence to the pro-competition practices described in the Plan regarding “Domestic Gate Procedures” and “International Gate Procedures.” Pursuant to FAA requirements, the Private Operator would be required to file an update to the Competition Plan in respect of the execution of a new use agreement.
- **New Rate-Setting Methodology:** Certainty and Stability for Airlines - A key element of the proposed transaction would have been a new use agreement between the Private Operator and the signatory airlines that would replace the current use agreement between the City and the signatory airlines. It would have replaced the residual rate setting arrangements currently in place at Midway Airport with a rate-setting methodology that would provide for long-term certainty and reasonable levels of rates and charges. Such arrangements were designed to improve the competitive position and growth prospects for Midway Airport, for the benefit of airlines, airline users and residents of the City and the Chicago Metropolitan Area.

Appendix 3: Rationale for pursuing Public Private Partnership on Midway

- **Residual Use Agreement:** Most commercial airports in the United States have airport use agreements in place that define the financial relationship with their airline tenants. These agreements set the airline rates and charges using either a "compensatory" or "residual" cost approach. Under a compensatory agreement, the public airport sponsor assumes the majority of the financial risk of operating the airport and sets rates and charges to cover the cost of the facilities and services used by the airlines. If the rates and charges are not sufficient to cover those costs, the airport sponsor has the responsibility to cover the shortfall. Midway airport is governed by the more commonly used residual use agreement. Under the residual agreement, the airlines assumes the bulk of the financial risk by agreeing to pay any costs associated with the operation of the airport that are not covered by nonairline revenue or allocated to other users. Any revenue surplus is credited back to the airlines and any deficit is charged to airlines when their rates and charges are calculated in the following year.
- **Limitations on Airport Revenue:** Per federal law, revenue generated from the operation and management of Midway airport must remain at the airport. The United States Congress passed a series of legislation that established general requirements for the use of airport revenue and explicitly identified permitted and prohibited uses of these funds beginning with the Airport and Airway Improvement Act of 1982 ("AAIA"). The AAIA requires airport sponsors who have received federal grants since 1982 to use all revenue generated at an airport for operating and capital costs of the airport and not divert revenue for non-airport purposes. This includes the charges and fees collected from the airlines under the use agreement as well as non-airline revenue such as rents collected from concession vendors and rental car companies.
- **Allowances under FAA pilot program:** The FAA's Airport Privatization Pilot Program ("Pilot Program") was established as a way to attract new investment from private capital through alternative financing, such as public-private partnerships (PPP). Under this program, the City would be exempt from the federal requirement that states airport revenues be spent on airport operations and maintenance. As such, the City of Chicago would be able to collect profits on Midway through the transaction. The City may also have been exempt from repaying federal grants that would otherwise require repayment upon sale of an airport, and exempt from returning any federally deeded property.
- **Anticipated use of proceeds:** Illinois Public Act 094-0750, passed in 2006, requires that at least 90 percent of the proceeds from the lease of an airport be expended on infrastructure projects within the municipality and/or as contributions to pension funds created for municipal employees. The City of Chicago is required to comply with this statute and City officials consistently indicated that net proceeds derived from the proposed lease of Midway Airport would be used for construction and maintenance of critical infrastructure projects within the City or to fund pension obligations. Public Act 094-0750 specifically prohibits using proceeds to fund operating budgets. The

Panel noted that the City never considered using proceeds for any operating expenses, unlike how proceeds of some public-private partnerships for existing assets in Chicago have been used.

Appendix 4: Midway Advisory Panel

On Jan. 11, 2013, Mayor Rahm Emanuel announced that a Midway Advisory Panel ("MAP") would be created to assist in the process of exploring a public-private partnership ("PPP") at Midway Airport. MAP was tasked with helping represent the public interest for any potential transaction related to airport with assistance from outside, independent financial advisory firms with expertise in evaluating transactions. The Midway Advisory Panel members were:

- Peter Skosey, Metropolitan Planning Council (Chair)
- James Connolly, Chicago Laborers District Council (Vice-Chair)
- Alderman Carrie Austin, 34th Ward
- Frank Beal, Metropolis Strategies
- Martin Nesbitt, PRG Parking Management
- Martin Oberman, Attorney and former Alderman
- Alderman Michael Zalewski, 23rd Ward

KPMG and Loop Capital were selected through a competitive procurement process as the independent advisory firms to assist MAP in evaluating the transaction.

The Midway Advisory Panel and its advisors were tasked with following the procurement through each stage and delivering this report to the City Council and public, describing its viewpoints on the process and deal proposal. As part of this response, MAP was asked to consider:

1. The benefit the proposed transaction and its structure would provide for City taxpayers and residents.
2. The fairness, transparency and competitiveness of the public process that led to the proposed transaction.
3. An evaluation as to whether the proposed transaction provided fair value for the City's taxpayers.

Appendix 5: Overview of Proposed Transaction

Overview of the FAA Privatization Pilot Program

Section 149 of the Federal Aviation Reauthorization Act of 1996 established the Airport Privatization Pilot Program ("Pilot Program"). The Pilot Program allows airport sponsors to sell or lease an airport under certain restrictions. The Pilot Program grants certain exemptions to sponsors (in this case, the City of Chicago), including from federal requirements that require airport revenues be spent on airport-related purposes, that portions of federal grants must be paid back upon sale of an airport, and that airport property deeded by the Federal Government must be returned upon transfer of the airport. Approval from 65 percent of airlines is required for the FAA to approve a privatization or long-term concession lease of an airport under the Pilot Program.

The FAA viewed the Pilot Program's purpose as a means to attract new investment from private capital through innovative financial and operational arrangements. The original Pilot Program included five slots, with one of those being one large hub airport slot. In 2012, the FAA Reauthorization Act increased the number of airports that could participate in the Pilot Program to 10, with one large hub airport slot. The FAA has received four applications for participation in the Pilot Program previously. The first was from the State of New York for Stewart Airport in New York, which was approved, converted to private and reverted back to public management via the Port Authority of New York & New Jersey. The second application was from the City of Chicago for Midway and the third from the Commonwealth of Puerto Rico for Luis Muñoz International Airport in San Juan. The fourth application was from Hendry County Airglades Airport, in Clewiston, Fla., and received preliminary approval from the FAA in October 2010.

The City of Chicago submitted its initial preliminary application on Sept. 14, 2006, for Midway to participate in the program through the large hub airport slot. The application was approved by the FAA. In 2008 the City of Chicago, under the administration of Mayor Daley, unsuccessfully attempted to complete a 99-year lease of Midway. In December 2012, the City of Chicago announced it would deliver a second preliminary application to preserve Midway's spot in the Pilot Program after the 2008 transaction failed to bring about a lease of Midway.

The City intended to submit the final FAA application once the City completed the bidding process, the City Council had approved related ordinances and the Operator had signed the Management Agreement, Ground Lease and the Use Agreement.

To date the only current privately operated airport under the FAA Pilot Program is Luis Muñoz International Airport in San Juan, Puerto Rico, which received final approval to privatize the airport on Feb. 25, 2013, and subsequently entered into a 40-year concession contract with a consortium led by Highstar Capital and Grupo Aeroportuario del Sureste.

Illinois law provisions (IL Public Act 094-0750)

In 2006, the Illinois General Assembly enacted Public Act 094-0750 (the "Act") providing authorization to lease Midway as part of the Pilot Privatization program. The legislation, cited as the Local Government Facility Lease Act, addresses requirements impacting the Midway Transaction. Among other matters, the legislation requires:

- *Compliance with City Ordinances*– The lease of government property must comply with any ordinances in the municipality of the leased facility, including compliance with ordinances governing contracting with minority-owned and women-owned business, prohibiting discrimination and requiring appropriate affirmative action.
- *Limitations on the expansion of Midway*– Runways at Midway shall not extend beyond 55th Street on the north, Cicero Avenue on the east, 63rd Street on the South, and Central Avenue on the west.
- *Restrictions on the use of lease proceeds* – At least 90 percent of the proceeds from the lease of an airport must be expended on infrastructure projects within the municipality and/or as contributions to pension funds created for municipal employees.
- *Labor protection agreements for projects funded by airport lease proceeds* – Municipalities with projects in excess of $500,000 that are funded through proceeds from the lease of an airport shall negotiate a project labor agreement with labor organizations.
- *Labor neutrality and card check procedures* – The lessee of an airport will negotiate with any union that seeks to represent its employees for a labor neutrality and card check procedure agreement.
- *Wage requirements* – The lessee shall pay employees at least the economic equivalent of wages and benefits as earned by the employees that had previously performed services at the airport.
- *Required offers of employment* – The lessee must offer employment to current Midway employees that are employed by the municipality that is substantially the same in terms and conditions as the job currently held. In addition, the municipality must offer employment in another unit of the municipality that is the same in terms and conditions.
- *Exemption for leaseback property and qualified leased property* – The Property Tax Code was amended to exempt leasehold interest in an airport property owned by a municipality from taxation.

Background on the PPP Market and Opportunity

Airports are complex public infrastructure assets given the interface with airlines, the historical volatile nature of the airline industry, a highly regulated environment with numerous levels of approvals and oversight from the FAA and Transportation Security Administration to conduct routine business, and the diverse mix of revenue-producing assets.

Local and regional government owners faced with the challenge to make their airports as competitive, efficient and financially viable as possible have employed a wide range of strategies to leverage the expertise of the private sector to attain these goals. Most U.S. airports, including Midway, have enlisted the private sector to provide a wide range of services including planning; design and construction management services; janitorial services; terminal concessions services development and operation; equipment maintenance such as baggage handling devices, moving walkways, escalators, elevators and loading bridges; parking facilities management; and fuel systems and fuel aircrafts operations and maintenance, just to name a few. As a case in point, according to the Chicago Department of Aviation, Midway had 7,000 “badged” airport employees and 230 Chicago Department of Aviation employees as of January 2013.

Full privatization, complete sale or long-term lease for publically owned airports is a common model employed outside of the U.S. to finance, operate and maintain airports. The United Kingdom was one of the first to privatize its airports in 1987. In the United States, however, there have been only two domestic precedents. This may in part be due to some distinctly unique domestic factors, including the ability of public sponsors to access capital markets through tax-exempt financing mechanisms for airport construction and improvement; the strong regulatory environment in the U.S. coupled with the fact that the Pilot Program was not enacted until 1996; and the historical relationship the airlines have had with the public airport owners. Stewart Airport in New York was the first airport to be fully privatized in 1999 under a 99-year lease term. After seven years of operation the private entity sold its interest to the Port Authority of New York and New Jersey. Once it reverted to public operation, the airport was no longer eligible to continue in the Pilot Program. Puerto Rico's Luis Muñoz Marin Airport was the first U.S. airport to enter into a long-term concession lease with a private operator since then; the deal reached financial close in March 2013.

As seen abroad, public-private partnerships involve significant time, effort and out-of-pocket costs for both the public entity and bidders to pursue a transaction. In exchange, the following benefits have been promoted by proponents, including upfront payments and/or ongoing revenue share arrangements paid to the government owner, transfer of capital, operating, maintenance and lifecycle risks to the private sector, long-term operating and maintenance efficiencies, access to enhanced and expanded sources of private capital and global capital markets, acceleration of project delivery, enhancement of customer service and amenities for the traveling public, maximize non-airline revenue through innovation and creative retail offerings, stimulate air service and competition, to name a few.

Role of the City and its Advisors

The City of Chicago, as owner of Midway, entered into a procurement process for the long-term lease of Midway and established an internal team led by the Chief Financial Officer of the City. Additionally the City retained advisors, including Credit Suisse, Cabrera Capital Markets, Mayer Brown LLP, Ricondo and Associates and Avia Consulting to act as financial, legal and technical advisors throughout the duration of the Midway transaction.

The City was responsible for facilitating the procurement process, structuring the transaction, and selecting the preferred proposer.

Prior Midway Transactions

In 2008, the City of Chicago held a competitive procurement for a long-term lease of Midway. In September 2008, the City announced Citi Infrastructure Investors (CII) as the preferred bidder for the lease. CII had submitted a $2.52 billion proposal to operate, maintain and collect revenues from the airport for a period of 99 years. The consortium had planned to finance the deal with a senior term loan facility and a mix of shareholders' equity and additional loans. CII received an extension from the City of Chicago to secure financing; however, in April 2009, the procurement was cancelled due to an inability to secure financing for the transaction. The timing was particularly problematic due to the global financial crisis impacting CII as it was attempting to reach financial close. Due to this, CII was ultimately required to pay a $126 million dollar bid security deposit to the City.

In December 2012, the City notified the FAA that it would pursue a long-term lease of Midway. Mayor Emanuel appointed the Panel in January 2013 and the competitive procurement process was undertaken shortly thereafter with the issuance of a Request for Qualifications (RFQ) in January 2013. There are key differences in terms of process, goals, duration and anticipated outcomes between the 2008 and 2013 transactions:

1. The 2013 process included the Traveler's Bill of Rights that has been embedded into the Agreements and Operating Standards. In 2008 no such document existed.
2. The 2013 process included the appointment of the Midway Advisory Panel to help provide a layer of additional oversight and input into the long-term concession lease of the airport.
3. In both the 2008 and 2013 efforts the Use Agreement with the airlines was 25 years; however, the 2008 Use Agreement had a lower baseline in year one through six increasing by core Consumer Price Index (CPI) thereafter. The 2014 Use Agreement had a baseline nearly double that of 2008 in year one with revenue growth at CPI less 0.50 percent over the 25 year term and at CPI from years 26-39.
4. The 2008 concession lease was for 99 years. The revised and updated term as part of this concession lease was 39 years.
5. The 2013 concession lease payment terms to the City were restructured compared to the 2008 effort. In 2008 the City would have received an initial up-front payment of $2.52 billion. The 2013 transaction would have included an initial payment equal to the debt on Midway as well as an ongoing revenue share between the private operator and the City for the duration of the 39 year period.

Appendix 6: Review of Transaction Process

Role of the Midway Panel in the Process

The City of Chicago submitted a Revised Preliminary Application and draft Request for Qualifications ("RFQ") to the FAA on Dec. 28, 2012 to preserve the City's slot in the Pilot Program. Mayor Emanuel's administration has reserved the right to make a final decision on the lease until his team could fully evaluate all aspects of the deal and determine the impact it would have on the City, the taxpayers, the labor force and the traveling public. He also asserted that the transaction would have to include a "Travelers' Bill of Rights" which outlined the standards that the travelers and airlines could expect regardless of the selected bidder. Only once these conditions were satisfied could the transaction potentially move forward according to the preliminary application.

A panel of seven citizens was appointed by the Mayor to represent the public's interest. The Midway Advisory Panel was comprised of representatives from the City Council, labor, private industry, regional policy, business and civic leaders. MAP was tasked with independently evaluating the potential lease of Midway and delivering a report to the City Council, based on three critical questions:

- Was the proposed transaction structure a good option for the City's taxpayers?
- Had a fair, transparent and competitive process led to the proposed transaction?
- Did the proposed transaction result in fair value to the City's taxpayers?

At the end of January 2013, MAP conducted its own competitive procurement process and hired independent financial and commercial advisors, Loop Capital Markets LLC and KPMG Corporate Finance LLC, with experience in global infrastructure advisory, public finance and corporate finance to assist the Panel in completing its mandate. The Panel's advisors provided support and performed analysis throughout the course of the Midway transaction and regularly briefed MAP via bi-weekly meetings and ad hoc conference calls.

It is important to note that neither MAP nor its advisors actively engaged in conducting the transaction for Midway.

Approach

According to the Jan. 11, 2013 Press Release from the Mayor's office, the Panel was tasked with representing the public interest for the potential lease of Midway. The Panel's approach consisted of the following activities:

- Held bi-weekly and ad hoc meetings with its advisors to review the process and transaction. The City and its advisors regularly attended meetings to provide updates and additional information on the deal.
- Conducted extensive discussions with the City and its advisors to gain clarity on the implications of the transaction to taxpayers and provided ongoing feedback to the City.

- Had opportunities to review transaction documents, including the proposed Use Agreement, Management Agreement and Ground Lease Agreement (collectively, the “Agreements”) and queried the City and its advisors providing comments.
- Conducted a site visit of Midway Airport.

The January 11, 2013 Press Release stated that the Panel was tasked with considering the following items if a transaction had come to completion:

- The benefit the proposed transaction and its structure would provide for City taxpayers and residents.
- The fairness, transparency and competitiveness of the public process that led to the proposed transaction.
- An evaluation as to whether the proposed transaction provided fair value for the City’s taxpayers.

Upon the cancellation of the transaction by the Mayor on Sept. 6, 2013, the MAP ceased activities related to the transaction and did not answer the aforementioned questions.

Appendix 7: Process and Timeline

Request for Qualifications ("RFQ")

The procurement process formally began with the publication of a Request for Qualifications (RFQ) on Jan. 18, 2013. The RFQ required responses by Feb. 22, 2013. The City received seven RFQ responses and nine letters of interest, totaling 16 responses. The initial goal of the City and its financial advisors was to engage in a "pass/fail" approach to eliminate any parties that were deemed to be unsuitable based on the following evaluation criteria needed to effectively perform the duties required under the long-term concession lease agreement:

1. Operational and Management Capability Criteria:
    - International hub airport operations, development, maintenance and route development;
    - Safety and security/management of critical pieces of transport infrastructure;
    - Passenger customer service; and
    - Experience of working with government authorities.
2. Financial Capability Criteria:
    - Financial capacity to fund an upfront payment to the City and maintain and improve the airport throughout the term of the agreement;
    - Ability to raise appropriate financing;
    - Credit quality to ensure the payment of any obligations under the Agreement; and
    - Commitment to submit a competitive price.

Respondents

The respondents represented international airport investors and operators, most demonstrating the required financial capacity to participate in a transaction of Midway's size according to the City and Credit Suisse. To remain as inclusive as possible, the list was divided into two groups: (1) fairly complete teams that qualify to advance to the next round; and (2) process participants that possessed a strong interest in providing financing (equity or debt) to qualified teams. The

16 respondents to the RFQ included the following entities:

Complete Teams – Submitted RFQ

1. ACO Investment Group
2. AMP Capital Investors Limited
3. Corporacion America Group
4. Global Infrastructure Partners
5. Great Lakes Airport Alliance (Macquarie Infrastructure and Real Assets and Ferrovial)
6. Hastings Funds Management and Incheon International Airport
7. Industry Funds Management (IFM) and Manchester Airport Group PLC

Process Participants – Submitted Letters of Interest

1. Alberta Investment Management Corporation

2. Allstate Investments
3. Barclays Bank PLC
4. GS (Goldman Sachs) Global Infrastructure Partners
5. John Hancock Life Insurance
6. Ontario Teachers' Pension Plan Board
7. Santander Global Banking and Markets
8. TIAA-CREF
9. Ullico Infrastructure Fund

Based on a comprehensive review of the RFQ submissions by the City and its advisors, only one team, ACO Investment Group LLC, was disqualified from the process for lack of airport investments and failure to provide proof of available funds. The six qualified teams advanced to the next round and the nine process participants were encouraged to continue in the process by forming bidding partnerships.

The City and its advisors presented their findings to the Midway Advisory Panel ("MAP") on Feb. 27, 2013, describing the RFQ, the qualifications of the parties, the evaluation process and decision.

Phase I—Indicative Bid Process

The remaining bidding parties executed confidentiality agreements and Phase 1 process letters were distributed on March 29, 2013, and the bidders' due diligence process was initiated. Bidders were granted access to a virtual data room that contained key documents related to the transaction, including the Confidential Information Memorandum ("CIM"), the draft Agreements (specifically, the Use Agreement, Management Lease, and Ground Lease) and Operating Standards.

On May 9, 2013, the City and its advisors received submission packages from Great Lakes Airport Alliance (Macquarie/Ferrovial) and IFM/Manchester Airport Group. The packages, as required by the Phase I process letter, included a preliminary Transaction Value and comments on a potential revenue share approach, source and proof of funds, a summary of strategic operating capabilities and comments on transaction documents. To maintain competitive tension in the process, the identity of the bidding parties were not publically announced. They were qualified as shortlisted proponents and the process advanced to the next step. The Panel was not privy to these submissions.

Phase II—Binding Offers

Following the bidder due diligence process the City issued a Phase II Process Letter to shortlisted bidders on June 7, 2013, requesting they submit proposed markups to the transaction documents by June 27, 2013, and submit binding bids by Aug. 12, 2013. A first extension was granted to both parties and a revised deadline was given for Sept. 18, 2013. A second extension was granted, revising the deadline to Oct. 4, 2013.

On Sept. 6, 2013, however, Mayor Emanuel announced that the City would end the negotiations to privatize Midway Airport after one of the final two bidders dropped out. With only one bidder, the process no longer met the Mayor's competitive requirement.

Appendix 8: Potential Advantages and Disadvantages

While the transaction was ultimately cancelled, the Panel acknowledged that there were potential advantages and disadvantages associated with the long-term lease of public infrastructure assets. The following is not intended to serve as a comprehensive list of every risk and benefit associated with the Midway transaction, but rather as a highlight of key areas of consideration.

The Panel believed the follow benefits were possible under a lease of Midway:

- **Financial value to taxpayers:** According to 49 U.S.C. § § 47107(b)(1), revenues generated by a public airport would have been required to be expended for the capital or operating costs of the airport, the local airport system, or other local facilities owned or operated by the airport owner or operator and directly and substantially related to the air transportation of passengers or property. The FAA Pilot Program would have allowed for the City to receive an upfront payment and collect ongoing proceeds from a long-term lease of Midway. Per IL statute 094-0750, any potential net proceeds the City would have received for the lease of Midway would have to go towards funding investments in infrastructure and/or pension obligations.

- **Enhanced quality of service and products:** A stated goal of contracting with a private operator was to enhance the quality of services and product offerings at the airport, thus benefiting the traveling public and citizens of Chicago. The Operator would have had the ability to improve the competitive position, service quality, growth prospects and efficiency of the Airport for the benefit of Chicago residents, airlines and other users.

- **Transfer of long-term operating responsibilities:** The transaction structure potentially provided operational and financial benefits to the City by transferring long-term operating responsibilities and risks to the Operator. The Traveler's Bill of Rights was intended to protect the public's interest and help maintain standards of safety, security and customer service during the lease. The Traveler's Bill of Rights requirements were embedded in the Management and Lease Agreement and Operating Standards. The Operator would have been required to follow these standards or remedy any noncompliance issues.

- **Defeasance of outstanding debt:** The transaction would result in defeasance of Midway debt, thus reducing Midway's debt obligation and future liabilities.

- **Future revenue share:** The City would have required an ongoing revenue share arrangement providing for continued financial participation with the Operator. The City and Panel believes this would have helped align incentives between the City taxpayers and residents and private operator. It also provided the City's taxpayers with an additional revenue stream from operations at Midway that otherwise would not be available.

The Panel acknowledged the potential for the following risks:

- **Compensation events:** Circumstances potentially would have existed under which the City may have been obligated to compensate the Operator under the long-term lease agreements. These events are intended to protect a private operator from actions by a public entity that is in violation of its obligations under the agreement.

- **Valuation:** The City held a competitive procurement process to allow market participants to bid on the value of Midway; however, the ultimate value may not have met the City's expectations.

- **Revenue risk:** A risk existed that the Operator may not have delivered on the indicated projected revenue stream. This is particularly impactful given the ongoing revenue share arrangement that the City had anticipated using for Midway. As the City participates in a revenue sharing mechanism based on a percent of revenue earned by the Operator, the revenue received by the City could have been less than originally projected. However, currently City taxpayers do not receive a direct financial benefit from Midway. Under the long-term lease, the City would have received an upfront payment and the right to a percentage of future revenue earned over the term of the lease.

- **Noise and Environment:** The City retains certain noise and environmental risks that could produce a future liability to the City. The City would have been liable for damages from noise caused by the Operator.

- **Operations:** A risk existed that the level of service or operations may have fallen below the requirements set forth in the Travelers' Bill of Rights and transaction documents. The City had the right to take certain actions to remediate the situation if the level of service had fallen below certain thresholds defined in the concession documents. The Operator would have been responsible for operations.

- **Counterparty risk with private parties:** When entering into long-term contracts with private entities, there is counterparty risk or risk the counterparty will not fulfill its contractual obligations. The financial capacity of the Operator impacts its ability to run and manage an asset in the most efficient and effective manner. If the Operator were to experience a financial hardship, operations at Midway may have been impacted, as well as the City through the revenue share.

Appendix 9: Press Release Announcing Advisory Panel

OFFICE OF THE MAYOR

CITY OF CHICAGO

FOR IMMEDIATE RELEASE
January 2, 2013

CONTACT:
Mayor's Press Office
312.744.3334
press@cityofchicago.org

MAYOR EMANUEL ANNOUNCES OVERSIGHT COMMITTEE TO ENSURE TRANSPARENCY AND BEST PRACTICES AS CITY EXPLORES OPORTUNITIES AT MIDWAY AIRPORT

Mayor Also Articulates Specific Elements of Travelers' Bill of Rights Which Would Be Part of Any Agreement at the Airport

Mayor Rahm Emanuel today announced the membership of the Oversight Committee that will assist in the process of exploring a potential public-private partnership at Midway Airport. The committee is tasked with representing the public interest for any potential transaction related to airport, and will have assistance from an outside, independent advisory firm with expertise in evaluating such transactions.

The members of the committee are:

- Ald Carrie Austin, 34th Ward
- Ald. Michael Zalewski, 23rd Ward
- Former Ald. Marty Oberman
- Martin Nesbitt, PRG Parking Management
- Peter Skosey, Metropolitan Planning Council
- Frank Beal, Metropolis Strategies
- Jim Connelly, Laborers Union

"These men and women are proven civic leaders in Chicago and will be outstanding protectors of the interests of all Chicagoans as we explore opportunities extract additional value out of Midway airport," said Mayor Emanuel. "Any potential deal must pass an extremely high threshold and this committee will ensure transparency and thoroughness in this process."

The Oversight Committee and its advisor will be briefed at every stage of the process by City officials and will at different stages of the process, the Committee and its advisor will be expected to provide written reports to the public, to be posted on the project website. Should the City determine to move forward with a bidding process and obtain a winning bid for City Council's consideration at the conclusion of that bidding process, the Committee and its advisor will deliver a response to City Council outlining its viewpoints on the deal. The response will consider at least the following questions:

* Is the proposed transaction structure a good option for the City's taxpayers?

* Is there a fair, transparent and competitive public process that led to the proposed transaction?

* Does the proposed transaction result in fair value for the City's taxpayers?

The Committee and its adviser will be encouraged to consider other questions in addition to these as it forms its viewpoints.

City Council will have at least 30 days to review any potential deal.

The Mayor also released the proposed "Travelers' Bill of Rights," which outlines those things that all travelers through Midway Airport will be able to expect no matter what happens with the leasing process. This will ensure that any lease agreement the City pursues has only a positive effect on the experience that travelers have while at Midway airport.

The "Travelers' Bill of Rights" includes the provisions regarding reasonable parking facilities and prices; high safety standards; a clean and efficient terminal; convenient and timely baggage services; reasonably-priced food and beverage choices; sufficient and clean restrooms; curbside services; medical options, and more. The proposed Travelers' Bill of Rights is attached to this release.

Any agreement must also fully embrace the labor protections created by State law to ensure an environment where workers are respected and treated fairly and where every employee at Midway has the opportunity to work either for the new manager, with comparable pay and benefits as they enjoy today, or transfer to another position in the City.

The Mayor announced last week that the City of Chicago will deliver a Preliminary Application, timetable and draft Request for Qualification (RFQ) to the United States Federal Aviation Administration (FAA) pursuant to the FAA's Airport Privatization Pilot Program. This step preserves Midway's slot in the FAA pilot program and will allow City officials to gain a better understanding of market conditions and revenue generation possibilities for the potential lease of Midway Airport.

In addition to the Travelers' Bill of Rights and the Blue Ribbon Committee, the draft RFQ includes a handful of other requirements for any potential long-term lease:

Long-term lease of fewer than 40 years – The length of the lease will be less than 40 years – significantly shorter than other transactions.

Long-term cash flow stream for long-term capital needs – Any transaction must be structured to provide an ongoing source of funds for capital needs.

Revenue Share – The City will retain ownership of Midway Airport and receive a percentage fee that will grow over time.

The RFQ will be released publicly in January.

# # #

Appendix 10: Travelers' Bill of Rights for Midway Airport

Travelers through Midway Airport will experience:

Reasonable Parking Facilities and Prices

- Reasonable prices for parking, including economy options
- Availability of electric vehicle charging stations
- Visible and clear directions to ground transportation when leaving airport terminal
- Safe and convenient access to airport mass transit
- Snow and ice free entrances

Highest Safety Standards

- Safety management system to assure the traveling public and airport employees of a safe environment
- Action plan to identify and address risks and hazards

Clean, Efficient Terminal

- Availability of adequate and comfortable seating, including facilities for disabled travelers
- Comfortable / reasonable temperatures at all times
- Easy access to flight information on display screens throughout terminal
- Attractive appearance and cleanliness with specified cleaning schedule
- Appropriate dust control and safe air quality throughout terminal
- Availability of functional and reasonably priced wireless / mobile accessibility

Convenient and Timely Baggage Services

- Clear signage from gate to baggage claim
- Limited congestion – adequate number of carousels
- Easy access to assistance when needed
- Access to restrooms
- Available, convenient and affordable baggage carts

Fair Labor Practices

- Operator must comply with its labor agreements elsewhere
- Abide by worker protections
- Provide health care benefits, including dental and vision care, retirement planning and training programs for all full time employees

Reasonably Priced Variety of Food and Beverage Choices

- Diverse selection of food and beverage outlets with reasonable prices
- Some food items and vendors that working families can afford, such as fast food alternatives
- Healthy food options
- Access to reasonable cost food for employees that work at the airport

Sufficient and Clean Restrooms

- Specific number of available restrooms open at all times, with areas for baby changing and nursing
- High standard of cleanliness and specified cleaning schedule – damages for dirty restrooms
- High quality restroom supplies

Curbside Services

- Convenient pick-up and drop-off locations
- Frequent service from taxis and buses
- Adequate and informative signage and assistance personnel

Other

- First aid and emergency medical treatment trained staff on-site at all times
- Cardiac resuscitation equipment onsite
- Staffing of security management and enforcement to ensure minimal wait times, subject to TSA requirements
- Public art program in terminal—work with city Public Art office