

Date: January 9, 2023

FAA Part 16 Docket Clerk, AGC-600
Federal Aviation Administration
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Washington, DC 20591
9-AWA-AGC-Part-16@faa.gov

Aircraft Owners and Pilots Association, *et. al* v. County of Santa Clara, California
FAA Docket No. 16-22-08

**COMPLAINANT’S ANSWER IN OPPOSITION
TO RESPONDENT COUNTY OF SANTA CLARA’S CONSOLIDATED
MOTION TO DISMISS AND MOTION FOR SUMMARY JUDGMENT**

Complainants hereby submit the following concise statement of reasons for opposing dismissal and of material facts as to which there is a genuine issue, in accordance with 14 C.F.R. §§ 16.26(b)(4) and (c)(3).

Opposition to Dismissal

I. Motion to Dismiss Under 14 C.F.R. §16.27 for Failure to Comply with § 16.21.

The County of Santa Clara (County) claims the complaint should be dismissed because Complainants did not engage in informal dispute resolutions required by 14 C.F.R. § 16.21 and because filing the Complaint disrupted the County’s negotiations with the FAA. Neither argument presents sufficient grounds to dismiss the Complaint.

A. Informal Pre-Complaint Resolution

The County’s arguments that the Complainant’s attempts at pre-complaint resolution were inadequate are based on an isolated view of the facts and circumstances and law. Viewed appropriately, it is clear that the Part 16 requirement to informally attempt to resolve the issue was met in this matter.

“[A]ctions by either parties, such as correspondence, face-to-face meetings, and public testimony, all constitute informal resolution” sufficient to meet the requirements of Part 16 for good faith pre-Complaint resolution discussions. *Bombardier Aerospace Corp. and Dassault Falcon Jet Corp. v. City of Santa Monica*, FAA Docket No. 16-03-11, p.22 (Jan. 4, 2005) (Director’s Determination). “[T]here is no requirement to explicitly ‘mark’ a document as a Part 16 informal resolution for it to be considered as such by the FAA.” *Id.* Likewise, “the Part 13 complaint process with an FAA Airports District Office is recognized as a good faith effort

under 14 C.F.R. § 16.21(a) as a means to assist the parties with informal resolution.” *Resort Aviation Services, Inc. v. Kootenai County*, FAA Docket No. 16-20-21 (Apr. 30, 2020) (Order of the Director). Dismissal is not appropriate when the complaint certifies that substantial and reasonable good faith efforts were made and there is no reasonable prospect for timely resolution, and no information in the record indicates the certification is invalid. *Flamingo Express, Inc. v. City of Cincinnati, Ohio*, FAA Docket No. 16-06-04, p.9 (Feb. 26, 2007) (Director’s Determination).

Here, the Complainants participated in meetings and submitted concerns in writing. *See* Complaint Attachment 21. Aperture Aviation specifically requested permission to continue fueling its fleet of Cessna aircraft with 100LL avgas as a short-term exemption from the prohibition at RHV, and requested the County immediately begin negotiation to obtain a license for sale of 100UL fuel to avoid any delay in being able to use the unleaded fuel immediately once it is available. *See* Complaint Attachment 5A. The County never responded. *See* Complaint Attachment 5 para 10. The Complainants sought informal resolution pursuant to the Part 13 complaint process. *See* Complaint Attachments 13B, 20. Complainants have made inquiries into the progress of the process, expressing continued interest in obtaining a resolution as contemplated by Part 16. *See* Complaint Attachment 10; *Isaac W. Jones, Jr. and Alabama Hang Gliding Association v. Lawrence County Commission, Alabama*, FAA Docket No. 16-11-07, p.17 (July 16, 2012) (Director’s Preliminary Determination) (noting Complainant communicated with the ADO about his part 13 complaint approximately every 6 months, evidencing his continued interest despite the FAA’s inaction).

Contrary to the County’s claims, the Complaint does not merely issue vague statements unsupported by documentation. *See* Respondent County of Santa Clara’s Consolidated Motion to Dismiss and Motion for Summary Judgment (Resp. Mot.) at 8. The Complaint certifies it made efforts to resolve the matter, including informal complaints to the FAA, repeated explanation to the County of the need for General Aviation aircraft to use 100LL until an alternative is available, and telling the County of the substantial effects the ban has on airport users who must seek fuel outside the County. *See* Complaint at 16. The Complaint certifies that reasonable and good faith efforts were made, and relevant evidence was provided. The county never responded to any of these communications in a way that allowed for further engagement to discuss or understand the County’s purported reasonable explanation for the action it was taking. The County always remained steadfast in its resolve to prohibit the availability of 100LL at the airports based on its own conclusions regarding lead exposure seemingly coming from the airports. Simply because they were not labeled as “written proposals for informal resolution,” Resp. Mot. at 9, does not render them irrelevant. *Bombardier Aerospace Corp.* at 22. Even under the standards cited by the County, dismissal is unwarranted and inappropriate pursuant to section 16.27.

To further illustrate the fact of efforts at informal pre-complaint resolution, and as provided for in 14 C.F.R. § 16.26(b)(3), attached hereto are additional statements and evidence of meetings and communications made by Complainants. *See* Attachments 25-26. Paul Marshall provided a detailed proposal advocating for the sale of UL94 but recommending continued availability of 100LL until a transition to UL100 could occur during a meeting with County airport officials. Attachment 25.2. He attended and spoke out against the proposed ban during a

Board of Supervisors meeting. *Id.* Mr. Marshall arranged a meeting with the Director of County Airports at which many pilots conveyed their objection to and disappointment in the County's decision to implement the Board of Supervisor's resolution to ban sale and use of leaded fuel. *Id.* Michael Luvara participated in a survey to express his inability to use 94UL fuel and thereafter emailed the Board of Supervisors about the issue. Attachment 26. Paul Marshall sought a self-fueling permit in anticipation of being able to obtain 100UL fuel; more than three months passed without a response from the County, at which point Mr. Marshall withdrew his request and expressed his inability to obtain the unleaded fuel. Attachment 25, 25.1. Paul Marshall and multiple other pilots submitted a letter to the County expressing their concerns and objections over eliminating 100LL fuel, requesting it remain available for those planes that can't use 94UL fuel, and noting that they asked the FAA to guide the County as to appropriate steps while transitioning to 100% lead-free gas operation. Attachment 25.2. Another tenant sent an email seeking transparency and clarity on behalf of all individual/private tenants, including Complainants. Attachment 25.3.

Complainants have clearly illustrated efforts at pre-complaint resolution. Furthermore, when a respondent enacts measures at an airport in spite of concerns expressed by users, without consideration for or mention of Complainants' requests to the contrary, the respondent "extinguish[es] the possibility for additional and successful communications after that time, and effectively end[s] the Complainants' ability to expand upon any reasonable good faith efforts to resolve the matter informally." *Bombardier Aerospace*, No. 16-03-11, p.22. Here, Complainants attended meetings, provided feedback, voiced their concerns, raised objections, and repeatedly requested the County not implement its proposed action of banning the sale of 100LL fuel at its airports. The prohibition on such fuel sales was implemented unilaterally pursuant to the County's leasing power, with no negotiation or option for tenants. When the County officially took such action, then failed to respond to attempts to obtain self-fueling permits or grant exemptions to the ban, there were no other meaningful pre-complaint resolution steps to be taken. *Id.*

Finally, it is worth noting that the County raised this objection - that informal resolution had not occurred - prior to the docketing, and the FAA nonetheless docketed the complaint. Nothing new is asserted here to disprove Complainant's certification that efforts to resolve the dispute were made and the propriety of the FAA's apparent acceptance of that certification. *See Flamingo Express*, No. 16-06-04 (noting that the FAA would not have docketed the complaint if it had doubts regarding compliance). The County has not shown the Complaint is in any way deficient. Its motion must be denied.

B. Disruption of Negotiations

The County further claims that dismissal is warranted because the Complaint disrupted "productive discussions" that "would have provided practical and timely resolution to the disputed matters in the complaint. Resp. Mot. at 10. The fact that informal discussions, which have been unsuccessful over the course of more than a year, have been interrupted is irrelevant to the propriety of a formal Part 16 Complaint. The County cites to discussions with the FAA pursuant to the Part 13 complaint previously filed by Complainants more than one year ago. In

that more than one year time, no resolution has been reached and the County was objectively delinquent in that process. The County admits that it has not responded to all of the FAA's requests and has sought deadline extensions. *Id.* at 11, n.2 and Freitas Decl. para 64. The County presents no evidence that anything has changed to render a solution near at hand. Moreover, negotiation over what may or may not be determined for further operations does not address or excuse or justify ongoing non-compliance but just seemingly served to perpetuate it. The fact that discussions have not produced any resolution in more than a year, with less than full cooperation from the County, is evidence *in support of*, not against, the contention that there is no reasonable prospect for practical and timely resolution.

Such position is further supported by the County's lack of response to previous communications from Complainants. Paul Marshall waited three months and never received a response to his application for a self-fueling permit. Aperture Aviation waited more than a year for the County to respond to its requested exemption to allow it to fuel with 100LL gas. The County only responded once prompted by the filing of this Part 16 complaint. While it claims no exemption is necessary, Aperture Aviation has no means by which to obtain the 100LL fuel in light of the County's actions and the matter remains unresolved.

Complainants properly certified that there is no reasonable prospect for practical or timely resolution of the dispute. The County has not shown a failure to comply with the requirements of 14 C.F.R. § 16.21. The motion to dismiss pursuant to section 16.27 must be denied.

II. Motion to Dismiss Under 14 C.F.R. § 16.26(b)(1)(ii) for Failure to State a Claim

The County claims that because it has no obligation to ensure that fuel is available for purchase for every type of aircraft that could conceivably land on their runways, Complainants allegations merit dismissal. Resp. Mot. at 14. The County's efforts to misconstrue the Complainant's position are insufficient to meet its burden of showing the Complaint does not state a claim that warrants an investigation or further action by the FAA pursuant to 14 C.F.R. § 16.26(b)(1)(ii).

Complainants alleged that the County has unreasonably prohibited the availability of 100LL and unreasonably denied the right to self-fuel aircraft with leaded fuel. Complaint at 8-9. Specifically, the Complaint alleges that the County exercised its proprietary exclusive right over aviation gasoline sales to ban the sale of 100LL in violation of Grant Assurance 22. The FAA recently stated that a ban or restriction on the sale of 100LL at a federally obligated airport is inconsistent with Grant Assurance 22. *See* Complaint Attachment 2. The Complaint clearly states a viable claim warranting investigation and further action by the FAA.

As the FAA has explained, "[a]ny restriction on the sale or dispensing of any type of fuel, when there is demand/need or a fuel provider willing to provide the fuel, must be approved in advance by the FAA. Any such proposed restriction must be supported by a valid, FAA-approved justification." Complaint Attachment 2. The County's claim that it does not need FAA approval and simply acted permissibly in response to market demand is unpersuasive. The County adopted a resolution to ban the sale and/or use of leaded fuel and immediately thereafter

prohibited the sale of 100LL fuel. To claim the actions were based on market demand rather than an intent to prohibit the sale of 100LL fuel is disingenuous and cannot serve to remove its actions from the purview of a valid complaint under Part 16. In any event, even if there is market demand for UL94, there is also market demand *and need* for 100LL by the primary consumer at the County's airports, whose aircraft are not approved to use UL94, rendering the airport's actions unreasonable and subject to investigation for compliance with grant assurance 22. There is no escaping the simple critical fact that 100LL fuel had been provided and was being accessed and was then specifically no longer provided as a result of the County's deliberate action to immediately interfere with its availability.

To the extent the County claims it has not banned *self-fueling* with 100LL fuel, it ignores the practical effect of its actions. The County contends that the only requirement for self-fueling is to obtain a permit. Resp. Mot. at 13. Yet the Commercial Self-Fueling permit explicitly limits the fuel used to that purchased from the County. Attachment 27. And as the County acknowledges, it only sells unleaded fuel. Ergo, self-fueling is only available with unleaded fuel.

Specific to the lease with Tradewinds Aviation, even if the language mandating compliance with the "order relating to the prohibition of use of leaded fuels" is not in the final draft, the lease nonetheless prohibits the use of leaded fuels. *See* Attachment 32. Paragraph 4.1.6.a. of the lease explicitly requires Lessee to obtain a Commercial Self Fueling Permit. *See* Attachment 32 para 6 and Attachment 32.1. Tradewinds' lease thus mandates that it only use unleaded fuels for self-fueling. *See* Attachment 32 para 11.

While the general aviation self-fueling permit allows the aircraft owner or operator to use fuel obtained from the source of his/her preference, as a practical matter obtaining leaded fuel is not a realistic or remotely affordable option. Permittees must pay the County a self-fueling flowage fee, must purchase specific equipment (for example, a minimum 20 gallon tank, and have immediately available fuel absorbent), find somewhere off airport to park their fuel transport vehicle, obtain permits to transport hazardous materials, and obtain expensive insurance naming the County as additional insurers. Attachment 25, 25.1. These requirements are especially burdensome in light of the anticipated switch to 100UL once it becomes commercially available.

As Complainants asserted in the complaint, providing a self-fueling "option" that is not actually available for tenants equates to preventing self-fueling in violation of Grant Assurance 22. *See* Complaint at 10 (citing *Cedarhurst Air Charter, Inc. v. County of Waukesha, Wisconsin*, FAA Docket No. 16-99-14 (Aug. 17, 2000) (Final Decision and Order); *see also Monaco Coach Corp. v. City of Eugene*, Docket No. 16-03-17 (March 4, 2005)(Final Agency Decision) (self-fueling violation is proven by demonstrating the proposed alternative for self-fueling is unreasonable or unjustly discriminatory). Self-fueling with leaded fuel is explicitly prohibited for commercial self-fueling and effectively prohibited for general aviation self-fueling. Such prohibitions violate Grant Assurance 22. The Complaint states a claim that warrants investigation by the FAA and the motion for dismissal must be denied.

III. Standing

The County contends that Claimants are not “directly and substantially affected” by the County’s rules on self-fueling because the County has not denied a request for a self-fueling permit from a Complainant. This argument is nonsensical. The County’s rules on commercial self-fueling deny the ability to self-fuel with anything other than unleaded fuel. This rule directly and substantially affects Complainants, who need to use 100LL fuel. The fact that Trade Winds Aviation was granted a self-fueling permit allowing it to self-fuel with unleaded fuel does nothing to lessen the harm. Complainants have standing to challenge the County’s rules on self-fueling.

Opposition to Summary Judgment

To prevail on a motion for summary judgment, the respondent must show there is no genuine issue of material fact and, when viewed in the light most favorable to the complainant, the complaint should be resolved in respondent’s favor as a matter of law. 14 C.F.R. §16.26(c)(1). Here, the County argues there is no genuine issue of material fact as to whether the County has prohibited the use of leaded fuel or self-fueling with leaded fuel at the County Airports. Resp. Mot. at 11-13. This fact is very much in dispute; in many ways, the County’s motion establishes the disputed issue that particularly merits the filing of a Part 16 complaint and the requirement that the FAA resolve the disputes. The motion must be denied.

The County’s claim that it “has adopted no laws, regulations, or policies that prohibit self-fueling with leaded avgas at the County Airports,” Resp. Mot. at 13, is untrue. In addition to the clear prohibition on self-fueling with leaded avgas through the commercial self-fueling permit requirements, County Supervisors voted “to immediately take all available actions to prevent continued lead exposure from Reid-Hillview” and the County expressed its commitment to “taking the necessary steps to protect the communities around County airports from continued aviation lead exposure.” Attachment 29. The County also adopted a resolution to “take such actions as may be necessary to expeditiously eliminate lead exposure ... include[ing] but [] not limited to, both prohibiting the sale or use of leaded fuel...”. While the County claims this resolution was not “self-implementing,” Complainants were told that the airport was implementing the resolution. Attachment 25 para 5. The County has repeatedly made its policy against leaded fuel clear.

The County also contends that it allows the “use” of leaded fuel at County airports because it allows operations by aircraft using leaded fuel. While the complaint uses the term “use of leaded fuel,” the Complaint is not alleging that the County has banned aircraft that use leaded fuel from operating at County airports. This is not a material fact to be resolved – on summary judgment or otherwise – in the Complainants’ allegations.

Complainants have clearly alleged and demonstrated that the County has prohibited self-fueling with leaded fuel, and the County does not deny that it has prohibited the sale of leaded fuel at County airports. The only way to obtain leaded fuel is thus through the *emergency* use procedures in the limited situation that a plane does not have enough fuel to takeoff, a use that any pilot would seek to avoid thus rendering this availability meaningless to the issue at hand.

There should be no question that the County has imposed an effective ban on the use (meaning ability to access or obtain in order to use) of leaded fuel at the airport.

The County's remaining arguments attempt to justify limiting the use of its fuel tanks and limiting the type of fuel sold at the airport. Contrary to the County's claims, its conversion of all airport fuel tanks to unleaded fuel is not simply a business decision "consistent with the public's interest" or in response to "market demand." Resp. Mot. at 14, 15. To the contrary, fuel sales have decreased at both airports. Attachment 30. Although airports operations increased at San Martin by 14% compared to 2022, fuel sales decreased by 46%. The primary consumer continues to use and need 100LL fuel.

The County's reliance on *Pacific Coast Flyers, Inc. v. County of San Diego* is also misplaced. That determination found that displacing some airport users at the expense of others was not a *per se* violation of the grant assurance but noted "[t]he threshold for assessing a compliance violation for Grant Assurance 22 lies in the County's ability to reasonably accommodate aeronautical users at the airport." FAA Docket No. 16-04-08, p.35 (July 25, 2005) (Director's Determination). In finding the County of San Diego not in violation, the Director focused on the County basing the change on reasonable planning documentation to include an airport Master Plan, which was the result of significant research and relied upon statistics of forecasted use and economic considerations, and the fact that San Diego County made reasonable efforts to accommodate the displaced aircraft, including temporary spaces during construction, continued space at the airport, albeit less, and promoting the availability of spaces at other airports within San Diego County through several means readily available to pilots.

The County here has taken no such measures. The County's change to eliminate leaded fuel is not based on significant research into forecasted use or the economic needs of the County. As illustrated above, banning leaded fuel is contrary to economic interests and has led to decreased fuel sales. No steps were taken to provide for all aeronautical users during the transition. In fact, while the County claims it has successfully transitioned with no safety incidents, Resp. Mot. at 5, at least one aircraft mis-fueled with UL94 and another crashed after taking off with insufficient 100L fuel. Attachment 28. No leaded fuel is available at *any* County airport for aircraft that must continue to use it until 100UL is available. The only information publicly available or given to airport users has been about the complete ban on leaded fuel and a brief statement on how to apply for access to leaded fuel in an emergency situation by sending an email. The County has not made efforts to reasonably accommodate aeronautical users at the airport and is thus in violation of Grant Assurance 22. *Pacific Coast Flyers, Inc.*, No. 16-04-08, p.35.

The County's reliance on *Ashton v. City of Concord*, Docket No. 16-99-09 (Jan. 28, 2000) (Director's Determination), likewise presents no support for its actions here. While deciding not to sell *automotive* fuel may be a business decision outside the scope of Grant Assurances, the County did not make a business decision in this case. Nor does the County's decision on fuel sales affect only a small number of aeronautical users who can reasonably self-fuel. As the final agency decision in that case noted, the Complainant was not prohibited from reasonably self-fueling and in fact admitted that he did not even use auto fuel. *Ashton v. City of Concord*, Docket No. 16-99-09, p.19 n.4 (July 3, 2000) (Final Decision and Order) The County's

ban on leaded fuel, including commercial self-fueling, with no reasonable option to self-fuel other general aviation aircraft, does not reasonably accommodate a large number of aeronautical users at the airport in violation of Grant Assurance 22.

The Complaint presents a genuine issue of material fact in alleging that the County has prohibited the use of and self-fueling with leaded fuel at County Airports. Especially when viewed in the light most favorable to Complainants, there are no grounds to resolve the complaint in the County's favor and summary judgment must be denied.

Opposition to Dismissal of Complainant

The County claims that because Dr. McMurray did not sign the Complaint, he should be stricken as a Complainant. This argument is without merit because Part 16 provides for an "authorized representative" to file a complaint. 14 C.F.R. § 16.13(e); *see also* *Bombardier*, No. 16-03-11, p.22. As Dr. McMurray attests in the attached affidavit, Justine Harrison was authorized to sign and file the Complaint on his behalf. Attachment 31. As Dr. McMurray further explains, he did electronically sign the Complaint on October 14, 2022. The full signature page containing his signature is provided to remedy any deficiency in the original filing. Attachment 31.1. Accordingly, there are no grounds to dismiss Dr. McMurray as a Complainant. 14 C.F.R. §16.27 (remedy for a deficiency in procedural requirements is to dismiss the complaint without prejudice to allow for refile with the deficiency corrected).

CONCLUSION

The County has not established grounds to dismiss the Complaint, in whole or in part. Nor has the County proven that no genuine issue exists as to material fact that would warrant judgment in the County's favor as a matter of law. Complainants have standing to bring this Complaint before the FAA, and there is no reason to dismiss any of the Complainants. The County's motions do nothing more than unnecessarily and unfairly delay an FAA review and determination on the County's conduct that has been an ongoing violation since January 1, 2021, with consequent and ongoing actual harm. The County's consolidated motions should be denied and this process be allowed to proceed with dispatch.

Respectfully submitted,

DocuSigned by:

Justine Harrison

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Justine A. Harrison, Esq.
Representative for Complainants

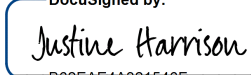
Certificate of Service

I hereby certify that I have this day caused the foregoing Complainant's Answer in Opposition To Respondent County of Santa Clara's Consolidated Motion to Dismiss and Motion for Summary Judgment to be served by electronic mail, with a courtesy copy by first class U.S. Mail:

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By electronic Mail and US Mail; original and three copies

Dated this 9th day of January, 2023.

DocuSigned by:

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Index of Attached Documents

25. Declaration of Paul Marshall in Opposition of Respondent's Motion to Dismiss and Motion for Summary Judgment
 - 25.1. Paul Marshall email requesting self fuel permit & permit application
 - 25.2. Letter from Paul Marshall and other E16 pilots re ensuring a smooth transition to unleaded Avgas at San Martin Airport
 - 25.3. Email from Mike McDonald on behalf of individual/private tenants
 - 25.4. Email from Eric Peterson to Paul Marshall with S.C.A.N. newsletter
 - 25.5. S.C.A.N. newsletter December 2021
26. Survey and email from Michael Luvara August 2021
27. Commercial Self-Fueling Permit
28. Declaration of Niknam Nickraves
29. Santa Clara Press Release
30. December 2022 Santa Clara County Airport Commission Meeting Notes
31. Declaration of Dr. Joseph McMurray
 - 31.1 Complaint signature page including Dr. McMurray signature
32. Declaration of Walter Gyger in Opposition of Respondent's Motion to Dismiss and Motion for Summary Judgment
 - 32.1 Excerpt, Trade Winds Aviation Lease Agreement with the County of Santa Clara, effective January 1, 2022
 - 32.2 Santa Clara County Airports General Aviation Commercial Self-Fueling Permit

UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, DC

AIRCRAFT OWNERS AND PILOTS
ASSOCIATION, *et al*,

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Complainants,
v.

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FAA Docket No. 16-22-08

COUNTY OF SANTA CLARA,
CALIFORNIA

*

*

Respondent.

* * * * *

**DECLARATION OF PAUL MARSHALL IN OPPOSITION OF RESPONDENT’S
MOTION TO DISMISS AND MOTION FOR SUMMARY JUDGMENT**

I, Paul Marshall, being over 18 years of age and otherwise fully competent to testify state that:

1. I have personal knowledge of the facts stated herein.
2. I make this declaration in support of the Part 16 complaint against the County of Santa Clara (the “County”) relating to violations of Grant Assurances at San Martin Airport (E16).
3. Recognizing the need for a safe and orderly transition to unleaded fuels that would provide a good solution for all stakeholders – pilots, community, airport staff, and airport general fund, on February 26, 2021, I conveyed my concerns and shared my proposal in a meeting with supervisor Mike Wasserman, the Deputy Executive Sylvia Gallegos, Director of Roads and Airports Harry Freitas, and Director of Airports Eric Peterson. While the County ultimately agreed with many of my recommendations concerning UL94, it did not follow my recommendations concerning continued availability of 100LL while a safe changeover to UL94 and UL100 occurred over time.
4. During the August 17, 2021, Santa Clara County Board of Supervisors meeting, I personally spoke out against Resolution 36 and Resolution 37. With over 200 people speaking at that meeting, speakers were limited to just one minute each, which was insufficient to address the many dysfunctional items and issues. I tried to tell my piece of the story in one minute, but after that, had to rely on the other 60 or so pilots in attendance. I was quite dismayed at the outcome of the meeting – that the supervisors wished to close Reid Hillview in the most expeditious manner possible and prohibit the sale and use of leaded aviation fuel at the airport.

At this time, I understood any further efforts on my own would be futile because I: (i) worked this issue in person with supervisors' staff; (ii) voiced my concerns but failed to prevent a 5-0 vote in this meeting to adopt the resolutions; (iii) knew that the Board of Supervisors are the highest power in the county; (iv) knew that County directives would be enforced by the County sheriff.

5. On August 19, 2021, at a South County Airport Pilots Association (SCAPA) meeting conducted over Zoom, Eric Peterson, Director of County Airports, for Santa Clara County, explained the County's new policy of prohibiting the sale of 100LL. At this time, I was the President of the South County Airport Pilots Association (SCAPA, the association of pilots at San Martin Airport) and arranged meetings such as this. Eric Peterson described the approved resolutions and said the County staff would be working to implement those resolutions. The attending pilots conveyed their disappointment to Eric, and he in essence said that he understood our feelings, but that the supervisors had spoken and it was the staff's job to implement their decisions.
6. Anticipating the ability to obtain 100UL fuel, by email dated October 7, 2021, I requested from Santa Clara County a self-fueling permit to allow self-fueling of 100UL for my aircraft, a Bonanza A36, registration number N4305U, which is based at E16. **Attachment 1.** In the email, I specifically asked to be advised if there were any other requirements not specified in the sample permit from the County's website, or if any other information was needed from me. The email included the sample self-fueling permit as an attachment.
7. By email dated October 18, 2021, I sent as an attachment a letter to County Supervisors and Staff outlining how elimination of 100LL sales would have a discriminatory, punitive and safety-reduction effect. **Attachment 2.** The letter proposed that a better way to handle this transition is to simply continue to keep 100LL fuel plentiful, convenient, with timely access to those planes which can't use the 94UL fuel, and provide plentiful, convenient, timely access to 94UL fuel for the pilots who can use the fuel.
8. On January 14, 2022, after approximately 3 months with no response from the County to grant or deny my request for the self-fueling permit, and with 100UL fuel not available from the two leading candidates GAMI and Swift, I sent the County an email stating that I was abandoning my self-fueling request. I have never requested a self-fueling permit from the County for 100LL as I understand that they would refuse such a request. County staff has communicated to me quite clearly that 100LL fuel will not be permitted on the airport.
9. On November 10, 2022, the County received an email from Michael McDonald, seeking transparency and clarity on behalf of all individual's/private tenants at the airport, concerning the County's provision of 100LL fuel to tenants. **Attachment 3.** After receiving and reviewing a copy of this email to County, which was sent on my behalf as a tenant, I saw no need to personally repeat this inquiry.

10. On December 6, 2021, I received an email from Eric Peterson at Santa Clara County, titled "Airports Newsletter - No 100LL Available at RHV or E16 after 12/31/2021" (**Attachment 4**) stating that: "The new year will bring several changes to the Santa Clara County airports. One such change will be the removal of all 100LL sales and distribution at both RHV and E16 effective January 1, 2022. Read the latest edition of S.C.A.N. to learn more about this and other changes coming to the airports. You can read it by clicking here <https://tinyurl.com/2k74crvn> or visiting the airports website (countyairports.org). On the home page click on the latest news article."

11. The email included a link to the December 6, 2021, edition of the Santa Clara County Airport News (**Attachment 5**) which states the following, in part:

100LL Will No Longer Be Available after December 31, 2021

One of the most immediate consequences for airport users as a result of the discussion on airborne lead, is the elimination of sale and distribution of 100LL fuel at RHV and E16 by January 1, 2022. To restate that, **beginning January 1, 2022 100LL will no longer be available for sale at RHV or E16.** Currently, two of the four fuel providers at RHV have already transitioned to Swift Fuels UL94, the only currently available unleaded aviation gasoline. It is expected that the remaining two fuel providers on the airport will also make that transition by January 1, 2022. The E16 fuel provider also has plans to transition to UL94 and Jet Fuel only by January 1. If you are interested in utilizing UL94, an STC is required. Check <https://www.swiftfuelsavgas.com/> to verify your aircrafts compatibility and apply for the STC.

12. In considering the merits of forcing each of the approximately 100 county tenants whose planes can only use 100LL to self-fuel, it seems to me that one efficient way to handle it from a global perspective is to dedicate one of the four fuel tanks at RHV without a credit card reader to be used to fill a 100LL truck at each of KRHV and E16. In that way, the County could utilize the fueler to ensure that only aircraft with engines that are not certified to use 94UL could be filled with 100LL. Therefore, the County can maintain its desired environmental stance of converting a large portion of fuel flowage at its airports to unleaded fuel, while continuing to maintain a public policy objective of keeping our planes flying. This seems the effective approach to me in comparison with the alternative of forcing aircraft owners who can't use 94UL to self-fuel.

13. Having reviewed the sample County self-fuel permit, the requirements are impractical to comply with because doing so would realistically require me to: (i) Purchase a 330-gallon fuel tank; (ii) Purchase a trailer to transport the fuel tank; (iii) Secure a storage location off the airport where large quantities of aviation fuel can be stored without endangering surrounding properties and without risk of theft or tampering with fuel contents; (iv) Comply with all applicable Bay Area Air Quality Management District regulations on fueling and fuel tank storage; (v) locate and contract with a bulk supplier to refill the fuel tank; and transport the fuel tank to and from the airport immediately before and after each fueling and (vi) secure insurance that meets the requirements of the self-fueling permit, but also covers my exposure for personally storing, as well as transporting on public roadways, large quantities of aviation fuel.

14. Forcing pilots to self-fuel with 100LL doesn't change the amount of 100LL fuel they burn at all – they simply get their fuel at different airports. Forcing them to self-fuel merely serves a punitive, discriminatory, and safety reducing end. Forcing pilots to buy fuel at other airports forces them to start some trips with less than desirable fuel loads and can cause them to burn more fuel than they would have otherwise as they make an extra stop to go to an airport that has 100LL fuel. The County shouldn't be promoting a policy that causes more 100LL fuel to be burned than necessary.

15. A recent flight illustrates some of the operational and safety degradations that result from the County's current no 100LL policy. On the afternoon of December 22, 2022, the Episcopal Church Diocese of Northern California Disaster Response Manager put out an urgent request for CalDART to pick up disaster response supplies from multiple airports in Northern California to deliver them to Fortuna airport in Humboldt County, where they had a parish that was in need of disaster supplies for the local community which had just suffered a bad earthquake. CalDART (see caldart.org) swung into action and by 11:00 the next morning I was a responding pilot lifting off from E16 on my way to Rohrer Field in Siskiyou County, where one of the supply caches was located. I left with 57 gallons less than my desired full fuel load because I could not pump 100L fuel prior to departure from E16.

It was not an easy day to fly – tule fog in the central valley limited access to many airports I would be flying over on my way there. A cloud deck over much of Northern California made VFR access to any airport in the North nontrivial. Had I simply been able to fuel my plane before I departed, I would have saved an hour's time researching fuel availability and rearranging pick up points with the donor; it would have mitigated risk inherent in additional landings for the purpose of refueling; and I would have saved an hour's time on the ground fueling at another airport due to a mechanical failure of that pump that occurred while fueling.

I AFFIRM under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge.

Date: 1/7/2023 | 8:04 AM PST
_____.

DocuSigned by:
Paul Marshall
6449F76961AD474...
Paul Marshall

ATTACHMENT 1

From: **Paul Marshall** <pmarshall95037@gmail.com>

Date: Thu, Oct 7, 2021 at 6:07 PM

Subject: Self Fuel Permit

To: Peterson, Eric <Eric.Peterson@rda.sccgov.org>

Cc: Odunbaku, Femi <femi.odunbaku@rda.sccgov.org>, Betts, Ken <Ken.Betts@rda.sccgov.org>

Hello Eric:

I am hereby requesting a self fuel permit for my plane registration number N4305U at E16. I am in contact with Swift Fuels, and they have agreed to provide me their R100UL aviation gasoline ahead of general market availability, providing them with data to submit to the FAA as part of their approval package. I am researching tank options and regulations at the county, state, and federal level. Let me know if you know of any requirements not specified in the attached permit, and whether you need any other information. I am advertising my activity to other pilots on the airport, and it is possible some of them may want to join me in the trial. Let me know if the addition of any other pilots would create any information requirements or additional compliance requirements or fee adjustments on your end. As you know, I have recommended at the beginning of this year that the county build another avgas storage tank at San Martin. Please keep me apprised of any developments in this area.

Thank you,

Paul Marshall

**SANTA CLARA COUNTY AIRPORTS
GENERAL AVIATION
SELF-FUELING PERMIT**

DEFINITION

Self-Fueling: Fueling of an aircraft on airport property performed by the aircraft owner or operator in accordance with the Airport's reasonable standards or requirements and using fuel obtained by the aircraft owner or operator from the source of his/her preference.

1. SELF-FUELING AUTHORIZATION

Execution of this Permit by Director of County Airports and permittee shall duly authorize permittee to conduct self-fueling aeronautical activity operations at _____ Airport in accordance with the terms and conditions specified in this permit. No self-fueling shall take place without a valid self-fueling permit

2. AUTHORIZED SELF-FUELING ACTIVITIES

Permittee may conduct self-fueling operations, for non-commercial purposes, only on aircraft owned or operated by Permittee at Permittee's assigned aircraft storage space on airport. Permittee shall not sell to, or dispense fuel into, any other aircraft.

3. RESTRICTION ON SELF-FUELING ACTIVITIES

The self-fueling activities authorized above shall be subject to the following restrictions:

- A. Permittee shall be permitted to self-fuel only at Permittee's assigned aircraft storage space or such non-exclusive public area as the Director may designate.
- B. The dispensing of fuel into aircraft shall be in strict accordance with all Airport Rules and Regulations, as well as all applicable Federal, State, County and City laws, rules and regulations. It shall be the responsibility of Permittee to keep informed of and comply with such laws, rules and regulations at all times.
- C. Permittee's fueling equipment may be parked or positioned on Airport premises only when actually dispensing fuel to Permittee's aircraft.

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- D. Permittee's fuel transport vehicle and fueling equipment shall not be parked, staged or stored in a Hangar at any time.
- E. Permittee shall have the sole responsibility to obtain all necessary permits for the use and transport of hazardous materials.
- F. Permittee shall only use the entrance, exit, and haul route designated by Director during the transportation of fuel onto and off the airport.
- G. During self-fueling, the fueling vehicle shall not obstruct other aircraft or vehicular movements.
- H. Hangared aircraft shall be positioned outside of Hangar during self-fueling operations. **Aircraft shall not be refueled inside of the hangar.**
- I. During the fueling of an aircraft, the fuel dispensing apparatus and the aircraft must be bonded in accordance with local, state, federal codes, and uniform fire code standards.
- J. Fuel may not be transferred from one vessel to another, except in a location approved by the Airport Authority.
- K. Permittee shall ensure that there are no potential sources of fuel ignition within fifty (50) feet of the self-fueling operation.
- L. Fuel transport vehicle is prohibited from parking (staging) on County Airport property including ramp/aircraft storage space or within 50 feet of a building.
- M. Permittee shall exercise care to prevent the overflow of fuel, and must have immediately accessible at the fueling site a 20 lb. B:C rated fire extinguishers.
- N. DIRECTOR, in his/her sole discretion may immediately suspend any self-fueling operations for violation of any term or condition of the permit, or if such self-fueling poses a threat to health and safety.

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- O. Permittee shall not fuel or de-fuel an aircraft on the airport while the aircraft is in a closed hangar or enclosed space.

Permittee shall ensure:

- (1) Fueling activities cease when lightning discharge occurs within five miles of the airport.
- (2) The aircraft engine is not in operation during re-fueling.
- (3) All aircraft electrical systems, to include magnetos and master switch, are in the "off" position.
- (4) The aircraft's parking brake is set, or at least one aircraft wheel is chocked, or the aircraft is secured to the ground by the two wing tie-down points.

4. MINIMUM EQUIPMENT REQUIREMENTS

- A. Fuel transport and dispensing tanks or containers and associated equipment shall comply with all applicable Federal, State, County and City laws and regulations regarding the transportation and storage of flammable liquids.
- B. Fuel transport and dispensing containers shall not be less than twenty (20) gallon capacity each. Fuel transport containers shall be painted red and clearly marked in accordance with FAA• AC 150/5230-4 or current edition with the type of fuel, i.e. MOGAS, and with "Flammable" and "No Smoking" placards placed on the exterior.
- C. All fuel transport containers shall be firmly and mechanically secured to the transport vehicle.
- D. All fuel dispensing or containers shall have a valve mechanism such that water can be drained from the lowest portion of the tank, unless equipped with a glass bowl filter.

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- E. Fuel uplift standpipes shall be constructed such that 5% to 10% of the total capacity of each dispensing container cannot be delivered through the dispensing system (5% to 10% unusable sump).
- F. An in-line filtration system utilizing a 5 micron or less gasoline filter element shall be included in the fuel dispensing system.
- G. Cables for bonding the fuel dispensing system, and the aircraft to zero electrical potential shall be provided.
- H. A 20- lb. B:C rated fire extinguisher shall be readily available and accessible during self-fueling operations.
- I. Fuel dispensing nozzle shall be "over-the-wing" hand held type in which fuel is only delivered through the over wing nozzle by squeezing the handle and trigger. The nozzle must continually be held open by hand through the course of refueling. Once the handle is released, the fuel flow will stop. The fuel nozzle shall not be blocked open or left unattended during self-fueling operations.
- J. Permittee shall maintain an adequate supply of fuel absorbent material readily available to contain a medium-size fuel spill (25 gallons or less) as prescribed by the Airport Authority.
- K. All self-fueling equipment shall be maintained in a clean, non-leaking condition while on Airport and is subject to inspection at any time by the Director of County Airport or Designee.

5. FUEL FLOWAGE FEES

- A. Permittee shall pay to County an annual self-fueling flowage fee, as set forth in the current *Schedule of Fees and Charges for Santa Clara County Airports*.
- B. Permittee acknowledges and agrees that payments are made annually, due in advance and the annual payment must be received by the first day of the month in which payment is due. Payment received after that date is subject to an additional late payment fee, in the amount set forth in the current *Schedule of Rates and Charges for Santa Clara County Airports*.

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- C. A process fee shall be assessed for any checks returned by Permittee's bank due to insufficient funds. The processing fee amount is set forth in the current *Schedule of Fees and Charges for Santa Clara County Airports*.
 - D. All fees and charges are subject to change based on future changes to the *Schedule of Fees and Charges for Santa Clara County Airports*.
6. USE OF ASSIGNED SPACE AND AIRPORT
In utilizing the Assigned Space and Airport, Permittee shall abide by the following requirements:
- A. Permittee shall not contaminate Airport, the assigned aircraft storage space, or the sub-surface of either, with any Hazardous Material.
 - B. Permittee shall immediately notify the 911 Fire Services of any release of Hazardous Materials on Airport or the assigned aircraft storage space, whether or not the release is in quantities that would be reportable to a public agency.
 - C. Permittee shall be solely and fully responsible and liable in the event Permittee's self-fueling operations cause or permit Hazardous Materials to be released at Airport or the Assigned Aircraft Storage Space. If any release of Hazardous Materials occurs on the Assigned Aircraft Storage Space or Airport as a result of Permittee's self-fueling operations, Permittee, at Permittee's sole cost and expense, shall remove such Hazardous Materials in accordance with all applicable government regulations. In addition to all other rights and remedies of County, if Permittee does not immediately clean up and remove any such Hazardous Materials release, County may pay to have Hazardous Materials removed and Permittee shall reimburse County any costs incurred by County together with interest at maximum rate allowed by law.
 - D. Permittee shall indemnify and hold County harmless against all loss, damage, liability and expense which County may sustain as a result of the presence or clean-up of Hazardous Materials on the assigned aircraft storage space or Airport caused directly or indirectly by Permittee's self-fueling operations.

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- E. Permittee's obligations under this Permit, for clean up and removal of Hazardous Materials releases attributable to Permittee, shall survive the expiration or termination of this agreement.

7. INSURANCE REQUIREMENT

Permittee, at its sole cost and expense and for the full term of this permit or any renewal thereof, shall obtain and maintain at least the minimum insurance requirements set forth as follows for vehicles used to transport fuels for aviation uses.

- A. A Comprehensive Automobile policy, with a minimum limit of not less than \$500,000 combined single limit for bodily injury and property damage, providing at least all of the following coverage (without deductibles):

(1) Coverage shall be applicable to any and all leased, owned, hired, or non-owned vehicles used in the pursuit of any of the activities associated with this permit.

- B. The said policy or policies described above shall name the County of Santa Clara its officers, agents, volunteers, and employees as additional named insurers and shall insure against all claims or demands of any and all persons for damage and injuries, including death, sustained by an person or persons occurring from the negligence or the act or omission of Permittee, its officers, agents, volunteers, and employees, or resulting from its, noncompliance with any law, ordinance, order, or regulation respecting the condition, use, occupation or safety of the premises hereunder or any part thereof, or resulting from Permittee's or its agents' or employees' failure to do anything required by this permit agreement or resulting from or arising out of the Permittee's activities under this agreement and any lease or document governing Permittee's use of the airport and/or any structure thereon.

- C. Endorsements: All of the following endorsements are required to be made part of each of the above required policy, unless already included in the policy as stipulated below:

(1) "The County of Santa Clara, its employees, officers, agents, and volunteers are hereby added as additional insurers."

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- (2) "This policy shall be considered primary insurance as respects any other valid and collectible insurance the County of Santa Clara may possess, if any, shall be considered excess insurance only."

- (3) "This insurance shall act for each insured, and additional insured as though a separate policy had been written for each. This, however, will not act to increase the limit of liability of the insuring company."

- (4) "Thirty (30) days prior written notice of cancellation shall be given to the County of Santa Clara in the event of cancellation and/or reduction in coverage of any nature."

D. Proof of Coverage

Copies of all the required ENDORSEMENTS an evidence of coverage and a CERTIFICATE OF INSURANCE shall be provided to the Airport Authority prior to the execution of this permit.

- E. Permittee shall also during the term of this permit subscribe and comply with the Workers' Compensation Laws of California, if applicable, and save the County of Santa Clara harmless from any and all liability arising from or under said use of this permit.

8. INDEMNITY AND WAIVER OF CLAIM

By acceptance of this permit, Permittee hereby agrees to defend, indemnify, and hold harmless County of Santa Clara its officers, agents, volunteers, and employees from any and all claims, demands, damages, obligations, suits, judgments, penalties, causes of action, losses, liabilities or costs at any time received, incurred, or accrued by County, its officers, agents, volunteers, and employees, as a result of or arising out of the existence of or exercise of the rights or obligations of Permittee under this permit, except as may arise from the sole active negligence or sole willful misconduct of County, its officers, agents, or employees. County's right to full indemnity hereunder shall arise notwithstanding that principles of comparative negligence might otherwise impose liability on County pursuant to statutes, ordinances, regulations, or other

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laws. The indemnity shall be an endorsement on any insurance policy of Permittee and so noted on all certificates of insurance submitted to the County.

Permittee, as a material part of the consideration to be rendered to County under this permit, hereby waives all claims or causes of action against County, its officers, agents, volunteers, or employees which it may now or hereafter have for damages to goods, wares, merchandise or property in, about or upon the Airport, and for injuries or death to persons in or about said Airport, from any or causes arising at any time, except as may arise from the sole active negligence or sole willful act of misconduct of County, its officers, agents or employees, and notwithstanding that joint, several, or concurrent liability, or principles of comparative negligence, might otherwise impose liability on County.

By way of example and not limitation, save and except as arises out of the sole active negligence or sole willful act of misconduct of County, its officers, agents, or employees.

Permittee hereby waives any and all claims or causes of action which it may now or hereafter have against County, its officers, agents or employees (a) for loss, injury or damage sustained by reason of any deficiency, impairment and interruption of any water, electrical, gas, plumbing, air conditioning or sewer service or system serving any portion of said Airport, (b) for any loss, injury or damage arising or resulting from any act or neglect or omission of any other tenant, subtenant, contractor, Permittee, concessionaire or occupant of said Airport, or any person who uses said Airport with authorization or permission of County, and (c) for any loss or damage to the property of or injury or damage to Permittee, its officers, agents, employees, contractors or any other person whomsoever, from any cause or causes arising at any time because of Permittee's uses or occupancy of such building or of said Airport, or its operations thereon.

The term "active negligence", as used herein, for all the purposes hereof, shall be construed to only mean either one of the following two situations: When County, its officers, agents or employees, has or have directly participated in an affirmative action of negligence in connection with the maintenance and operations of the Airport facilities: or when County, its officers, agents, or employees has or have failed to perform the obligations expressly required of County under the terms of this permit.

**SANTA CLARA COUNTY AIRPORTS
GENERAL AVIATION
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9. GRANT AGREEMENT CONVENANTS

Permittee acknowledges that the County is subject to Federal Grant Assurance obligations as a condition precedent to granting of funds for improvement of the Airport, and, accordingly, agrees to, and agrees to be bound by, the covenants provided by the Federal Aviation Administration, as they may apply to Permittee.

10. AMENDMENTS

County reserves the right to make amendments to this permit. Upon amendment, Permittee has the option of signing the amended permit or terminating the permit. The County reserves the right to terminate the permit if Permittee fails to agree to the amendment (s) within 10 days notification.

Authorization to conduct self-fueling is issued this _____ of _____ Day
_____, _____
Month Year

Witness the execution of this Permit as of the dates set forth below:

COUNTY:

By: _____

Title: _____

Date: _____

**SANTA CLARA COUNTY AIRPORTS
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ACCEPTANCE

The undersigned as PERMITTEE hereby agrees, in consideration of this PERMITTEE, to perform and abide by the terms, conditions, restrictions, and obligations of this PERMIT.

'PERMITTEE' _____

Permittee Mailing Address: _____

Signature: _____

Date of Acceptance: _____

APPROVED AS TO FORM AND LEGALITY:



David Kahn, Deputy County Counsel

Approved by County Fire Marshall



Jean Hardwicke, Sr. Fire Marshall

ATTACHMENT 2

From: **Paul Marshall** <pmarshall95037@gmail.com>

Date: Mon, Oct 18, 2021 at 1:47 PM

Subject: Avoidance of Unjust Discrimination at San Martin Airport

To: Wasserman, Mike <mike.wasserman@bos.sccgov.org>, <Cindy.Chavez@bos.sccgov.org>, <supervisor.lee@bos.sccgov.org>, <supervisor.ellenberg@bos.sccgov.org>, <supervisor.simitian@bos.sccgov.org>, Gallegos, Sylvia <sylvia.gallegos@ceo.sccgov.org>, Freitas, Harry <Harry.Freitas@rda.sccgov.org>, Peterson, Eric <Eric.Peterson@rda.sccgov.org>

Cc: Dan Neal <sanmartinaviation@gmail.com>

County Supervisors, Dr. Smith, and Airports Staff:

See the attached suggestion for a better way to convert the county to unleaded fuel without unjust discrimination. Also, see the additional San Martin pilot signatures supporting this alternative. Ms Gallegos, please inform Dr. Smith of this communication, as I do not have his address.

Thank you,

Paul Marshall

President, South County Airport Pilots Association (San Martin Airport)

2021 October 18, 2021

To: County Supervisors: Mike Wasserman, Joe Simitian, Cindy Chavez, Susan Ellenberg , Otto Lee
County Staff: Dr. Jeffrey Smith, Sylvia Gallegos, Harry Freitas, Eric Peterson

From: Paul Marshall, President, South County Airport Pilots Association
Dan Neal, Co-Owner, San Martin Aviation
Other E16 pilots, see signature pages (E16 100LL Signatures County.pdf)

Subject: Ensuring a smooth transition to Unleaded Avgas at San Martin Airport

On August 17, 2021, Santa Clara County Supervisors directed staff that ...”the sales of leaded gas will not be permitted at either County airport after December 31, 2021 except for emergency operations.” (Aug 17 2021 Board of Supervisor Meeting Minutes, last line of page 21). We were uncomfortable with this action when it was taken. After further reflection we suggest a better course of action which will achieve similar results with substantially less unnecessary pain, hardship, and unjust discrimination inflicted on the county’s pilots. We agree with the county that it and its pilots should efficiently work together to change over county planes from leaded to unleaded fuels.

Eliminating sales of 100LL at San Martin will actually increase lead emissions in the environment. Pilots will be forced to fly to other airports to get their 100LL gas, resulting in extra arrivals and departures solely for procuring 100LL avgas, which will actually increase the total amount of lead emissions rather than reduce them. A very few pilots may be forced to move away to a different airport where they can fuel before and after operations, causing bitterness among all pilots, but not reducing overall 100LL usage. Pilots visiting E16 from other airports will arrive and depart the airport emitting the same amount of lead even though they did not do any fueling at the airport – in this case the FBO would be harmed by being deprived of revenue, but the lead emissions do not change. Some pilots may refuse to visit the airport, lessening its value in the national system of airports, but effecting a very small percentage of total operations and lead emissions compared with the based aircraft. So, a 100LL fueling ban won’t significantly change lead emissions at the airport, or lead to a small increase.

If 100LL sales are ended, significant numbers of E16 pilots will be unjustly discriminated against because they are unable to use unleaded fuel and because the FAA has not yet approved their model of airplane and engine to use UL94. Similarly, this unjust discrimination will financially harm San Martin Aviation through the loss of all its 100LL business from the approximately 40% of the planes which are only FAA-approved to use 100LL – those planes would be forced to refuel at other airports using other FBOs. We believe unjustly discriminating against the FBO and pilots who can’t use the unleaded fuel constitutes an inefficient, unfair, and illegal way to change over to unleaded avgas. At a minimum, these pilots will suffer operational inconvenience because they have to plan their fueling to occur at other airports and must start every trip with less than full tanks – even their long trips. Some pilots crash and die due to fuel exhaustion on long trips, and the county shouldn’t create one more cause for this to happen. Pilots visiting E16 from other airports may get into unsafe fuel conditions because they don’t realize that 100LL is not available at the airport, where in the past it was always available, and they end up flying home or to an alternate refueling airport with inadequate fuel reserves. So, this action of eliminating 100LL sales has much more discriminatory, punitive and safety-reduction effect than helpful lead-reducing effect.

A better way to handle this transition is to simply

- continue to keep 100LL fuel plentiful, convenient, with timely access to those planes which can't use the 94UL fuel, and
- provide plentiful, convenient, timely access to 94UL fuel for the pilots who can use the fuel.
- Encourage San Martin pilots to change over rapidly as has been the case at Reid Hillview where 2 of the 4 avgas tanks at the airport have been converted to 94UL.

At our San Martin Airport, you need to approve and procure another fuel island and fuel truck now.

The second fuel island can be used to facilitate a smooth transition from leaded to unleaded gas, and can then be repurposed to Jet A when all avgas is unleaded within the next year or two. The extra fuel truck can be purchased used and resold used when it is no longer needed. Building another fuel island and procuring another fuel truck has been talked about with the county since February of 2021, but for some reason, no action has been taken to date on this vital item. The county needs to approve and procure these right now.

We have asked the FAA to guide you as to what you must do while promoting the change to unleaded fuel. It is clear that as a small minority, we pilots are not able convince the county to make proper and appropriate steps while navigating a course to eventual 100% lead-free gas operation at county airports.



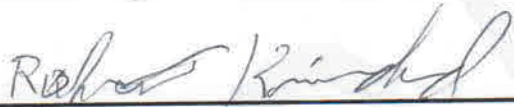
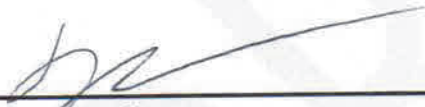
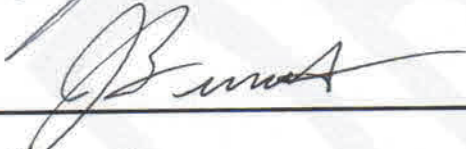
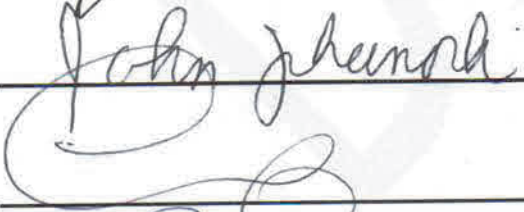

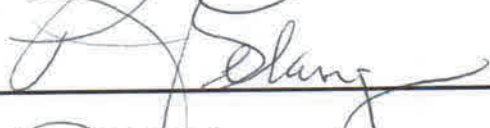

We believe the county's lead consultants found a small opportunity to reduce average blood lead levels in children living near Reid Hillview, but inappropriately described this opportunity as a crisis. Yes, we should try to reduce children's blood lead levels from 1.93 ug/dL to 1.83 ug/dL (0.10 ug/dL improvement) as suggested would occur if aviation lead were eliminated by Zarhan on his lead study report on page 29. And yes, maybe people living downwind of Reid Hillview airport can get an extra 0.12 ug/dL benefit relative to all people (1.94 ug/dL vs 1.82 ug/dL also on page 29). And yes, the traffic data is persuasive to suggest that blood lead levels rise when 100LL air traffic is greatest, and fall when 100LL air traffic falls, and that also points to 100LL elimination representing an opportunity to reduce blood lead levels. But if just 11% of the problem $((0.10 + 0.12)/1.94)$ is attributable to aviation lead, that means that 89% of the blood lead problem has nothing to do at all with aviation. Aviation lead is not a crisis. Aviation lead merely represents a small opportunity to improve our pollution profile for one of hundreds of pollutants in one small way. You could make thousands of analyses like this for various pollutants all around the county. This particular analysis has only been made because the Reid Hillview anti-airport faction was looking for a new and novel way to fight the airport and punish pilots. Look through the hyperbole and exaggeration, and you find that our suggested conversion to unleaded fuel is the sensible way to do it. Yes, the county should take gradual, effective steps to eventually eliminate all lead in county avgas. No, this is not a crisis, just one small opportunity for improvement. Please make this improvement in a legal way which does not unjustly discriminate against pilots by causing operational dislocation, aggravation and safety hazards. Thank you.

Additional Signatures – County Supervisors Smooth Unleaded Avgas Transition at San Martin

Signature _____ **Printed Name** _____

DRAFT

Additional Signatures – County Supervisors Smooth Unleaded Avgas Transition at San Martin

Signature	Printed Name
	JEFF J. DOBERT
Andy Lotz	ANDY LOTZ
	ROBERT BLANE
Brian Adams	Brian Adams
Gregory Hobbs	Gregory Hobbs
	ROBERT KINDRED
	Dennis Huebner
	Jerry Bennett
	John Zekanoski
	Larry Fernandez
	PATRICK BELANGER
	PATRICIA KINDRED

Additional Signatures – County Supervisors Smooth Unleaded Avgas Transition at San Martin

Signature

Printed Name



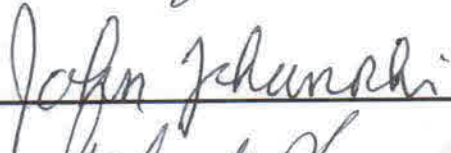
Mark Van Wyk



J. Brooks Evans



Paul Jacob




John Zekanoski



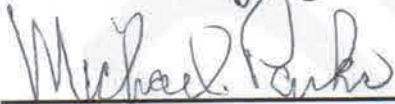
STEPHEN McHENRY



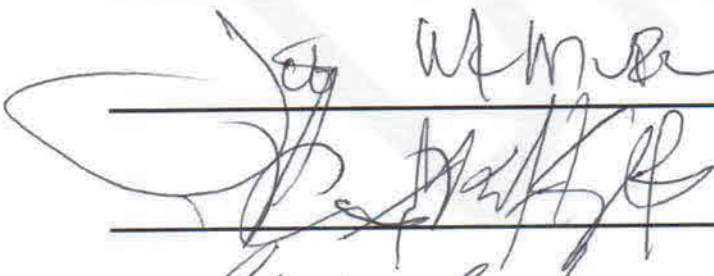
JAMES RICKER

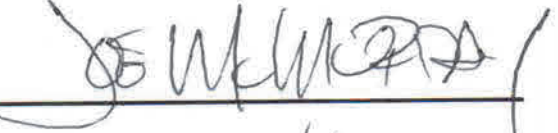


Peter Yee



MIKE PARKS





Jim MacKintosh



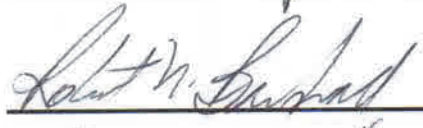



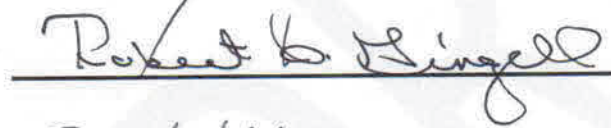
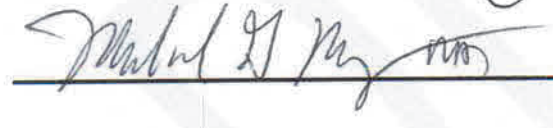


ROBERT BRENTNALL



Steward Miller

Additional Signatures – County Supervisors Smooth Unleaded Avgas Transition at San Martin

Signature	Printed Name
	JOHN J. KOWALCHIK
	STEVEN MILLER
	ROBERT BRENTNALL
	Donna Myers
	Steven Allison
	Larry Russell
	Robert A. Gingell
	Michael G. Myers

Additional Signatures – County Supervisors Smooth Unleaded Avgas Transition at San Martin

Signature

Printed Name



D Latico & Lawless



Eugene Brooks

DRAFT

Additional Signatures – County Supervisors Smooth Unleaded Avgas Transition at San Martin

Signature

Printed Name

Larry Russell

Larry Russell

via zoom

Vikas Kapur (PM)

DRAFT

ATTACHMENT 3

----- Forwarded message -----

From: **Michael McDonald** <michael.mcdonald@ieee.org>

Date: Wed, Nov 10, 2021 at 2:56 PM

Subject: FW: Tenant support for fueling

To: Steve Stagnaro <steve@stagnaro.com>, David Mackler <david@mackler.net>, Michelle Tripp <mtripp358@gmail.com>, davidallmotion <davidallmotion@gmail.com>, Paul Marshall <pmarshall95037@gmail.com>, Douglas Rice <fl370machpt80@gmail.com>, robert goodwyn <bobflight03@yahoo.com>, <dmackler@gmail.com>, John McGowan <johnbmcg60@gmail.com>

Cc: Dunn, Bill <Bill.Dunn@aopa.org>, Melissa McCaffrey <Melissa.McCaffrey@aopa.org>, Phillip Derner Jr. <pderner@nbaa.org>, Jol A. Silversmith <jsilversmith@kmazuckert.com>, Alex Gertsen <agertsen@nbaa.org>, Josh Watson <josh.watson05@gmail.com>, <jeffmar_2@yahoo.com>, Walt Gyger <walt@tradewindsaviation.com>, Hiro Takai (Nice Air) <Niceair777@gmail.com>, Stephen McHenry <stephen.mchenry@gmail.com>, Greg Spades <amusethehude@gmail.com>, J Gill Wright <gillwright@sbcglobal.net>

FYI. My shot across the county's bow on behalf of individual/private tenants ...
(Let's see if my rent goes up astronomically with this ...)

From: Michael McDonald [mailto:michael.mcdonald@ieee.org]

Sent: Wednesday, November 10, 2021 2:46 PM

To: 'Peterson, Eric' <Eric.Peterson@rda.sccgov.org>

Cc: 'Freitas, Harry' <harry.freitas@rda.sccgov.org>; Ron Blake <ronblake@sbcglobal.net>

Subject: Tenant support for fueling

Cc:

Ron Blake – Chair Airports Commission, Santa Clara County

Harry Freitas – Director, Roads and Airport, Santa Clara County

Hi Eric –

I have been told that the County is exercising proprietary exclusive rights regarding fueling at RHV and that existing operators will not be able to provide fuel to tenants beginning January 1, 2022. As you well know, I am a tenant at Reid Hillview and currently purchase fuel from one of these existing companies.

Please advise of the plan for tenants beginning that date.

As a reminder, the County will be in violation of its Airport Improvement Program (AIP) based obligations to the Federal Aviation Administration (FAA) if it nominally exercises proprietary exclusive rights but is not actually prepared on Day 1 to provide the full slate of services required for the operation of all types of aircraft at RHV. As a reminder of FAA requirements based on the assurances that accompany AIP grants: "In the event the sponsor (read: County) itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions." *Grant assurance 22(g)*. Based on this, the County must provide comparable services and levels of service as to what they are taking over, as well as providing the types of fuel currently available and authorized by the FAA.

Please advise if the County will make any substantial changes in pricing or product availability when it takes over operation.

As a reminder of another grant obligation, the Sponsor "will make the airport available as an airport for public use on reasonable terms and without unjust discrimination" to aeronautical service providers (*Grant assurance 22(a)*) and moreover the sponsor will "charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types

ATTACHMENT 25.3

of price reductions to volume purchasers.” *Grant assurance 22(b)(2)*. Based on this, the County is required to offer competitive pricing, similar to those currently received from the fuel operators, and the County cannot use its right to provide exclusive fuel services as a strategy to close nor to materially restrict the airport and aeronautical operations, such as by enacting punitive pricing, limiting fuel options, or providing limited hours of service.

Please confirm the County will be ready on January 1. As you are certainly aware, there are various permits, insurances, vehicles, licenses, meters, staffing, PoS machines, etc that are needed to successfully run a full-/self-service fuel operation (as I learned when bringing UL94 to RHV). Four companies are currently providing 300,000+ gallons fuel annually at the airport; it is a large and new undertaking for which the County is taking exclusive ownership and responsibility. Frankly, I am nervous about how quickly the County can come up to speed to safely dispense fuel.

As a reminder of another grant obligation, the sponsor may exercise a proprietary exclusive right provided the sponsor engages in the aeronautical activity as a principal using its own employees and resources. The sponsor may not designate an independent commercial enterprise as its agent. *FAA Order 5190.6B, ¶ 8.5*. The use of third parties would constitute a violation of the airport’s federal obligations; i.e., the County must be fully staffed and equipped internally on Day 1.

Please share a copy of your business plan for fuel operations.

As a reminder of another grant obligation, the Sponsor shall make annual budget, financial and operations reports available to the Secretary and public. *Grant assurance 26*. As the County has indicated its intent to provide fueling operations, I’d ask that the financial and operational plans of those efforts be provided.

While I am asking as an individual, the County should provide transparency and clarity on these issues to all of the individual/private tenants at the airfield.

Thank you!
Michael

Michael McDonald
<https://www.linkedin.com/in/mcdonaldmichael/>
michael.mcdonald@ieee.org

ATTACHMENT 4

From: **Peterson, Eric** <Eric.Peterson@rda.sccgov.org>
Date: Fri, Apr 1, 2022 at 10:16 PM
Subject: Airport Newsletter April 1, 2022
To: pmarshall95037@gmail.com <pmarshall95037@gmail.com>

Paul Marshall;

Click [here](https://tinyurl.com/v9djd3e4) to read the latest Santa Clara Airports News (S.C.A.N.)
<https://tinyurl.com/v9djd3e4>

This edition includes

- Details on tomorrow's (Saturday) memorial service for retired Airport Operations Worker Patrick McGuinness;
- Airports division staffing changes;
- Fuling;
- Used Oil Disposal; and
- Notice of the upcoming Food Truck Flyin at San Martin Airport.

You can find this newsletter along with all past newsletters on the airport's website, CountyAirports.org.
Navigate to the Resources page and then to Newsletters.

If you have any questions, feel free to drop me a line.

Eric Peterson
Director County Airports
eric@countyairports.org
408-918-7700 x27722

ATTACHMENT 5

S.C.A.N.

Santa Clara Airport News, December 6, 2021



As the year winds down, here is an update on what is happening at your airports.

Airborne Lead, Fuel Availability and Changes in the RHV Leasehold Structure

On August 17th, 2021, a report titled [Leaded Aviation Gasoline Exposure Risk at Reid-Hillview Airport in Santa Clara County, California](#) was presented to the Board of Supervisors (BOS). There was a great deal of discussion regarding this report and several different efforts requested by the BOS as a result of that discussion. Following are details from several of those decisions. But for a complete record of the meeting [read the reports](#) and the [meeting minutes](#) on the BOS meeting portal page - SCCGov.org, click Government, and then go to Board Meeting Agendas, Videos & Minutes. You may also watch the recorded proceedings on the County's [You Tube channel](#). Look for the 8/17/21 meeting and then fast forward to 5:41:13, which is where the airport topic begins.

100LL Will No Longer Be Available after December 31, 2021

One of the most immediate consequences for airport users as a result of the discussion on airborne lead, is the elimination of sale and distribution of 100LL fuel at RHV and E16 by January 1, 2022. To restate that, **beginning January 1, 2022 100LL will no longer be available for sale at RHV or E16.** Currently, two of the four fuel providers at RHV have already transitioned to Swift Fuels UL94, the only currently available unleaded aviation gasoline. It is expected that the remaining two fuel providers on the airport will also make that transition by January 1, 2022. The E16 fuel provider also has plans to transition to UL94 and Jet Fuel only by January 1. If you are interested in utilizing UL94, an STC is required. Check <https://www.swiftfuelsavgas.com/> to verify your aircrafts compatibility and apply for the STC.

RHV FBO Leasehold Changes

On the north east section of RHV, where most of the aviation businesses operate, there are 9 long-term leaseholds, all of which, after approximately 50 years, expire at the end of this year. The County will issue new month-to-month lease agreements to 4 of the 9 existing leasehold owners with new terms and a new rental rate. The remaining 5 leases, shown as areas 1,2,5,6, & 8 in the adjacent image, will be allowed to expire and the County will then take over management of those properties. We are currently working with current users of these properties to ensure they may continue their operation through new rental agreements with the County.



Fueling

Airport staff is also working on another important part of the future plan for RHV, which involves the County taking over all fueling operations at RHV. The initial intent was to try and have the County begin fueling in January 2022. However, the time frame is such that we have pushed the changeover date to the middle of 2022. This will allow us extra time to ensure we have all of the necessary agreements and equipment in place to continue to provide the level of service you are accustomed too. More information about this change will come as we get prepared to make the change.

Airport Closure

In the recent past, the Board has discussed the closure of RHV in 2031 when the current FAA development grant assurances expire. (When the County accepted past FAA grant funding, those funds came with a series of requirements – or assurances -, one of which is to ensure that the airport remain safe and operational for the subsequent 20 years). The closure discussion continued at the Boards August 17th meeting when the Board took several actions to work towards the elimination of lead exposure in the environment as a result of the airport. To that end, the Board directed Administration and County Counsel to “take such actions as may be necessary to expeditiously eliminate lead exposure from operations at Reid Hillview Airport, consistent with all established federal, state, and local laws and all court orders. Such actions may include, but are not limited to, both prohibiting the sale or use of leaded fuel, and pursuing any and all available paths to early closure prior to 2031”. If you are interested in gaining a better understanding of this latest discussion, please check the documents and video referenced at the top of the newsletter.

Airports Personnel Changes

The airport operations staff is currently made up of five Airport Operations Workers (AOW) and one Airport Operations Supervisor (Femi Odunbaku). This staff is tasked with the day-to-day maintenance of both airfields. We currently have two AOW vacancies as a result of Arturo taking an opportunity at a different airport, and Roberts retirement after 30 years of service to the County Airports. John, Adam and Mike, our current AOW staff, have worked hard to minimize the effect of the vacancies as the recruitment process to fill these vacancies has progressed.

We recently held a series of interviews for the AOW positions and on that same day, the BOS approved a request to add two additional AOW to the airport’s division. I am happy to announce that we have since offered jobs to four individuals, all of whom has provisionally accepted. They should start within the next month, so where you see those new faces around, stop by and say hello.

In addition to the two extra AOW position, the BOS also approved the addition of a management position for the airport’s division. The new job specification is titled Airports Business Manager / Program Manager 1.. This position will have many responsibilities including the oversight of the fueling program and property management. With the coming changes to the operational environment at the airport, this position will be of vital importance. Because this job specification did not exist prior to the Boards approval, we are still undertaking the refinement of the Job Description after which the recruitment process will begin.

Gate Access



Vehicle gate access at RHV was changed this year to allow those with a card-key to use any of the vehicle gates. This provides the key holder more options should one gate not operate as expected. However, you are requested to continue using the primary gate for which you were originally assigned. This helps to reduce the number of automobiles on the aircraft parking ramp and the potential for conflict with aircraft.

You are always expected to stop at the gate and wait for it to fully close before moving on when you enter the airport. At the request of several tenants, we have made a change to the outbound (leaving the airport) gate which you may have noticed on the adjacent signs. When there is more than one person trying to leave the airport, the first vehicles in a group may leave the area provided the last vehicle in the group stops and waits for the gate to fully close before moving on. If you are escorting guests, it is your responsibility to ensure your guests follow all of the rules.



Michael Luvara <mluvara@gmail.com>

Aircraft Engine Survey for RHV & E16

Google Forms <forms-receipts-noreply@google.com>
To: mluvara@gmail.com

Fri, Feb 12, 2021 at 8:13 PM

Thanks for filling out [Aircraft Engine Survey for RHV & E16](#)

Here's what we got from you:

[Edit response](#)

Aircraft Engine Survey for RHV & E16

We are conducting this survey to help determine the number of aircraft at Reid-Hillview and San Martin Airports that can use a new unleaded avgas in place of 100LL, should it be made locally available. Much of the GA fleet has been approved for use of this fuel with the purchase of a \$100.00 Supplemental Type Certificate. Providing your engine details below will allow us to determine the potential demand for the fuel.

Completing this survey should only take 2-3 minutes. It requires that you know the complete engine model number of your airplane. Most Lycoming and Continental engine models include 3 distinct sections and for this data to be useful, it is imperative that the entire model number be entered. For example, a common Lycoming engine is an IO-360. However, there are 11 different versions of the IO-360 (-a, -b, -c, -d, -e, -f, -j, -k, -l, -m, -n) and not all of them are able to use the currently available unleaded avgas. Please check your full engine model number prior to starting the survey.

Participation in this survey is voluntary. The County intends to use the aggregate results to assist in making policy decisions regarding fueling options at County airports. The County intends to keep individual survey responses confidential; however, this information may be subject to disclosure under the California Public Records Act.

Email address *

mluvara@gmail.com

Your Name *

Michael Luvara

Aircraft Tail Number *

N1824

Aircraft Manufacturer *

ex: Cessna, Piper, Grumman

Cessna

Aircraft Model *

172, Cherokee, Cheetah

182

Where Is This Plane Based *

RHV

E16

Other:

Approximate Hours This Plane Flew in 2019

.....

Approximate Hours This Plane Flew in 2020

75

Please select the fuels that your aircraft is certificated to utilize. *

- MoGas (automobile gasoline)
- Diesel
- Jet Fuel
- 100 LL
- Swift UL94
- Other:

Are you familiar with Swift Fuels unleaded alternative fuel, UL94? *

You can read more about it here: <https://www.swiftfuelsavgas.com/>

- Yes
- No

Swift Fuels UL 94

Have you used the Swift Fuels website to determine if your airplane qualifies for a UL94 STC? *

- Yes
- No

Swift Fuels UL 94

Is your airplane eligible for the UL94 STC? *

- Yes
- No
- Don't know

Engine Manufacturer

Engine Manufacturer *

- Lycoming
- Continental
- Other (Rotax)

Continental Engines

1st Part of the Engine Model Identifier *

2nd Section of the Engine Model Identifier *

3rd Section of the Engine Model Identifier *

If your model number wasn't listed above, please enter it here.

O-470-50 Pponk/Northpoint STC Conversion - not currently eligible for UL95 from what I can tell.

On August 16, 2021, I (Michael) wrote to the board in regards to the study and said I would run unleaded when it is approved for my aircraft.



Michael Luvara <mluvara@gmail.com>

Reid Hillview Airport

1 message

Michael Luvara <mluvara@gmail.com>
To: BoardOperations@cob.sccgov.org
Bcc: Michael Luvara <mluvara@gmail.com>

Mon, Aug 16, 2021 at 4:24 PM

Dear Supervisors,

I am writing to you in regards to Reid Hillview Airport and the lead study report which has made the news recently. I am troubled by the whole situation, especially the method of which the report has been toted around by some and sold to the press in a one sided manner. Simply put, the airport is a valuable resource (not a racial injustice) and I truly believe that external factors are at play here who have both a political and financial benefit to gain from closing the airport. One does not have to look far to see former supervisor Cortese's words several years ago about the 180 acres being a 'gold mine that needs to be mined' (1 min 28 mark).

<https://www.nbcbayarea.com/news/local/vote-by-supervisors-may-mean-end-of-reid-hillview-airport-in-san-jose/201675/>

I would also encourage you to look at the following article if you have not already. It calls out the lead study for raising alarm when the levels in our area are average. One would think they are off the charts (aka crisis) from the press this is getting.

<https://sanjosespotlight.com/san-jose-airport-lead-levels-are-average-despite-alarm/>

Unleaded fuel is coming and as a pilot, I am happy to run unleaded fuel when it is approved for my aircraft.

The FAA is even advocating for new fuels, as with this recent release (and the G100UL approval).
<https://medium.com/faa/get-the-lead-out-b8dbb9694ea4>

Regards,
Michael Luvara
San Jose Resident, College Park

**SANTA CLARA COUNTY AIRPORTS
GENERAL AVIATION
COMMERCIAL SELF-FUELING
PERMIT**



Definition of Commercial Self-Fueling: Fueling of aircraft used in the day-to-day operations of an authorized business on County airport property performed by the business operator in accordance with the Airport's Rules and Regulations, and using fuel obtained by the authorized business from the County

Businesses engaged in Commercial Self-Fueling (“Permittees”) shall be required to obtain a Commercial Self-Fueling Permit from the County in order to conduct Commercial Self-Fueling operations.

1. COMMERCIAL SELF-FUELING AUTHORIZATION

Execution of this Permit by the Director of County Airports and Permittee shall duly authorize Permittee to conduct commercial self-fueling relating to aeronautical activity operations at Reid-Hillview Airport in accordance with the terms and conditions specified in this permit. No commercial self-fueling shall take place without a valid commercial self-fueling permit.

2. AUTHORIZED COMMERCIAL SELF-FUELING ACTIVITIES

Permittee may conduct commercial self-fueling operations only on aircraft owned or operated by Permittee at Permittee's assigned aircraft storage space on airport. Permittee shall not sell to, or dispense fuel into, any other aircraft.

3. RESTRICTION ON COMMERCIAL SELF-FUELING ACTIVITIES

The commercial self-fueling activities authorized above shall be subject to the following restrictions:

- A. Permittee shall be permitted to self-fuel only on Permittee's leased property or such non-exclusive public area as the Director may designate.

- B. The dispensing of fuel into aircraft shall be in strict accordance with all Airport Rules and Regulations, as well as all applicable Federal, State, County and City laws, rules and regulations. It shall be the responsibility of Permittee to keep informed of and comply with such laws, rules and regulations at all times.

- C. Permittee's fueling equipment must be parked or positioned on Permittee's leased property.
- D. Permittee's fuel transport vehicle and fueling equipment shall not be parked, staged or stored in a Hangar at any time.
- E. Permittee shall have the sole responsibility to obtain all necessary permits for the use and transport of hazardous materials.
- F. Permittee shall only use the entrance, exit, and haul route designated by the Director during the transportation of fuel onto and off the airport.
- G. During commercial self-fueling, the fueling vehicle shall not obstruct other aircraft or vehicular movements.
- H. Hangared aircraft shall always be positioned outside of hangar during any fueling operation.
- I. During the fueling of an aircraft, the fuel dispensing apparatus and the aircraft must be bonded in accordance with local, state, federal codes, and uniform fire code standards.
- J. Fuel may not be transferred from one vessel to another, except in a location approved by the Airport Director.
- K. Permittee shall ensure that there are no potential sources of fuel ignition within fifty (50) feet of the self-fueling operation.
- L. Fuel transport vehicle is prohibited from parking (staging) within 50 feet of any building.
- M. Permittee shall exercise care to prevent the overflow of fuel, and must have immediately accessible at the fueling site a 20 lb. B:C rated fire extinguisher.
- N. DIRECTOR, in his/her sole discretion may immediately suspend any self-fueling operations for violation of any term or condition of the permit, or if such self-fueling poses a threat to health and safety.
- O. Permittee shall not fuel or de-fuel an aircraft on the airport while the aircraft is in a closed hangar or enclosed space.

Permittee shall ensure:

- (1) Fueling activities cease when lightning discharge occurs within five miles of the airport.
- (2) The aircraft engine is not in operation during re-fueling.
- (3) All aircraft electrical systems, to include magnetos and master switch, are in the "off" position.
- (4) The aircraft's parking brake is set, or at least one aircraft wheel is chocked, or the aircraft is secured to the ground by the two wing tie-down points.

4. MINIMUM EQUIPMENT REQUIREMENTS

- A. Fuel transport and dispensing tanks or containers and associated equipment shall comply with all applicable Federal, State, County and City laws and regulations regarding the transportation and storage of flammable liquids.
- B. Fuel transport and dispensing containers shall not be less than twenty (20) gallon capacity each. Fuel transport containers shall be painted red and clearly marked in accordance with FAA• AC 150/5230-4 or current edition with the type of fuel, i.e. Jet A, and with "Flammable" and "No Smoking" placards placed on the exterior.
- C. All fuel transport containers shall be firmly and mechanically secured to the transport vehicle.
- D. All fuel dispensing or containers shall have a valve mechanism such that water can be drained from the lowest portion of the tank, unless equipped with a glass bowl filter.
- E. Fuel uplift standpipes shall be constructed such that 5% to 10% of the total capacity of each dispensing container cannot be delivered through the dispensing system (5% to 10% unusable sump).
- F. An in-line filtration system utilizing a 5 micron or less gasoline filter element shall be included in the fuel dispensing system.
- G. Cables for bonding the fuel dispensing system, and the aircraft to zero electrical potential shall be provided.
- H. A 20- lb. B:C rated fire extinguisher shall be readily available and

accessible during self-fueling operations.

- I. Fuel dispensing nozzle shall be "over-the-wing" handheld type in which fuel is only delivered through the over wing nozzle by squeezing the handle and trigger. The nozzle must continually be held open by hand through the course of refueling. Once the handle is released, the fuel flow will stop. The fuel nozzle shall not be blocked open or left unattended during self-fueling operations.
- J. Permittee shall maintain an adequate supply of fuel absorbent material readily available to contain a medium-size fuel spill (25 gallons or less) as prescribed by the Airport Authority.
- K. All fueling equipment shall be maintained in a clean, non-leaking condition while on Airport and is subject to inspection at any time by the Director of County Airports or Designee.

5. FUEL PURCHASE

- A. This permit is restricted to fuel Permittee purchases from County.
- B. Permittee shall pay to County a per-gallon fee for each gallon of fuel received.
- C. Permittee acknowledges and agrees that payments are made monthly, and must be received by the first day of the month in which payment is due. Payment received after that date is subject to an additional late payment fee, in the amount set forth in the current *Schedule of Rates and Charges for Santa Clara County Airports*.
- D. Permittee acknowledges that failure to timely pay an amount due by the first of the month may result in loss of fuel access until amount due is paid in full.
- E. All payments shall be made payable to the "County of Santa Clara", in the form of a company check, certified check, money order or wire transfer. Payments made by credit card are subject to a 5% convenience fee. Payments are due and payable on the first day of each month without exception, and delivered by hand delivery, by courier or by U.S. mail (first class postage prepaid) to the following address, or such other address as designated by County in writing:

County of Santa Clara
2500 Cunningham Ave
San Jose, CA 95148

- F. A process fee shall be assessed for any checks returned by Permittee's bank due to insufficient funds. The processing fee amount is set forth in the current *Schedule of Fees and Charges for Santa Clara County Airports*.
- G. All fees and charges are subject to change based on future changes to the *Schedule of Fees and Charges for Santa Clara County Airports*.

6. USE OF ASSIGNED SPACE AND AIRPORT

In utilizing the Assigned Space and Airport, Permittee shall abide by the following requirements:

- A. Permittee shall not contaminate Airport, the assigned aircraft storage space, or the sub-surface of either, with any Hazardous Material.
- B. Permittee shall immediately notify the 911 Fire Services of any release of Hazardous Materials on Airport or the assigned aircraft storage space, whether or not the release is in quantities that would be reportable to a public agency.
- C. Permittee shall be solely and fully responsible and liable in the event Permittee's commercial self-fueling operations cause or permit Hazardous Materials to be released at Airport or the Assigned Aircraft Storage Space. If any release of Hazardous Materials occurs on the Assigned Aircraft Storage Space or Airport as a result of Permittee's commercial self-fueling operations, Permittee, at Permittee's sole cost and expense, shall remove such Hazardous Materials in accordance with all applicable government regulations. In addition to all other rights and remedies of County, if Permittee does not immediately clean up and remove any such Hazardous Materials release, County may pay to have Hazardous Materials removed and Permittee shall reimburse County any costs incurred by County together with interest at maximum rate allowed by law.
- D. Permittee shall indemnify, defend, and hold County harmless against all loss, damage, liability and expense which County may sustain as a result of the presence or clean-up of Hazardous Materials on the assigned aircraft storage space or Airport caused directly or indirectly by Permittee's commercial self- fueling operations.
- E. Permittee's obligations under this Permit, for clean up and removal of Hazardous Materials releases attributable to Permittee, shall survive the expiration or termination of this agreement.

7. INSURANCE REQUIREMENT

Permittee, at its sole cost and expense and for the full term of this permit or any renewal thereof, shall obtain and maintain at least the minimum insurance requirements as set forth in Attachment "A" attached hereto.

8. INDEMNITY AND WAIVER OF CLAIM

Permittee shall indemnify, defend, and hold harmless the County of Santa Clara (hereinafter "County"), its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with this Permit excepting only loss, injury or damage caused by the sole negligence or willful misconduct of personnel employed by the County. It is the intent of the parties to this Agreement to provide the broadest possible coverage for the County. Permittee shall reimburse the County for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the User contests its obligation to indemnify, defend and/or hold harmless the County under this Agreement and does not prevail in that contest.

Permittee, as a material part of the consideration to be rendered to County under this permit, hereby waives all claims or causes of action against County, its officers, agents, volunteers, or employees which it may now or hereafter have for damages to goods, wares, merchandise or property in, about or upon the Airport, and for injuries or death to persons in or about said Airport, from any or causes arising at any time, except as may arise from the sole active negligence or sole willful act of misconduct of County, its officers, agents or employees, and notwithstanding that joint, several, or concurrent liability, or principles of comparative negligence, might otherwise impose liability on County.

9. GRANT AGREEMENT CONVENANTS

Permittee acknowledges that the County is subject to Federal Grant Assurance obligations as a condition precedent to granting of funds for improvement of the Airport, and, accordingly, agrees to, and agrees to be bound by, the covenants provided by the Federal Aviation Administration, as they may apply to Permittee.

10. TERMINATION AND AMENDMENTS

County may terminate this permit without cause upon 30 days written notice to Permittee. County reserves the right to make amendments to this permit. Upon amendment, Permittee has the option of signing the amended permit or terminating the permit. The County reserves the right to terminate the permit if Permittee fails to agree to the amendment(s) within 10 days notification.

Authorization to conduct commercial self-fueling is issued this 12/30/2021 of

_____, _____
Month Year

Witness the execution of this Permit as of the dates set forth below:

COUNTY:

DocuSigned by:
Harry Freitas
6DC28984CB2D46D...

Title: Director

By: Harry Freitas

Date: 12/30/2021

ACCEPTANCE

The undersigned as PERMITTEE hereby agrees, in consideration of this PERMIT, to perform and abide by the terms, conditions, restrictions, and obligations of this PERMIT.

'PERMITTEE' Skyworks Aviation DBA Tradewinds Aviation
Mailing Address 2505 Cunningham Avenue
San Jose, CA 95148
(408) 729-5100
Walt@TradewindsAviation.com

Signature:  _____
DocuSigned by:
4DEAF9EF4F32432...

Date of Acceptance: 12/30/2021

APPROVED AS TO FORM AND LEGALITY

DocuSigned by:
Chris Cheleden
B179ECE83EEF431...
Christopher R. Cheleden
Lead Deputy County Counsel

Attachments:
Insurance Exhibit

EXHIBIT B-8

INSURANCE REQUIREMENTS FOR
AIRCRAFT / AIRPORT OPERATION CONTRACTS

Indemnity

The Contractor shall indemnify, defend, and hold harmless the County of Santa Clara (hereinafter "County"), its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this Agreement by Contractor and/or its agents, employees or sub-contractors, excepting only loss, injury or damage caused by the sole negligence or willful misconduct of personnel employed by the County. It is the intent of the parties to this Agreement to provide the broadest possible coverage for the County. The Contractor shall reimburse the County for all costs, attorneys' fees, expenses, and liabilities incurred with respect to any litigation in which the Contractor contests its obligation to indemnify, defend and/or hold harmless the County under this Agreement and does not prevail in that contest.

Insurance

Without limiting the Contractor's indemnification of the County, the Contractor shall provide and maintain at its own expense, during the term of this Agreement, or as may be further required herein, the following insurance coverages and provisions:

A. Evidence of Coverage

Prior to commencement of this Agreement, the Contractor shall provide a Certificate of Insurance certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, a certified copy of the policy or policies shall be provided by the Contractor upon request.

This verification of coverage shall be sent to the requesting County department, unless otherwise directed. The Contractor shall not receive a Notice to Proceed with the work under the Agreement until it has obtained all insurance required and such insurance has been approved by the County. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

B. Qualifying Insurers

All coverages, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- V, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Insurance Manager.

EXHIBIT B-8

C. Notice of Cancellation

All coverage as required herein shall not be canceled or changed so as to no longer meet the specified County insurance requirements without 30 days' prior written notice of such cancellation or change being delivered to the County of Santa Clara or their designated agent.

D. Insurance Required

1. For non-aeronautical business located at an airport:

Commercial General Liability insurance - for bodily injury (including death) and property damage which provides limits as follows:

- a. Each occurrence - \$1,000,000
- b. General aggregate - \$2,000,000
- c. Products/Completed Operations aggregate - \$2,000,000
- d. Personal Injury - \$1,000,000

2. For fixed-base operators, flight schools and flying clubs located at an airport:

Airport Liability insurance – for bodily injury (including death) and property damage which provides limits of not less than one million dollars (\$1,000,000) per occurrence, including owned and non-owned aircraft coverage.

3. General Liability or Airport Liability coverage shall include:

- a. Premises and Operations
- b. Products/Completed
- c. Personal Injury liability
- f. Severability of interest

4. General Liability or Airport Liability coverage shall include the following endorsement, a copy of which shall be provided to the County:

Additional Insured Endorsement, which shall read:

EXHIBIT B-8

“County of Santa Clara, and members of the Board of Supervisors of the County of Santa Clara, and the officers, agents, and employees of the County of Santa Clara, individually and collectively, as additional insureds.”

Insurance afforded by the additional insured endorsement shall apply as primary insurance, and other insurance maintained by the County of Santa Clara, its officers, agents, and employees shall be excess only and not contributing with insurance provided under this policy. Public Entities may also be added to the additional insured endorsement as applicable, and the contractor shall be notified by the contracting department of these requirements.

5. Automobile Liability Insurance

For bodily injury (including death) and property damage which provides total limits of not less than one million dollars (\$1,000,000) combined single limit per occurrence applicable to all owned, non-owned and hired vehicles.

6. Aircraft Liability Insurance

For bodily injury (including death) and property damage which provides total limits of not less than one million dollars (\$1,000,000) combined single limit per occurrence applicable to all owned, non-owned and hired aircraft.

7. Workers' Compensation and Employer's Liability Insurance

- a. Statutory California Workers' Compensation coverage including broad form all-states coverage.
- b. Employer's Liability coverage for not less than one million dollars (\$1,000,000) per occurrence.

8. Hangarkeepers Liability

Hangarkeepers Liability with a limit of not less than seven hundred fifty thousand dollars (\$750,000) combined single limit (CSL) per occurrence and one million dollars (\$1,000,000) aggregate.

9. Pollution Liability

Pollution Liability coverage including bodily injury, personal injury, and property damage with limits not less than \$1,000,000 per claim or per occurrence and

EXHIBIT B-8

\$1,000,000 aggregate limits, including claim expenses and defense, written on a claims made or occurrence basis.

10. Stand-Alone Pollution Legal Liability Insurance

If lessee chooses to install underground petroleum storage tanks, lessee must demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of underground tanks, in the amount of one million (\$1,000,000) dollars per occurrence and one million (\$1,000,000) dollars annual aggregate, in accordance with applicable EPA regulations.

11. Property Insurance

Tenant/Lessee shall maintain not less than fifty thousand dollars (\$50,000) Fire Legal Liability on all real property being leased, including improvements and betterments owned by County, and shall name County as a loss payee. Tenant/Lessee shall also provide fire insurance on all personal property contained within or on the leased premises. The policy shall be written on a standard "all risk" contract, excluding earthquake and flood. The contract shall insure for not less than ninety (90) percent of the actual cash value of the personal property, and Tenant/Lessee shall name County as an additional insured.

E. Waiver of Subrogation

Except as may be specifically provided for elsewhere in this lease, County, and the Tenant/Lessee hereby each mutually waive any and all rights of recovery from the other in event of damage to the premises or property of either caused by acts of God, perils of fire, lightning, and all other all-risk perils as defined in insurance policies and forms approved for use in the state of California. Each party shall obtain any special endorsements, if required by their insurer, to evidence compliance with the aforementioned waiver.

F. Special Provisions

The following provisions shall apply to this Agreement:

1. The foregoing requirements as to the types and limits of insurance coverage to be maintained by the Contractor and any approval of said insurance by the County or its insurance consultant(s) are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Contractor pursuant to this Agreement, including but not limited to the provisions concerning indemnification.
2. The County acknowledges that some insurance requirements contained in this Agreement may be fulfilled by self-insurance on the part of the Contractor. However, this shall not in any way limit liabilities assumed by the Contractor under this Agreement. Any self-insurance shall be approved in writing by the County

EXHIBIT B-8

upon satisfactory evidence of financial capacity. Contractors obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance programs or self-insurance retentions.

3. Should any of the work under this Agreement be sublet, the Contractor shall require each of its subcontractors of any tier to carry the aforementioned coverages, or Contractor may insure subcontractors under its own policies.
4. If this agreement applies to a flying Club the Contractor shall require each of its club members to provide aircraft liability insurance with limits of \$1,000,000 and shall provide certificates of their insurance to the County.
5. Additional insurance requirements as may be required in association with construction activity, including, but not limited to, Builder's Risk Course of Construction, Workers' Compensation, All-Risk Property Insurance, Professional Liability Insurance, and Business Risk Insurance as outlined in Exhibit "B-1."
6. The County reserves the right to withhold payments to the Contractor in the event of material noncompliance with the insurance requirements outlined above.

G. Fidelity Bonds (Required only if contractor will be receiving advanced funds or payments)

Before receiving compensation under this Agreement, Contractor will furnish County with evidence that all officials, employees, and agents handling or having access to funds received or disbursed under this Agreement, or authorized to sign or countersign checks, are covered by a BLANKET FIDELITY BOND in an amount of AT LEAST fifteen percent (15%) of the maximum financial obligation of the County cited herein. If such bond is canceled or reduced, Contractor will notify County immediately, and County may withhold further payment to Contractor until proper coverage has been obtained. Failure to give such notice may be cause for termination of this Agreement, at the option of County.

UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, DC

AIRCRAFT OWNERS AND PILOTS *
ASSOCIATION, *et al*, *

Complainants,
v.

FAA Docket No. 16-22-08

COUNTY OF SANTA CLARA, *
CALIFORNIA *

Respondent.

* * * * *

DECLARATION OF NIKNAM NICKRAVESH

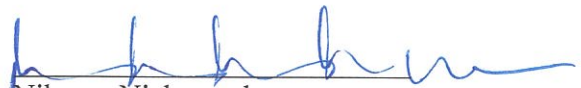
I, Niknam Nickravesh, being over 18 years of age and otherwise fully competent to testify state that:

1. I have personal knowledge of the facts stated herein.
2. I am the owner of multiple businesses that operate at Reid-Hillview Airport (KRHV), including Nik’s Aircraft, LLC and Flying S Aviation. I am also the Director of Maintenance for Nice Air Aviation.
3. I am aware of an accident that occurred on July 22, 2022, that involved a Piper PA-32-301 aircraft, registration number N300BH (the “Aircraft”), shortly after it departed from RHV.
4. Prior to this accident, the Aircraft underwent maintenance at Flying S Aviation. When the maintenance on the Aircraft began, I estimated that the Aircraft had approximately 30 gallons of 100LL on board total. The maintenance performed on the Aircraft included engine run-ups. At the conclusion of maintenance on the aircraft, I personally observed the aircraft had little to no fuel remaining as a result of the engine run-ups in the left tank.
5. To the best of my knowledge, the Aircraft requires 100LL.
6. It is my understanding that the operator of the Aircraft was aware of the Aircraft’s fuel status but was not able to obtain 100LL fuel at RHV. As a result, the Aircraft departed RHV with little to no fuel remaining. It is my understanding that the operator of the Aircraft intended to fly to San Jose International Airport (KSJC) to obtain 100LL.

7. After the accident occurred, I was told by an NTSB accident investigator that the Aircraft had run out of fuel.
8. I am personally aware of multiple instances involving transient aircraft that arrive at RHV anticipating to fuel with 100LL, unaware that it is not available at RHV. As a result of the lack of availability of 100LL, these aircraft depart without refueling.
9. I am personally aware of a misfuelling incident at a Santa Clara County airport, where the pilot mistakenly self-fueled their Christen Eagle aircraft with 94UL fuel, which cannot safely and legally use 94UL fuel. The error was identified before takeoff.

I AFFIRM under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge.

DATED: 1/6/2023



Niknam Nickraves



County of Santa Clara

Office of Communications and Public Affairs

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Sale of Leaded Aviation Fuel Ends at Reid-Hillview and San Martin Airports

Following a peer-reviewed Study that found elevated levels of lead attributable to aircraft activity at Reid-Hillview Airport in children living nearby, the Board of Supervisors voted unanimously to halt the sale of leaded aviation gas at County airports

SANTA CLARA COUNTY, CALIF.— Leaded aviation fuel is no longer available for purchase at Reid-Hillview Airport in East San José and San Martin Airport, and only unleaded fuel will be sold at both airfields. The County Board of Supervisors voted to stop leaded fuel sales in August, following the release of a peer-reviewed study that statistically linked ongoing use of leaded aviation gas with elevated lead exposure for the 13,000 children living near Reid-Hillview Airport

The adverse health effects of lead – particularly in children – are well-known, significant and concerning. The County-commissioned [Study](#) found that if leaded emissions (and the related adverse impact on IQ and cognition) ended, children living near the Airport would realize a gain of \$11 million to \$25 million in lifetime earnings.

“The County made a commitment to end leaded fuel sales at our airports on January 1, and that has been done,” said County Executive Jeffrey V. Smith, M.D., J.D. “We are committed to the health of Santa Clara County residents and that includes taking the necessary steps to protect the communities around County airports from continued aviation lead exposure.”

The move makes the Reid-Hillview and San Martin facilities likely the first airports in the nation to stop carrying 100 octane leaded avgas – commonly known as 100 low lead (100LL) – used by many piston-powered airplanes. Pollution from such aircraft collectively amount to the single largest source of airborne lead emissions in the nation, representing 70 percent of lead released into the environment.

The County-commissioned study on lead exposure risks for children found that leaded aviation fuel contributed to significantly increased blood lead levels for those within a half-mile of the facility. For context, the lead levels during peak hours were double the levels seen during the height of the Flint Water Crisis in Michigan.

Health organizations agree that there is no known safe level of lead in a child’s blood, and exposure to even a small amount of lead has a negative effect on cognitive ability, particularly in developing children who absorb lead more efficiently than older children and adults.

The August vote by County supervisors aimed to immediately take all available actions to prevent continued lead exposure from Reid-Hillview. A [petition](#) was also submitted by the County and a nationwide coalition of community groups to the U.S. Environmental Protection Agency (EPA), urging it to take action to eliminate lead pollution from aircraft throughout the United States.

“Children living near these smaller airports, all over the nation, are unconscionably being harmed by leaded fuel,” said Supervisor Cindy Chavez, who represents the area where Reid-Hillview is located. “The County of Santa Clara is doing everything in its power to eliminate this health and equity crisis here at home, as we press for a change at the federal level.”

Nationwide, more than 360,000 children aged 5 or younger live near an airport where piston-engine aircraft operate. Multiple studies have shown that children who live near airports have higher levels of lead in their blood.

“We are thrilled to be a vanguard for the move to unleaded aviation fuel,” said County Board of Supervisors President Mike Wasserman, whose supervisorial district includes San Martin Airport. “The future of general aviation airports will not be tainted by toxic lead fumes, and we look forward to seeing more and more airfields across the nation make the switch to unleaded aviation gas.”

Unleaded aviation fuel has been championed by pilots to address community concerns about atmospheric lead emissions. However, the prohibition of leaded fuel for sale at County facilities does not prevent aircraft that have filled up elsewhere with leaded gasoline from flying into Reid-Hillview and San Martin.

Four airfield operators that provide services to pilots at Reid-Hillview have entered into contracts with the County – effective January 1, 2022 – that restrict fuel sales to unleaded only. A limited amount of leaded fuel that remains in one of the fuel tanks at Reid-Hillview will be used by the flight school aircraft until it is depleted later this month, and it will not be replenished.

The County issued a Notice to Air Missions (NOTAM) in December to ensure pilots nationwide are notified of the change in fuel availability at Reid-Hillview and San Martin Airports. The notification is provided to pilots during their pre-flight planning and will remain in the FAA NOTAM system for the next year.

To use the unleaded fuel, an aircraft must be certified that it can do so safely and will be outfitted with a decal indicating this status. Aircraft that cannot use unleaded gas will need to obtain aviation fuel from other facilities.

The unleaded fuel available at Reid-Hillview and San Martin is 94 octane and is FAA-certified as safe for use in approximately 68% of the piston-powered aircraft of the type that use the Reid-Hillview and San Martin airports. Larger jet aircraft, such as those operating out of Mineta San José International Airport, use a Kerosene-based fuel that does not contain lead.

Related Links

- PRESS RELEASE: [Study Commissioned by County of Santa Clara Finds Increased Lead Levels in Children Living Near Reid-Hillview Airport](#)
- PRESS RELEASE: [County of Santa Clara Files Petition Urging EPA To Initiate Nationwide Ban of Leaded Aviation Gasoline](#)
- [RHV Lead Study Community Meetings](#)
- [Reid-Hillview Airport Airborne Lead Study\(PDF\)](#)
- [VIDEO: Press Briefing on Reid-Hillview Airport Airborne Lead Study – August 4, 2021](#)
- [VIDEO: San José Community Meeting on Reid-Hillview Airport Airborne Lead Study – August 11, 2021](#)
- [VIDEO: South County Community Meeting on Reid-Hillview Airport Airborne Lead Study – August 11, 2021](#)

[More Information](#)

PRESS RELEASE: Reid-Hillview Airborne Lead Study

PRESS RELEASE: Petition for Nationwide Ban on Leaded Aviation Gasoline

County-commission Reid-Hillview Airport Airborne Lead Study

PRESS RELEASE: Sale of Leaded Aviation Fuel Ends at County Airports

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December 6, 2022 Santa Clara County Airport Commission Notes

Roll Call - Lechuga, Graham Absent - unexcused

Groves Introduction - Retired 3Com Controller/Pilot - Aircraft owner (a/c based at San Carlos)

Item 3: Commission Attendance - Reference to Bylaws Art. 5 Sect. 2 - Unexcused absence of 3 consecutive meetings is considered vacating the seat - Lechuga has now missed 6 out the last 7 meetings.

Clerk polls the members prior to the meeting - there was no notice or request for excuse for absence.

Motion made to communicate to the Board vacating of the seat - motion fails for lack of a second (no comment or input by Groves or Blake)

Inquiry made of the clerk - Is a motion even required? Clerk advises that the absence is included in the meeting report, but the Supervisors make the decision on whether the seat is vacated.

Staff Report:

Fueling by the county - "soft opening" for truck service - full notification coming

VTA/Light Rail - ongoing discussions regarding the proposed tracks and whether they are on airport property. Shown on the Airport Layout Plan (ALP) as part of the airport but has been determined to be on expressway property (*Ed comment: How convenient*). Revision of the ALP in progress - Exhibit A is not done (*Ed: Who is paying for the revision?*). VTA is currently suing for access to the property.

Highlights of the Quarterly Report:

	Reid Hillview	San Martin	Airport System
Vacant Spaces	147 - 39%	96 - 39%	203
Revenue - 25% of Fiscal Year Elapsed	\$604,869 - 14%	\$296,268 - 37%	\$901,138 - 18%
Personnel Expenses			\$462,527 - 26%
Airport Operations 2021 versus 2022	Within 1%	Up 14%	
Fuel Sales	Down 5%	Down 46%	

RHV Fuel Tanks - 2 tanks have no BAAQMD (?) permits - in operation for a long time. Ongoing questions with BAAQMD as to whether tanks are a Bulk Plant (BAAQMD position) or Fuel Dispensing Facility (County Position). Question asked about G100 Plan - Plan is to keep UL94 and offer UL100 as well. County has the tanks and trucks to do it - Need to complete training and ensure aircraft and truck markings are in compliance.

Noise Complaints	Reid Hillview	San Martin
Operations	41,000	14,000
Complaints	5	1

Airport Budget - not in the public packet, will need to be agendized again.

Fuel in the budget is for a 3 year contract at maximum dollar value

Director stated that he has control of a small percentage of the budget - approx. \$300K of over \$3 million. Largest percentage are fixed costs.

Loans - Fuel Loan: approx. 50% remains to be spent. \$332,000 for trucks. \$5K for training. \$61K for parts/supplies and equipment. Equipment upgrades to come. Jet Fuel remains a challenge.

Fuel - \$316K purchased, \$308K sold. Will take 2-3 years to make a profit - margin currently is 75 cents above cost - "County new at this"

(Ed. comments - Fuel Flowage Fee revenue over the past four years - through 2021 - have varied from \$29K to 62K but are net revenue. Assuming that the county is including debt service in their calculations, the chance of the county making a profit in the future is slim. Allow me to explain:

\$700K debt service plus interest over 8 years (payoff by 2031) is over \$88K per year. Add in labor costs (let's assume for argument sake there are two personnel at \$65K + burden), overhead, insurance, truck and tank maintenance and testing, etc. Include the 3% credit card fee in the equation.

Thus far, the \$300K sales figure approximates 50,000 gallons in sales or \$37,500 in margin. Further, the county is now engaged in a service business for which they cannot provide the needed services. The four leaseholders each have their own truck to fuel their own aircraft (yes, the county sells them the fuel in bulk) but the reason is the county cannot accommodate service requests in a timely manner - ie. It takes approximately 10 minutes to fuel an aircraft, so 6 per hour - the county fueling is open 9-5, thus 8 hours of availability - result is 48 aircraft can be serviced. One flight school on a busy day may have 60 flights starting at 8 am and ending at 8 pm (or longer) - clearly, the county cannot accommodate that operation alone.)

Discussion on Airport Enterprise Fund - \$8.85 million in the fund, \$340,000 unrestricted

Review of General Fund Loans:

Loan 1: Pavement at Both Airports - Originated 8/2017	\$3 million
FAA Grant repayment - San Martin	\$570,000
Interest 10/2017 to 4/2022	\$209,000
Loan 2: Airfield Signage at RHV - Originated 3/2021	\$1 million
Interest 4/2022 to 6/2022	\$8,100
Loan 3: Airfield Signage, Paving, Fueling Equipment - Originated 3/2022	\$3.8 million
Interest 5/2022 to 9/2022	\$22,700

Total Loans: \$7,229,333 - excludes \$400,000 previously reported by the Director for
RHV Airport Vision Plan

No BAAQMD update since they have not completed their study.

Part 13/16 - at County Exec Level

Request for information on LUNA Contract and Reports - No information has been provided by
the county - see below

During this item, the commission engaged in a spirited, off-agenda discussion of the
need for housing in the valley and how RHV would be a potential site for future low
income housing development - I will address this in a follow on email.

Question on RHV Phase II Vision Plan Contract - Who and how much?

December 13, 2022

Mr. Eric Peterson
Director of Airports
Santa Clara County
2500 Cunningham Ave
San Jose, CA 95148

Dear Eric,

I wanted to reach out to you about your recent budget presentation before the County Airport Commission. As you are aware, the budget was not included in the public packet and I did not receive it in time to formulate coherent questions to ask during the meeting. To be fair to you and allow the commissioners time to digest the information, I thought that asking a few questions in advance and requesting a written response is appropriate.

The first question is: How accurate do you consider the budget to be? There are a number of rather large numbers in it that certainly will not be expended while others will clearly be exceeded. Since the FY 2022 EOY budget was not provided, there is no reference available to the commission to determine how the performance has been relative to how accurate the budget is. An example would be Utilities - Total Utilities budgeted for the year are \$165,000 and funds spent (through 12/1/22 or 5 months of the Fiscal Year) is \$124,000 - how much of a mid-year adjustment will be required?

In discussing the budget, you stated that most of the budget is fixed. That is, you don't really control it - specifically, you mentioned the \$93,000 allocated for IT services. My question is: Is this a fixed cost that the airport is obligated to pay or is this a budgeted amount that might be spent but not to exceed?

In addition to the Utilities category, there are some significant exceedences in the budget you provided: An example would be 8215000 IC Settlement Ext DRA of \$44,000 over budget.

At the same time, there are items like 5258250 IC Prof Svc Int Tr with a budget of \$249,644 but nothing expended year-to-date. Are these placeholders for possible cost overruns, expected date-certain expenses, or contingencies for other purposes?

Finally, there are significant funds set aside for Maint-Struct, Improv and Professional Services. The question again is are these actual expected costs or contingencies that may or may not be expended.

Thank you for your efforts on behalf of the aviation community. I look forward to the responses to this letter.

Sincerely,

Doug Rice

December 13, 2022

Recordsunit@cob.SCC [gov.org](mailto:Recordsunit@cob.SCC)
Clerk of the Board
Santa Clara County

Request for information under the Freedom of Information Act:

On or about May 3, 2022, Santa Clara County entered into a contract with LUNA (Latinos United for a New America) in the amount of approximately \$415,000 for services to the community surrounding Reid Hillview Airport. This letter is to request the following documentation associated with this contract:

1. All communications between the Board of Supervisors, its members, the County Executive, Deputy County Executive, and members of their staff, and LUNA regarding this contract, the educational materials and documents to be provided to the public, and any direction from the county as to the content of those materials.
2. Copies of all Phase I reports provided to the County by LUNA as part of the contract.
3. Copies of all Phase II reports provided to the County by LUNA
4. Copies of all notes, comments, or documents associated with interviews conducted by the CHW's (Community Health Workers) that have been provided to the County or staff
5. All information maintained in the database (excluding private information or other information otherwise protected by law) provided to the county, including comments or notes on discussions between the CHW's and community members or other information or comments concerning lead poisoning or the airport.
6. Any document provided by LUNA to the County containing conclusions, comments, or other information regarding the the contract or the results determined by the interview processes conducted under the auspices of the contract.

Should there be any questions or concerns regarding this request, please feel free to contact me at fl370machpt80@gmail.com.

Respectfully,

Douglas Rice

A citizen of legal age who resides within the County of Santa Clara, California

UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, DC

AIRCRAFT OWNERS AND PILOTS
ASSOCIATION, *et al*,

*

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Complainants,
v.

*

FAA Docket No. 16-22-08

COUNTY OF SANTA CLARA,
CALIFORNIA

*

*

Respondent.

* * * * *

**DECLARATION OF DR. JOSEPH C. MCMURRAY IN OPPOSITION OF
RESPONDENT’S MOTION TO DISMISS AND MOTION FOR SUMMARY
JUDGMENT**

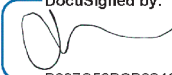
I, Dr. Joseph C. McMurray, being over 18 years of age and otherwise fully competent to testify state that:

1. I have personal knowledge of the facts stated herein.
2. I make this declaration in support of the Part 16 complaint against the County of Santa Clara relating to violations of Grant Assurances at San Martin Airport (E16).
3. I electronically signed the Part 16 complaint on October 14, 2022 (See Attachment 1).
4. Concerning the Part 16 Complaint that was filed in this matter, in accordance with 14 CFR § 16.13(e), I certify that I read the document and, based on reasonable inquiry and to the best of the my knowledge, information, and belief, the document is - (1) Consistent with this part; (2) Warranted by existing law or that a good faith argument exists for extension, modification, or reversal of existing law; and (3) Not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of the administrative process.

5. Additionally, Justine Harrison, General Counsel of the Aircraft Owners and Pilots Association, was duly authorized to sign and file the Part 16 complaint on my behalf.

I AFFIRM under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge.

DATED: 1/5/2023 | 10:35 AM PST

DocuSigned by:

B397C50BCB324CA...
Dr. Joseph C. McMurray

ATTACHMENT 1

unleaded fuel that the FAA has authorized for use in virtually all piston aircraft engines. Until a fuel that works safely in all piston engines is widely commercially available, the safe and efficient function of the national aviation system depends on continued availability of 100LL for the aircraft that consume 70% of fuel volume. Our aviation system works because the vast network of stakeholders operates in compliance with legal requirements. Consistent application of these requirements, in Santa Clara County and nationwide, is necessary for fairness and legitimacy of the rule of law, and for safety and reliability of the national aviation system.

By reason of the above, the Complainants submit that Santa Clara County's actions violate its federal grant assurance obligations and the County should be ordered to immediately re-establish the ability to have 100LL reasonably available at the airport for airport users that cannot legally or safely use 94UL fuel.

Pre-Complaint Resolution

In compliance with the requirement of 14 C.F.R. section 16.21, the Complaining Parties make the following statement: We hereby certify that there have been numerous good faith and substantial efforts to resolve the disputed matter described herein informally with Santa Clara County, but those efforts have been unsuccessful, including informal complaints to the FAA that prompted an FAA Notice of Investigation. The County has prohibited sale and use of leaded fuel at both of its airports, despite repeated explanation to the County of the need for General Aviation aircraft to use 100LL until an alternative can be developed and approved and despite being told of the substantial effects on the airport users who must seek fuel outside the County. Nine months have passed since fuel has been unavailable at the airports, and there has not been any resolution or the appearance of a resolution on the multiple allegations of grant assurance violations from those affected and from the FAA. This includes the County's failure to substantively respond to the FAA's letter dated February 22, 2022, the continued lack of 100LL at the County's airports, and the County's failure to address 100LL in its recently announced intention to exercise proprietary exclusive rights. Therefore, sufficient evidence exists to demonstrate that there is no reasonable prospect for timely resolution of the grant assurance violations dispute, and the parties are entitled to formal review and a formal determination under 14 C.F.R. Part 16 over whether the County has and is continuing to violate its grant obligations to make their airports available on reasonable terms and to operate their airports to be self-sustaining.

Respectfully submitted,

DocuSigned by:

Justine A Harrison

B62EAE4A321546F...

Justine A. Harrison, Esq.
Aircraft Owners and Pilots Association
421 Aviation Way
Frederick, MD 21701
Justine.Harrison@aopa.org
(301) 695-2200 tel.

DocuSigned by:

Kathleen A. Yodice

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Kathleen A. Yodice, Esq.
Yodice Associates, Counsel
to AOPA

DocuSigned by:
Michael McClelland
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Michael McClelland
Aperture Aviation, Inc.

DocuSigned by:
Robert A. Gingell
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Michael S Luvara
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Glynn Falcon
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DocuSigned by:
Paul Marshall
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Paul Marshall

DocuSigned by:
Walter Gyger
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Walter Gyger
Trade Winds Aviation

UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, DC

AIRCRAFT OWNERS AND PILOTS
ASSOCIATION, *et al*,

*

*

Complainants,
v.

*

FAA Docket No. 16-22-08

COUNTY OF SANTA CLARA,
CALIFORNIA

*

*

Respondent.

* * * * *

**DECLARATION OF WALTER GYGER IN OPPOSITION OF RESPONDENT'S
MOTION TO DISMISS AND MOTION FOR SUMMARY JUDGMENT**

I, Walter Gyger, being over 18 years of age and otherwise fully competent to testify state that:

1. I have personal knowledge of the facts stated herein.
2. I make this affidavit in support of the Part 16 complaint against the County of Santa Clara relating to violations of Grant Assurances at Reid-Hillview Airport (KRHV).
3. I am the owner of Skyworks Aviation dba Trade Winds Aviation (“Trade Winds Aviation”) and serve as its CEO and President.
4. Trade Winds Aviation is a flight school with locations at Reid-Hillview Airport (KRHV) and San Martin Airport (E16).
5. Trade Winds Aviation maintains a fleet of aircraft rented for flight training.
6. Trade Winds Aviation entered into a Lease Agreement with the County of Santa Clara (the “County”) effective January 1, 2022, which states that following, in part on page 4 (**Attachment 1**):

4.1.6 Fueling

4.1.6.1 Lessee is authorized to operate its own fuel truck for the sole purpose of fueling its own aircraft used in the course of its daily flight training and aircraft rental business, provided Lessee obtains a Commercial Self Fueling Permit.

4.1.6.2 If authorized in writing by the County separately from this lease to conduct retail fueling operations, Lessee must obtain an approved Permit for Retail Sale or Distribution of Fuel and Lubricants from

Lessor prior to exercises of its privilege of retail fuel sales.

4.1.6.3 All fueling on the Premises conducted under the above sections or otherwise subject to all applicable federal, state, and local laws and regulations.

7. As required by the above language in the lease, Tradewinds Aviation sought and obtained a Santa Clara County Airports General Aviation Commercial Self-Fueling Permit (the "Permit"). **Attachment 2.**
8. The Permit restricts Trade Winds Aviation to buying fuel only from the County, stating the following on Page 4:
 5. FUEL PURCHASE
 - A. This permit is restricted to fuel Permittee purchases from County.
9. The County owns all the four fuel tanks available to supply fuel to be purchased from the County pursuant to the Permit.
10. The County cannot sell 100LL as a result of Resolution 36 and Resolution 37 adopted by the Board of Supervisor.
11. As a result, the Permit required by the lease does not allow Trade Winds Aviation to obtain 100LL fuel because the fuel must be purchased from the County, and the County cannot sell 100LL.
12. Trade Winds Aviation is willing and able to use 100LL fuel for self-fueling, if not legally prohibited, until an unleaded fuel is locally available and approved for use in all Trade Winds Aviation aircraft.

I AFFIRM under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge.

DATED: 1/9/2023 | 2:03 PM PST

DocuSigned by:
Walter Gyger
4DEAF9EF4F32432...
Walter Gyger

ATTACHMENT 1

- 4.1.5 Lessee agrees not to wash vehicles on the Premises in such a manner as to allow any cleaning detergent or water to reach the surface of the ground.
- 4.1.6 Fueling
- 4.1.6.1 Lessee is authorized to operate its own fuel truck for the sole purpose of fueling its own aircraft used in the course of its daily flight training and aircraft rental business, provided Lessee obtains a Commercial Self Fueling Permit.
- 4.1.6.2 If authorized in writing by the County separately from this lease to conduct retail fueling operations, Lessee must obtain an approved Permit for Retail Sale or Distribution of Fuel and Lubricants from Lessor prior to exercises of its privilege of retail fuel sales.
- 4.1.6.3 All fueling on the Premises conducted under the above sections or otherwise subject to all applicable federal, state, and local laws and regulations.
- 4.1.7 Licensee shall use the premises for legal commercial business purposes only. No residential use is permitted. Licensee action of non-compliance shall constitute an Agreement violation.
- 4.2 A Fee Schedule describing all charges and hourly rates for services for airport patrons shall be posted at the Premises by the Lessee in plain view and kept up to date. All rates and charges shall be reasonable and fairly applied to all users of Lessee's services.
- 4.3 Identification and Periodic Reporting of Stored Aircraft
Lessee shall, at all times, maintain a current list of all aircraft permanently based, hangered, either inside or outside the Premises (excluding such other areas of the Airport which are not part of the Premises), and containing for each aircraft the name and address of the aircraft owner, the aircraft type (make, model, year, if known), and the aircraft registration number. Starting on the Effective Date, the Lessee shall provide the County with a copy of such a list on the first day of every other month, and at any other time the County reasonably requests same.
- 4.4 Accident Reports
Lessee agrees to report any accidents at the Airport, including but not limited to, involving Lessee, or Lessee's guests which occur at the Airport to the Lessor in writing within 24 hours of Lessee's learning of such. Lessee is also responsible for notifying any federal, state or local authorities, as required by law.

ATTACHMENT 2

**SANTA CLARA COUNTY AIRPORTS
GENERAL AVIATION
COMMERCIAL SELF-FUELING
PERMIT**



Definition of Commercial Self-Fueling: Fueling of aircraft used in the day-to-day operations of an authorized business on County airport property performed by the business operator in accordance with the Airport's Rules and Regulations, and using fuel obtained by the authorized business from the County

Businesses engaged in Commercial Self-Fueling (“Permittees”) shall be required to obtain a Commercial Self-Fueling Permit from the County in order to conduct Commercial Self-Fueling operations.

1. COMMERCIAL SELF-FUELING AUTHORIZATION

Execution of this Permit by the Director of County Airports and Permittee shall duly authorize Permittee to conduct commercial self-fueling relating to aeronautical activity operations at Reid-Hillview Airport in accordance with the terms and conditions specified in this permit. No commercial self-fueling shall take place without a valid commercial self-fueling permit.

2. AUTHORIZED COMMERCIAL SELF-FUELING ACTIVITIES

Permittee may conduct commercial self-fueling operations only on aircraft owned or operated by Permittee at Permittee's assigned aircraft storage space on airport. Permittee shall not sell to, or dispense fuel into, any other aircraft.

3. RESTRICTION ON COMMERCIAL SELF-FUELING ACTIVITIES

The commercial self-fueling activities authorized above shall be subject to the following restrictions:

- A. Permittee shall be permitted to self-fuel only on Permittee's leased property or such non-exclusive public area as the Director may designate.

- B. The dispensing of fuel into aircraft shall be in strict accordance with all Airport Rules and Regulations, as well as all applicable Federal, State, County and City laws, rules and regulations. It shall be the responsibility of Permittee to keep informed of and comply with such laws, rules and regulations at all times.

- C. Permittee's fueling equipment must be parked or positioned on Permittee's leased property.
- D. Permittee's fuel transport vehicle and fueling equipment shall not be parked, staged or stored in a Hangar at any time.
- E. Permittee shall have the sole responsibility to obtain all necessary permits for the use and transport of hazardous materials.
- F. Permittee shall only use the entrance, exit, and haul route designated by the Director during the transportation of fuel onto and off the airport.
- G. During commercial self-fueling, the fueling vehicle shall not obstruct other aircraft or vehicular movements.
- H. Hangared aircraft shall always be positioned outside of hangar during any fueling operation.
- I. During the fueling of an aircraft, the fuel dispensing apparatus and the aircraft must be bonded in accordance with local, state, federal codes, and uniform fire code standards.
- J. Fuel may not be transferred from one vessel to another, except in a location approved by the Airport Director.
- K. Permittee shall ensure that there are no potential sources of fuel ignition within fifty (50) feet of the self-fueling operation.
- L. Fuel transport vehicle is prohibited from parking (staging) within 50 feet of any building.
- M. Permittee shall exercise care to prevent the overflow of fuel, and must have immediately accessible at the fueling site a 20 lb. B:C rated fire extinguisher.
- N. DIRECTOR, in his/her sole discretion may immediately suspend any self-fueling operations for violation of any term or condition of the permit, or if such self-fueling poses a threat to health and safety.
- O. Permittee shall not fuel or de-fuel an aircraft on the airport while the aircraft is in a closed hangar or enclosed space.

Permittee shall ensure:

- (1) Fueling activities cease when lightning discharge occurs within five miles of the airport.
- (2) The aircraft engine is not in operation during re-fueling.
- (3) All aircraft electrical systems, to include magnetos and master switch, are in the "off" position.
- (4) The aircraft's parking brake is set, or at least one aircraft wheel is chocked, or the aircraft is secured to the ground by the two wing tie-down points.

4. MINIMUM EQUIPMENT REQUIREMENTS

- A. Fuel transport and dispensing tanks or containers and associated equipment shall comply with all applicable Federal, State, County and City laws and regulations regarding the transportation and storage of flammable liquids.
- B. Fuel transport and dispensing containers shall not be less than twenty (20) gallon capacity each. Fuel transport containers shall be painted red and clearly marked in accordance with FAA• AC 150/5230-4 or current edition with the type of fuel, i.e. Jet A, and with "Flammable" and "No Smoking" placards placed on the exterior.
- C. All fuel transport containers shall be firmly and mechanically secured to the transport vehicle.
- D. All fuel dispensing or containers shall have a valve mechanism such that water can be drained from the lowest portion of the tank, unless equipped with a glass bowl filter.
- E. Fuel uplift standpipes shall be constructed such that 5% to 10% of the total capacity of each dispensing container cannot be delivered through the dispensing system (5% to 10% unusable sump).
- F. An in-line filtration system utilizing a 5 micron or less gasoline filter element shall be included in the fuel dispensing system.
- G. Cables for bonding the fuel dispensing system, and the aircraft to zero electrical potential shall be provided.
- H. A 20- lb. B:C rated fire extinguisher shall be readily available and

accessible during self-fueling operations.

- I. Fuel dispensing nozzle shall be "over-the-wing" handheld type in which fuel is only delivered through the over wing nozzle by squeezing the handle and trigger. The nozzle must continually be held open by hand through the course of refueling. Once the handle is released, the fuel flow will stop. The fuel nozzle shall not be blocked open or left unattended during self-fueling operations.
- J. Permittee shall maintain an adequate supply of fuel absorbent material readily available to contain a medium-size fuel spill (25 gallons or less) as prescribed by the Airport Authority.
- K. All fueling equipment shall be maintained in a clean, non-leaking condition while on Airport and is subject to inspection at any time by the Director of County Airports or Designee.

5. FUEL PURCHASE

- A. This permit is restricted to fuel Permittee purchases from County.
- B. Permittee shall pay to County a per-gallon fee for each gallon of fuel received.
- C. Permittee acknowledges and agrees that payments are made monthly, and must be received by the first day of the month in which payment is due. Payment received after that date is subject to an additional late payment fee, in the amount set forth in the current *Schedule of Rates and Charges for Santa Clara County Airports*.
- D. Permittee acknowledges that failure to timely pay an amount due by the first of the month may result in loss of fuel access until amount due is paid in full.
- E. All payments shall be made payable to the "County of Santa Clara", in the form of a company check, certified check, money order or wire transfer. Payments made by credit card are subject to a 5% convenience fee. Payments are due and payable on the first day of each month without exception, and delivered by hand delivery, by courier or by U.S. mail (first class postage prepaid) to the following address, or such other address as designated by County in writing:

County of Santa Clara
2500 Cunningham Ave
San Jose, CA 95148

- F. A process fee shall be assessed for any checks returned by Permittee's bank due to insufficient funds. The processing fee amount is set forth in the current *Schedule of Fees and Charges for Santa Clara County Airports*.
- G. All fees and charges are subject to change based on future changes to the *Schedule of Fees and Charges for Santa Clara County Airports*.

6. USE OF ASSIGNED SPACE AND AIRPORT

In utilizing the Assigned Space and Airport, Permittee shall abide by the following requirements:

- A. Permittee shall not contaminate Airport, the assigned aircraft storage space, or the sub-surface of either, with any Hazardous Material.
- B. Permittee shall immediately notify the 911 Fire Services of any release of Hazardous Materials on Airport or the assigned aircraft storage space, whether or not the release is in quantities that would be reportable to a public agency.
- C. Permittee shall be solely and fully responsible and liable in the event Permittee's commercial self-fueling operations cause or permit Hazardous Materials to be released at Airport or the Assigned Aircraft Storage Space. If any release of Hazardous Materials occurs on the Assigned Aircraft Storage Space or Airport as a result of Permittee's commercial self-fueling operations, Permittee, at Permittee's sole cost and expense, shall remove such Hazardous Materials in accordance with all applicable government regulations. In addition to all other rights and remedies of County, if Permittee does not immediately clean up and remove any such Hazardous Materials release, County may pay to have Hazardous Materials removed and Permittee shall reimburse County any costs incurred by County together with interest at maximum rate allowed by law.
- D. Permittee shall indemnify, defend, and hold County harmless against all loss, damage, liability and expense which County may sustain as a result of the presence or clean-up of Hazardous Materials on the assigned aircraft storage space or Airport caused directly or indirectly by Permittee's commercial self- fueling operations.
- E. Permittee's obligations under this Permit, for clean up and removal of Hazardous Materials releases attributable to Permittee, shall survive the expiration or termination of this agreement.

7. INSURANCE REQUIREMENT

Permittee, at its sole cost and expense and for the full term of this permit or any renewal thereof, shall obtain and maintain at least the minimum insurance requirements as set forth in Attachment "A" attached hereto.

8. INDEMNITY AND WAIVER OF CLAIM

Permittee shall indemnify, defend, and hold harmless the County of Santa Clara (hereinafter "County"), its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with this Permit excepting only loss, injury or damage caused by the sole negligence or willful misconduct of personnel employed by the County. It is the intent of the parties to this Agreement to provide the broadest possible coverage for the County. Permittee shall reimburse the County for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the User contests its obligation to indemnify, defend and/or hold harmless the County under this Agreement and does not prevail in that contest.

Permittee, as a material part of the consideration to be rendered to County under this permit, hereby waives all claims or causes of action against County, its officers, agents, volunteers, or employees which it may now or hereafter have for damages to goods, wares, merchandise or property in, about or upon the Airport, and for injuries or death to persons in or about said Airport, from any or causes arising at any time, except as may arise from the sole active negligence or sole willful act of misconduct of County, its officers, agents or employees, and notwithstanding that joint, several, or concurrent liability, or principles of comparative negligence, might otherwise impose liability on County.

9. GRANT AGREEMENT CONVENANTS

Permittee acknowledges that the County is subject to Federal Grant Assurance obligations as a condition precedent to granting of funds for improvement of the Airport, and, accordingly, agrees to, and agrees to be bound by, the covenants provided by the Federal Aviation Administration, as they may apply to Permittee.

10. TERMINATION AND AMENDMENTS

County may terminate this permit without cause upon 30 days written notice to Permittee. County reserves the right to make amendments to this permit. Upon amendment, Permittee has the option of signing the amended permit or terminating the permit. The County reserves the right to terminate the permit if Permittee fails to agree to the amendment(s) within 10 days notification.

Authorization to conduct commercial self-fueling is issued this 12/30/2021 of

_____, _____
Month Year

Witness the execution of this Permit as of the dates set forth below:

COUNTY:

DocuSigned by:
Harry Freitas
6DC28984CB2D46D...

Title: Director

By: Harry Freitas

Date: 12/30/2021

ACCEPTANCE

The undersigned as PERMITTEE hereby agrees, in consideration of this PERMIT, to perform and abide by the terms, conditions, restrictions, and obligations of this PERMIT.

'PERMITTEE' Skyworks Aviation DBA Tradewinds Aviation

Mailing Address 2505 Cunningham Avenue
San Jose, CA 95148
(408) 729-5100
Walt@TradewindsAviation.com

Signature:  _____
DocuSigned by:
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Date of Acceptance: 12/30/2021

APPROVED AS TO FORM AND LEGALITY

DocuSigned by:
Chris Cheleden
B179ECE83EEF431...

Christopher R. Cheleden
Lead Deputy County Counsel

Attachments:
Insurance Exhibit

EXHIBIT B-8

INSURANCE REQUIREMENTS FOR
AIRCRAFT / AIRPORT OPERATION CONTRACTS

Indemnity

The Contractor shall indemnify, defend, and hold harmless the County of Santa Clara (hereinafter "County"), its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this Agreement by Contractor and/or its agents, employees or sub-contractors, excepting only loss, injury or damage caused by the sole negligence or willful misconduct of personnel employed by the County. It is the intent of the parties to this Agreement to provide the broadest possible coverage for the County. The Contractor shall reimburse the County for all costs, attorneys' fees, expenses, and liabilities incurred with respect to any litigation in which the Contractor contests its obligation to indemnify, defend and/or hold harmless the County under this Agreement and does not prevail in that contest.

Insurance

Without limiting the Contractor's indemnification of the County, the Contractor shall provide and maintain at its own expense, during the term of this Agreement, or as may be further required herein, the following insurance coverages and provisions:

A. Evidence of Coverage

Prior to commencement of this Agreement, the Contractor shall provide a Certificate of Insurance certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, a certified copy of the policy or policies shall be provided by the Contractor upon request.

This verification of coverage shall be sent to the requesting County department, unless otherwise directed. The Contractor shall not receive a Notice to Proceed with the work under the Agreement until it has obtained all insurance required and such insurance has been approved by the County. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

B. Qualifying Insurers

All coverages, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- V, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Insurance Manager.

EXHIBIT B-8

C. Notice of Cancellation

All coverage as required herein shall not be canceled or changed so as to no longer meet the specified County insurance requirements without 30 days' prior written notice of such cancellation or change being delivered to the County of Santa Clara or their designated agent.

D. Insurance Required

1. For non-aeronautical business located at an airport:

Commercial General Liability insurance - for bodily injury (including death) and property damage which provides limits as follows:

- a. Each occurrence - \$1,000,000
- b. General aggregate - \$2,000,000
- c. Products/Completed Operations aggregate - \$2,000,000
- d. Personal Injury - \$1,000,000

2. For fixed-base operators, flight schools and flying clubs located at an airport:

Airport Liability insurance – for bodily injury (including death) and property damage which provides limits of not less than one million dollars (\$1,000,000) per occurrence, including owned and non-owned aircraft coverage.

3. General Liability or Airport Liability coverage shall include:

- a. Premises and Operations
- b. Products/Completed
- c. Personal Injury liability
- f. Severability of interest

4. General Liability or Airport Liability coverage shall include the following endorsement, a copy of which shall be provided to the County:

Additional Insured Endorsement, which shall read:

EXHIBIT B-8

“County of Santa Clara, and members of the Board of Supervisors of the County of Santa Clara, and the officers, agents, and employees of the County of Santa Clara, individually and collectively, as additional insureds.”

Insurance afforded by the additional insured endorsement shall apply as primary insurance, and other insurance maintained by the County of Santa Clara, its officers, agents, and employees shall be excess only and not contributing with insurance provided under this policy. Public Entities may also be added to the additional insured endorsement as applicable, and the contractor shall be notified by the contracting department of these requirements.

5. Automobile Liability Insurance

For bodily injury (including death) and property damage which provides total limits of not less than one million dollars (\$1,000,000) combined single limit per occurrence applicable to all owned, non-owned and hired vehicles.

6. Aircraft Liability Insurance

For bodily injury (including death) and property damage which provides total limits of not less than one million dollars (\$1,000,000) combined single limit per occurrence applicable to all owned, non-owned and hired aircraft.

7. Workers' Compensation and Employer's Liability Insurance

- a. Statutory California Workers' Compensation coverage including broad form all-states coverage.
- b. Employer's Liability coverage for not less than one million dollars (\$1,000,000) per occurrence.

8. Hangarkeepers Liability

Hangarkeepers Liability with a limit of not less than seven hundred fifty thousand dollars (\$750,000) combined single limit (CSL) per occurrence and one million dollars (\$1,000,000) aggregate.

9. Pollution Liability

Pollution Liability coverage including bodily injury, personal injury, and property damage with limits not less than \$1,000,000 per claim or per occurrence and

EXHIBIT B-8

\$1,000,000 aggregate limits, including claim expenses and defense, written on a claims made or occurrence basis.

10. Stand-Alone Pollution Legal Liability Insurance

If lessee chooses to install underground petroleum storage tanks, lessee must demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of underground tanks, in the amount of one million (\$1,000,000) dollars per occurrence and one million (\$1,000,000) dollars annual aggregate, in accordance with applicable EPA regulations.

11. Property Insurance

Tenant/Lessee shall maintain not less than fifty thousand dollars (\$50,000) Fire Legal Liability on all real property being leased, including improvements and betterments owned by County, and shall name County as a loss payee. Tenant/Lessee shall also provide fire insurance on all personal property contained within or on the leased premises. The policy shall be written on a standard "all risk" contract, excluding earthquake and flood. The contract shall insure for not less than ninety (90) percent of the actual cash value of the personal property, and Tenant/Lessee shall name County as an additional insured.

E. Waiver of Subrogation

Except as may be specifically provided for elsewhere in this lease, County, and the Tenant/Lessee hereby each mutually waive any and all rights of recovery from the other in event of damage to the premises or property of either caused by acts of God, perils of fire, lightning, and all other all-risk perils as defined in insurance policies and forms approved for use in the state of California. Each party shall obtain any special endorsements, if required by their insurer, to evidence compliance with the aforementioned waiver.

F. Special Provisions

The following provisions shall apply to this Agreement:

1. The foregoing requirements as to the types and limits of insurance coverage to be maintained by the Contractor and any approval of said insurance by the County or its insurance consultant(s) are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Contractor pursuant to this Agreement, including but not limited to the provisions concerning indemnification.
2. The County acknowledges that some insurance requirements contained in this Agreement may be fulfilled by self-insurance on the part of the Contractor. However, this shall not in any way limit liabilities assumed by the Contractor under this Agreement. Any self-insurance shall be approved in writing by the County

EXHIBIT B-8

upon satisfactory evidence of financial capacity. Contractors obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance programs or self-insurance retentions.

3. Should any of the work under this Agreement be sublet, the Contractor shall require each of its subcontractors of any tier to carry the aforementioned coverages, or Contractor may insure subcontractors under its own policies.
4. If this agreement applies to a flying Club the Contractor shall require each of its club members to provide aircraft liability insurance with limits of \$1,000,000 and shall provide certificates of their insurance to the County.
5. Additional insurance requirements as may be required in association with construction activity, including, but not limited to, Builder's Risk Course of Construction, Workers' Compensation, All-Risk Property Insurance, Professional Liability Insurance, and Business Risk Insurance as outlined in Exhibit "B-1."
6. The County reserves the right to withhold payments to the Contractor in the event of material noncompliance with the insurance requirements outlined above.

G. Fidelity Bonds (Required only if contractor will be receiving advanced funds or payments)

Before receiving compensation under this Agreement, Contractor will furnish County with evidence that all officials, employees, and agents handling or having access to funds received or disbursed under this Agreement, or authorized to sign or countersign checks, are covered by a BLANKET FIDELITY BOND in an amount of AT LEAST fifteen percent (15%) of the maximum financial obligation of the County cited herein. If such bond is canceled or reduced, Contractor will notify County immediately, and County may withhold further payment to Contractor until proper coverage has been obtained. Failure to give such notice may be cause for termination of this Agreement, at the option of County.