# Complainant Bodin's Exhibit List

| Bodin Exhibit | Description |
|---|---|
| 1 | March 27, 2009 Email from Jeff Bodin to Carl Honaker |
| 2 | South County Airport Financial Summary Fiscal Year 2010 |
| 3 | May 28, 2009 Letter from Jeff Bodin to Racior Cavole |
| 4 | August 17, 2009 Letter from Racior Cavole to Carl Honaker |
| 5 | August 25, 2009 Email from Jeff Bodin to Colleen Valles |
| 6 | February 10, 2010 Email and Letter from Anthony Garcia to Carl Honaker, Donald Gage and Colleen Valles |
| 7 | June 23, 2010 Letter from Elizabeth Pianca to Jeff Bodin |
| 8 | July 13, 2010 Email from Anthony Garcia to Jeff Bodin |
| 9 | August 3, 2010 Letter from the South County Airport Pilots Association to the Santa Clara County Board of Supervisors |
| 10 | August 13, 2010 Letter from Michael Murdter to Jeff Bodin |
| 11 | August 25, 2010 Letter from Anthony Garcia to Carl Honaker |
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| 13 | September 22, 2010 Letter from Michael Murdter to Mark McClardy |
| 14 | April 4, 2011 Letter and Memos from Mark A. McClardy to Michael Murdter |
| 15 | May 2, 2011 Letter from Michael Murdter to Mark McClardy |
| 16 | Web Page Printouts of South County Airport Information |
| 17 | County of Santa Clara Airport Rules and Regulations, Pages 8, 13 and 24 |
| 18 | April 10, 2009 Email from Jeff Bodin to Carl Honaker |
| 19 | May 7, 2009 Email from Jeff Bodin to Carl Honaker and Michael Murdter |
| 20 | May 11, 2009 Email from Jeff Bodin to Racior Cavole and Robin Hunt |
| 21 | June 9, 2009 Email from Jeff Bodin to Racior Cavole |
| 22 | July 21, 2009 Letter from Jeffrey Bodin to Supervisor Donald Gage |
| 23 | August 13, 2009 Email from Jeff Bodin to Racior Cavole and Robin Hunt |

| | |
|---|---|
| 24 | August 24, 2009 Email from Jeff Bodin to Colleen Valles and Donald Gage |
| 25 | October 16, 2009 Email from Jeff Bodin to Patty Daniel |
| 26 | February 10, 2010 Email from Anthony Garcia to Carl Honaker, Donald Gage and Colleen Valles |
| 27 | February 11, 2010 Email from Jeff Bodin to Anthony Garcia |
| 28 | March 9, 2010 Email from Lawrence Feldman to Jeff Bodin, and March 10, 2010 Letter from Jeff Bodin to Anthony Garcia |
| 29 | California Government Code Section 831.7 |
| 30 | June 4, 2010 Email from Jeff Bodin to Donald Gage |
| 31 | June 30, 2010 Email from Anthony Garcia to Jeff Bodin |
| 32 | Summary of Proceedings of the Santa Clara County Board of Supervisors' Meeting of August 24, 2010, Pages 1, 9. |
| 33 | April 26, 2011 Transmittal from Michael Murdter to the Santa Clara County Board of Supervisors (No Attachments) |

**From:** Jeff Bodin (jlbodin@yahoo.com)
**To:** Carl.Honaker@rda.sccgov.org;
**Date:** Fri, March 27, 2009 9:13:04 PM
**Cc:** jlbodin@yahoo.com;
**Subject:** Regarding Meeting on Friday, 4/3 - Garlic City Skydiving

EXHIBIT
Bodin 1

Mr. Honaker,

Thank you for your time today. This e-mail is to confirm our appointment next Friday on 4/3 at 3:00 regarding a skydiving business opportunity at South County Airport.

I appreciate your willingness to discuss your and Santa Clara County's concerns regarding airspace separation and other potential concerns around a skydiving drop-zone operating out of South County Airport.

Most airports have many questions about allowing skydiving on their airport when initially approached with the idea. When working together, a real win-win is created for both the airport and the skydiving operation. This win-win is accomplished when the proposed skydiving business works together with the airport management to put together a plan that will build a successful and safe Base of Operations for skydiving.

I would like to take an hour-or-so to discuss the following topics (via power-point) with you regarding Garlic City Skydiving's proposal for a skydiving business at E16. Topics will include:

- High-level business and opportunity overview
- Principals involved and their skydiving and business experience
- Why South County Airport?
- What the significant benefits are to South County Airport, the community, the FBO and the County for supporting a Skydiving Base of Operations?
- A Skydiving safety overview and a proposal for operating at E16 including an introduction to skydiving (how a drop-zone operates) and address airspace separation concerns at E16
- USPA (United States Parachute Association) business and airport support, student and staff training, and involvement and participation with the FAA
- General airspace considerations, FAR/AIM procedures and Federal Airport access/use rules and regulations for Skydiving operations
- Proposal for a packing/manifest area, and
- A high-level overview of "Garlic City Skydiving's" business plan

I will be bringing one other person with me who has several years of experience in Drop Zone operations, who is currently functioning as a USPA Safety and Training Adviser (S&TA).

Please feel free to invite those in your department (or other relevant County employees) who may have questions about skydiving, skydiving safety, airspace separation, parachute flight and control, and general drop-zone operation and safety.

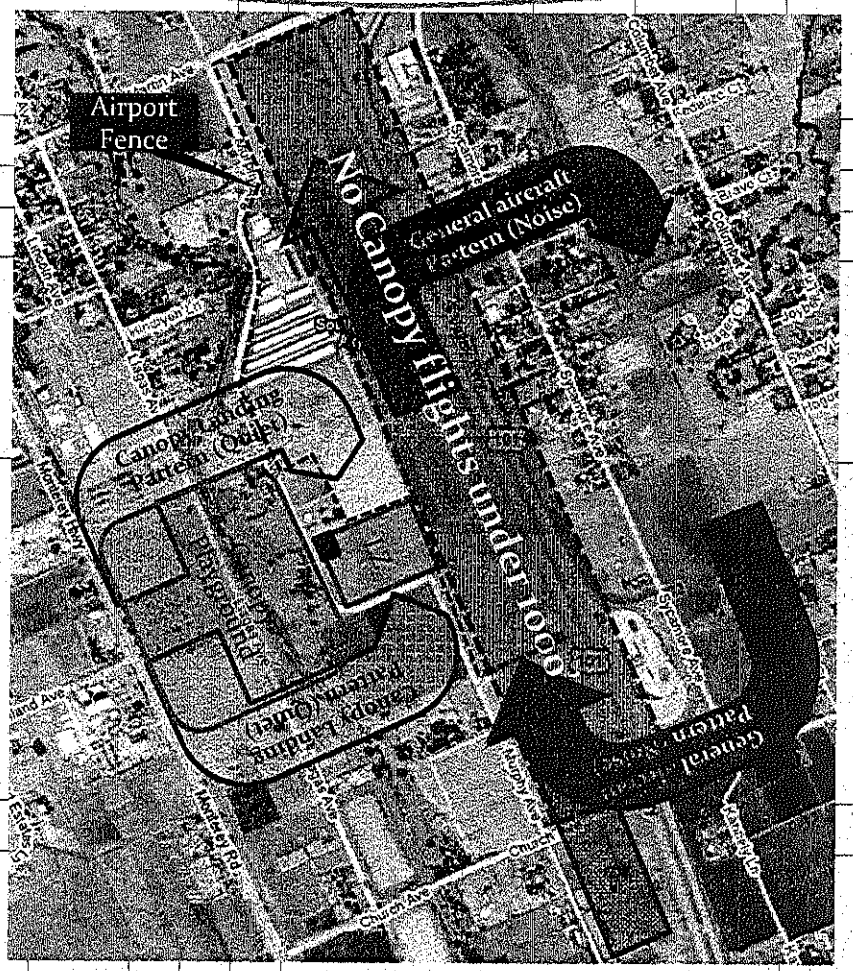
Again, thank you for this opportunity.

- Jeff Bodin
"Garlic City Skydiving"
408.666.6029 (C)

Exhibit 1

# Proposed GCS Landing Area

- Surveyed area exceeds USPA LZ size recommendations
- Outside of E16 traffic-patterns for complete plane/canopy separation
- Almost zero additional noise (except the occasional "Whoo-hoo!")
- Large canopy playground
- Significant "outs" in surrounding farmland
- Outside airport fence, but on airport property
  - Outside of fence keeps skydivers on LZ, and off-airport/ away from planes & runway (except for loading)




*This skydiving landing pattern is "standard" for airports with E16's configuration*

EXHIBIT
Bodin 2

## SCO Financial Summary FY10

| | |
|---|---|
| **Revenues** | |
| Aircraft Storage | $434,182 |
| Lease Revenue | $93,210 |
| Fuel Flowage | $7,705 |
| Transient and Other | $15,472 |
| **Total** | **$550,569** |
| | |
| **Expenditures** | |
| Salaries and Benefits | $292,817 |
| General Administration | $105,547 |
| Services and Supplies | $127,066 |
| Depreciation and Amortization | $246,918 |
| Debt Service Principal and Interest | $375,775 |
| **Total** | **$1,148,122** |
| | |
| **Net Operating Income (Loss) Including Depreciation** | **-$597,553** |
| Back Out Depreciation Expense | -$238,566 |
| **Net Operating Income (Loss) Without Depreciation** | **-$358,986** |
| | |
| **Non-Operating Revenue (Expenses)** | **$0** |
| | |
| **Net Income (Loss) before Capital Proj. Exp.** | (358,986) |
| | |
| **Capital Projects** | |
| Capital Project Expenditures | $145,246 |
| Reimbursements | -$88,798 |
| **Net Capital Project Expenditures** | **$56,448** |
| | |
| **Net Income (Loss)** | (415,435) |
| | |
| FAA Reimb. For Prior Years Expenditures | $0 |
| | |
| **FY10 Net Income (loss)** | (415,435) |

Note:
This report is based on actual expenditures incurred and revenues earned related to all activities, including capital projects during the fiscal year.

Exhibit 2

May 28, 2009

EXHIBIT
Bodin 3

Mr. Racior Cavole
Compliance Specialist
FAA San Francisco ADO

Dear Mr. Cavole,

In reference to my letter/e-mail dated May 11, 2009 I would like to file an Informal Complaint, as allowed by Part 13 of the Federal Grant Assurances. This informal complaint is with respect to my proposal to Santa Clara County to open a commercial aeronautical business at the South County Airport (E16).

To summarize my discussions with Santa Clara County, I presented a proposal for a skydiving business to Mr. Carl Honaker, Director of County Airports, on 4/2/2009 and after repeated requests have received no "official" response from the County acknowledging the proposal. On 5/6/2009, I stopped by the County's administrative office without invite while Mr. Honaker was there and met with him, and was told that:

- The County cannot and will not lease a small portion of land on the proposed landing area, or any other area of airport property, for a building (temporary, self-contained or otherwise) as the County believes it will require modification of their Master Plan, require the County to publish open-bid RFQs for any potential leases of any airport property for business purposes, and interrupt current ongoing Environmental Impact studies, and
- The County will not lease one or more hangers for the purpose of Garlic City Skydiving to operate its aeronautical business out of, as this is not allowed and against County policy (the County has stated that allowing a business to be run out of a hanger might enable competition to the one FBO on property), and
- Although South County Airport has agreed to allow us to use the proposed/identified landing area in our proposal for skydivers, the County recommends "leasing" of farm land adjacent to the airport for "through-the-fence" access, and lastly
- Any use of a landing area at the airport would be "temporary" and only be available until the airport implements their "Master Plan" and the County leases the proposed landing area to a second FBO, at which time our operations would need to cease.

Since this discussion, I have again tried numerous attempts to contact Mr. Honaker without receiving any reply, leaving repeated messages with both his secretary and office answering machine, as well as following up with e-mails.

This informal complaint requests an FAA investigation, believing that the County is in violation of the Grant Assurances, specifically sections 22(a), 22(i) [Economic Nondiscrimination] and 23 [Exclusive Rights]:

- "22(a). It (The Sponsor) will make the airport available as an airport for public use on reasonable terms without unjust discrimination to all types, kinds and classes of aeronautical activities including commercial aeronautical activities offering services to the public at the airport", and
- "22(i). The sponsor may prohibit or limit any given kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the aviation needs of the public, and
- "23. It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public."

The FAA considers skydiving to be an aeronautical activity under Grant Assurance 22(a) and the airport should be made available to this business under sections 22(a), 22(i) and 23. Skydiving can only be prohibited under the Grant Assurance 22(i) if the prohibition is necessary for the safe operation of the airport or to serve the civil aviation needs of the public.

With the help of the U.S. Parachute Association, dialogue has been started with the San Jose FSDO and the NorCal TRACON. Both are willing to draft local procedures to mitigate any potential conflict with other aeronautical users. No one at FAA has determined that skydiving operations at the Santa Clara County Airport would be unsafe.

I have made every reasonable attempt to converse with the County to work through their concerns on housing a viable second business/base of operations on the airport without response – and although I wish to remain constructive with the County and create a "win-win" scenario for the both of us – the County's lack of official response in addressing my proposal, as well as the verbal statements made to me by Mr. Honaker on 5/6/2009 that directly conflict with Sections 22 and 23 of the Grant Assurances, requires me to file an informal complaint as allowed by Part 13 of the Grant Assurances.

I would like to review this avenue of informal complaint, seeking your assistance, first – and come to a resolution that benefits both my proposed commercial aeronautical business and the airport sponsor. I am hoping we can come to a beneficial resolution, so that filing a formal complaint per Part 16 of the Grant Assurances will not be necessary.

Please let me know how best we can move this business proposal forward with the County in a positive and constructive manner.

Sincerely, and thank you,

Jeff Bodin, d.b.a., Garlic City Skydiving

cc:

Robin K. Hunt, Manager, San Francisco ADO
Randy Ottinger, USPA Director of Government Relations

U.S. Department
of Transportation
Federal Aviation
Administration

San Francisco Airports District Office
831 Mitten Road, Room 210
Burlingame, California 94010-1303

EXHIBIT
Bodin 4

August 17, 2009

Mr. Carl Honaker, Director of Airports
County of Santa Clara
Roads and Airports Department
2500 Cunningham Avenue
San Jose, California 95148

Dear Mr. Honaker:

Subject: Part 13.1 Informal Complaint
South County Airport

This letter is a follow-up to my letter dated May 8, 2009, (copy attached) wherein I requested the County respond to an Informal Complaint. Mr. Jeff Bodine, Garlic City Skydiving, alleged the County refuses to allow his skydiving operations be conducted at South County Airport. Mr. Bodin alleged the County is in violation of Airport Sponsor Grant Assurance 22, Economic Nondiscrimination, specifically 22(a), by refusing to accept his proposal. Federal Aviation Administration (FAA) policy requires the County of Santa Clara given the opportunity to respond to all allegations prior to FAA rendering a determination.

My letter gave the County *ten working days* to submit written correspondence providing justification for its action in response to the allegation. We spoke several weeks ago about this matter and it was my understanding that a response with be soon forthcoming. To date, the County has not provided a written response justifying their refusal to allow the skydiving operations.

Therefore, the San Francisco Airports District Office (ADO) can find no reason for the County to refuse access to Mr. Bodine to conduct skydiving operations at South County Airport. This determination is conditioned upon an acceptable lease agreement, incorporating all applicable FAA requirements. Failure to adhere to this determination may put the County in noncompliance with its Federal Sponsor Grant Assurances, and jeopardize the receipt of future federal funding.

EXHIBIT 4

Please contact our office at (650) 876-2778, extension 627, if you have questions or comments concerning the ADO determination in this matter.

Sincerely,

Racior R. Cavole
Airports Compliance Specialist

Cc: Mr. Jeff Bodine
Garlic City Skydiving

**From:** Jeff Bodin (jlbodin@yahoo.com)
**To:** colleen.valles@bos.sccgov.org;
**Date:** Tue, August 25, 2009 12:22:16 PM
**Cc:** randyo@uspa.org;
**Subject:** More helpful information...

EXHIBIT
Bodin 5

Colleen,

Thank you for our short discussion today. I look forward to our meeting on the 2nd. I am however, rather concerned on what can be accomplished to move this proposal forward to reality in 30 minutes.

You stated that Supervisor Gage's focus will be on whether Skydiving is/should be allowed at South County Airport - Based on the ruling of the FAA ADO, they have found no reason (safety or otherwise) that skydiving should not occur. Additionally, South County Airport is in "Class E" airspace. Class E airspace is usable for all types of FAA recognized aeronautical activities - including skydiving.

I've also attached a presentation from the FAA that is given to Airport Sponsors (those who manage the airports under the FAA Grant Assurances). I hope you find this information useful. Particularly slides 16-27, which cover section 22 of the grant assurances.

Other grant assurances of interest include:
23: Economic Nondescrimination,
38: Hanger Construction, and
AC 150/5190-6 - Exclusive Rights

All of these (grant assurances and advisory circulars) can be viewed online at:
http://www.faa.gov/airports/airport_compliance/

Lastly, I would also like to ensure there is some focus during the meeting of forming a lease for space at the airport for our business, based on the proposals I sent last week.

Again, thank you for your time,

- Jeff

EXHIBIT 5

**From:** Anthony.Garcia@faa.gov (Anthony.Garcia@faa.gov)
**To:** Carl.Honaker@rda.sccgov.org; don.gage@bos.co.santa-clara.ca.us; colleen.valles@bos.sccgov.org;
**Date:** Wed, February 10, 2010 2:17:25 PM
**Cc:** Robin.K.Hunt@faa.gov; Ron.Biaoco@faa.gov; Elisha.Novak@faa.gov; jlbodin@yahoo.com;
**Subject:** FAA Safety Detemination Regarding Skydiving at South County Airport

Carl Honaker

EXHIBIT
Bodin 6

The FAA completed an evaluation of skydiving at South County Airport to determine whether the airport could properly accommodate skydiving without adverse impact to airport operations.

The determination by Flight Standards concluded that skydiving can be safely accommodated by adhering to a series of conditions contained in the Flight Standards determination.

In view of the determination, a prohibition of skydiving would not be a reasonable condition and would unjustly discriminate against an aeronautical activity.

Based on the FAA's determination, Santa Clara County should negotiate arrangements to permit skydiving at South County Airport.

The terms of an agreement should be reasonable and not unjustly discriminatory.

Attached is the FAA determination. Although completed in December 2009, this office received a copy this week.

Tony Garcia
FAA Airports
(See attached file: FSDO Determination.pdf)

Exhibit 6

# Federal Aviation Administration

# Memorandum

Date: December 9, 2009

To: Tony Garcia, Compliance Program Manager, AWP-620.1

From: John R. Howard, Manager, San Jose FSDO

Prepared by: Terje Kristiansen, FLM – GA Unit X 126

Subject: Safety Determination of South County Airport of Santa Clara County, California

On December 3, 2009, personnel from the San Jose FSDO accomplished a safety review of the proposed parachute drop zone at the South County Airport of Santa Clara County. Operations Inspectors Matthew Hill and Paul King conducted the evaluation with Jeff Bodine, representing Garlic City Skydiving and W. Carl Honaker, Director (Santa Clara) County Airports also attending on site. Mr. Racior Cavole from the San Francisco Airport District Office was invited but was unable to attend.

Based upon the results of the December 3, 2009, safety review it has been determined that the proposed drop zone on the South County Airport of Santa Clara County could be supported from a safety standpoint if the nine (9) conditions stipulated (attached) were agreed to by Mr. Garcia, Mr. Bodine, and Mr. Honaker.

**Original Signed by**
**John R. Howard**

Attachment: Required conditions that must be agreed to by Mr. Tony Garcia, Mr. Jeff Bodine, and Mr. W. Carl Honaker

The required conditions relating to safety at the South County Airport of Santa Clara County during parachute jump activities are (the specified conditions do not limit the use of the drop zone based upon the runway in use at the time of the parachute operations):

1. All jumps must be conducted in full compliance with 14 CFR Part 105.

2. A NOTAM must be established and published through the appropriate aeronautical entity to advise all airport users of the parachute jump activities.

3. Radio contact between the jump aircraft and NORCAL or Oakland ARTCC must be established and maintained throughout the jump activity.

4. The jump aircraft pilot will communicate with NORCAL or Oakland ARTCC and visually scan the area to ensure aircraft are not entering or maneuvering within the traffic pattern prior to authorizing jumpers to depart the aircraft.

5. Radio transmissions will be conducted by the jump aircraft on the South County Airport of Santa Clara County advisory frequency 122.70 (CTAF/UNICOM) to alert anyone in the area that jump activities are in progress.

6. Jumpers will be briefed to maintain directional control at all times and remain clear of the runway and stay within the designated drop zone area.

7. Airport management will ensure the Airport Facility Directory and San Francisco Sectional charts are updated to indicate (by parachute symbol depiction) that a designated Parachute Drop Zone has been established at the South County Airport of Santa Clara County.

8. Airport management will ensure the advisory information is updated to advise all who utilize South County Airport of Santa Clara County that a Parachute Drop Zone has been established and its location on the airport.

9. Airport management will advise all aircraft operators based at South County Airport of Santa Clara County of the establishment and location of a Parachute Drop Zone at the airport.

Note: In the interest of aviation safety the San Jose FSDO further recommends strongly that Garlic City Skydiving officials notify all flight schools, flying clubs, and FBO's within a 30 NM radius of South County Airport of Santa Clara County at least 14 days prior to the official establishment of the drop zone and the imminent skydiving activities. This advance notice will allow operators to train and brief inexperienced pilots how to behave near drop zones with respect to arrivals, touch and go, and departure procedures.

**OFFICE OF THE COUNTY COUNSEL**
**COUNTY OF SANTA CLARA**

70 West Hedding Street, 9th Floor
San Jose, California 95110-1770
(408) 299-5900
(408) 292-7240 (FAX)

Miguel Márquez
**COUNTY COUNSEL**

Winifred Botha
Orry P. Korb
Lori E. Pegg
**ASSISTANT COUNTY COUNSEL**

June 23, 2010

Mr. Jeff Bodin
Garlic City Skydiving
240 Santa Clara Avenue
Gilroy, CA 95020
E-MAIL: jbodin@yahoo.com

**EXHIBIT**
**Bodin 7**

Re: Skydiving at South County Airport

Dear Mr. Bodin:

I understand from staff that you are seeking to commence skydiving operations at a proposed parachute drop zone located on County property at South County Airport. County Counsel has recently been advised of this proposed operation and we are currently reviewing and analyzing the legal issues associated with the proposed operation. The Board of Supervisors will consider the proposed operation in August.

Please contact me if you have any questions.

Very truly yours,

MIGUEL MÁRQUEZ
County Counsel

ELIZABETH G. PIANCA
Deputy County Counsel

cc: Honorable Don Gage, Supervisor, District 1
Miguel Márquez, County Counsel
Michael Murdter, Director, Roads and Airports Department

EXHIBIT 7

**From:** Anthony.Garcia@faa.gov (Anthony.Garcia@faa.gov)
**To:** jlbodin@yahoo.com;
**Date:** Tue, July 13, 2010 8:16:36 AM
**Cc:**
**Subject:** UPDATE: Regarding Regarding Santa Clara County Review of Skydiving Proposal at South County Airport

Jeff Bodin

EXHIBIT
Bodin 8

I contacted Carl Honaker and informed him that the delay reviewing the skydiving proposal amounts to a denial of access if a decision cannot be reached because the review process has no end.
I pointed out that the County does not appear to have a prescribed set of criteria to reach a decision. As a result, the County is finding new reasons to extend the overall review, with each review taking an inordinate amount of time to complete.
I asked Mr. Honaker to complete the review and make a decision as soon as possible.
Failure to do so will represent a subtle tactic by the County to deny skydiving at its airport.

Be aware that the County can continue to frustrate the process because the FAA does not have the power make the County accept skydiving.
The County even has the power to frustrate this entire process by denying skydiving if the County is willing to have its grants suspended.

Tony Garcia

Exhibit 8

To: Santa Clara County Supervisors
From: SCAPA Board of Directors
CC: Jeff Bodin, Gary Robinson, Carl Honaker
Subject: Support for Parachute Operations at South County
Date: 2010 August 3

EXHIBIT
Bodin 9

Respected Supervisors:

The South County Airport Pilots Association (SCAPA) would like to go on record as being in support of the proposed parachute operations at the South County Airport. We believe that the proposed operations would benefit the airport, and the County, by providing more business and recreational activity.

Parachuting is but one of the myriad elements of aviation that benefit and broaden the lives of our county residents while adding to the local economy and improving the vitality of our county airport infrastructure. With today's fragile business climates and budget difficulties, this is one method that would improve the vitality of the airport and should be pursued.

We understand you are working through the details, but we note that parachute operations are safely conducted with low accident rates throughout America and should be able to be similarly conducted here as well.

Thank you for your attention to this matter and we look forward to the opening day of the new parachute enterprise.

Best regards,

Paul Marshall, Director
South County Airport Pilots Association

**County of Santa Clara**
Roads and Airports Department

101 Skyport Drive
San Jose, California 95110-1302
(408) 573-2400

August 13, 2010

EXHIBIT
Bodin 10

Mr. Jeff Bodin
Garlic City Skydiving
240 Santa Clara Ave.
Gilroy, CA 95020

**Subject: Skydiving at South County Airport**

Dear Mr. Bodin:

This letter is to confirm that on August 24, 2010 the Board of Supervisors will consider your proposal to conduct skydiving operations with a landing zone (LZ) on South County Airport property.

As you discussed yesterday with Assistant County Counsel Orry Korb and Deputy County Counsel Elizabeth Pianca, the Roads and Airport Department's recommendation to the Board is to disapprove the proposal to conduct skydiving operations with a LZ on airport property. After thoroughly evaluating the proposal, we have concluded that the size and location of the LZ present a number of safety concerns that cannot be adequately mitigated by adhering to the conditions outlined in the Federal Aviation Administration's (FAA) December 9, 2009 memorandum. The Department's report to the Board of Supervisors will present the staff recommendation in detail and should be available online at www.sccgov.org no later than August 19, 2010.

We believe the safety concerns could be mitigated significantly if the LZ is established an appropriate distance away from the airport and outside the V-485 airway, which is a congested corridor for air traffic between South County and San Jose International Airport. If your proposal is revised to identify an off-airport LZ, staff is prepared to work with you and the FAA to expeditiously review the revised proposal to ensure that it would not conflict with airport operations. Please be assured that the Department has no objection to allowing your business to be based at the airport; our concerns relate solely to the safety implications on airport operations of the proposed LZ.

I regret that the Department's review of your proposal has taken longer than anticipated and look forward to working with you to develop a mutually acceptable concept of operations for skydiving at South County Airport.

Sincerely,

M. J. Murdter

Michael Murdter
Director

cc: Supervisor Don Gage
Jeff Smith, County Executive
Sylvia Gallegos, Deputy County Executive
Miguel Marquez, County Counsel
Orry Korb, Assistant County Counsel
Elizabeth Pianca, Deputy County Counsel

U.S. Department
of Transportation
Federal Aviation
Administration

Western-Pacific Region
Airports Division

P. O. Box 92007
Los Angeles, CA 90009-2007

August 25, 2010

Carl Honaker
Airports Director
County of Santa Clara
2500 Cunningham Avenue
San Jose, CA 95110

EXHIBIT
Bodin 11

Dear Mr. Honaker:

**South County Airport**
**Denial of Skydiving**

This purpose of this letter is to provide Santa Clara County (County) with FAA Regional Office determination regarding County's decision to prohibit skydiving at South County Airport (E16).

As a reminder, the grant assurances, as well as the surplus property conveyance deed, place specific obligations on an airport sponsor, such as the County. We begin by pointing out the FAA administers programs that provide funds and other assistance to local communities such as the County for the development of airports. In exchange for federal assistance, airport sponsors agree to assume certain obligations, specified in their agreements with the federal government, to maintain and operate airport facilities in accordance with the conditions in the agreements. Among the specific obligations are the following:

Grant Assurance 5, *Rights and Powers,* obligates the County to refrain from any action that will deprive it of rights and powers to perform in accordance with the requirements of the Grant Assurances. Among the County's responsibilities is the need to make the airport available for all types and classes of aeronautical activities.

Grant Assurance 22, *Economic Nondiscrimination,* requires that E16 be available for aeronautical activities on reasonable terms. Although restrictions can be imposed for safety reasons, a restriction must be justified. There must be factual evidence supporting the need for a restriction as well as the FAA's concurrence that the restriction is reasonably needed to ensure safety.

On August 17, 2009, the County was advised in a letter from the San Francisco Airports District Office that the County's continued refusal to negotiate in good faith with Jeff Bodin to permit skydiving at E16 would place the County in non-compliance with the Grant Assurances.

The San Jose Flight Standards District Office issued a determination on December 9, 2009 disclosing that skydiving could take place at E16 without adverse impact to the airport or airspace operations.

On several occasions, the latest being August 19, 2010, the Airports Division communicated with the County and inquired about the unreasonably long duration of the negotiations and the County's deliberations. Along the way, the County was advised that the delay appeared unreasonable because it was being used as a tactic to deny skydiving at E16.

Airports Division recently learned that the County Board of Supervisors were going to officially deny skydiving at E16. After reviewing the County's reasons for recommending that skydiving be prohibited, it appears that the County used an inappropriate evidence to make it appear that skydiving should not take place at E16. Strangely, the same reasons the County used to deny skydiving could be used purport that other aeronautical activities are unsafe at E16. The reality is that the skies must integrate difference types, classes, and kinds of aeronautical users. The County cannot arbitrarily single out one user of the airspace and conclude that one is unsafe.

The FAA has already concluded that skydiving can share E16 with other aeronautical users. Therefore, the County's skydiving prohibition is unreasonable. As a result, the County is not complying with Grant Assurances 5 and 22. We expect the County will take action immediately to come into compliance with the Grant Assurances.

As appropriate corrective action, the County will make E16 available on reasonable terms for skydiving and to do so as quickly as possible.

If the County fails to comply with the Grant Assurance, we are recommending that the San Francisco Airports District Office withhold grant funding from South County Airport.

Please provide your corrective action plan and schedule for its implementation within 30 days of your receipt of this letter. Mail to:

Robert Y. Lee
Airports Compliance Specialist
Airports District Office
831 Mitten Road, Room 210
Burlingame, CA 94010

In closing, we remind the County that Jeff Bodin has the option to elevate this impasse with the County to a formal complaint under the procedures of Title 14 Code of Federal Regulations Part 16. If you have any questions, you may call me (310) 725-3634.

Sincerely,

Tony Garcia
Airports Compliance Program Manager

cc: Jeff Bodin

**From:** Jeff Bodin (jlbodin@yahoo.com)
**To:** Michael.Murdter@rda.sccgov.org;
**Date:** Tue, August 31, 2010 7:59:00 AM
**Cc:** Carl.Honaker@rda.sccgov.org; don.gage@bos.co.santa-clara.ca.us;
**Subject:** Re-extending my commitment to work together

EXHIBIT
Bodin 12

8/31/2010

Mr. Micheal Murdter
Director of Roads and Airports, Santa Clara County

Mr. Murdter,

In recent light of the FAA Airports Division's re-affirmation that South County Airport and the Class E airspace above the airport is available for use by all types of FAA-recognized aeronautical activities, I would like to take this as an opportunity to re-extend my commitment to the County, and to the users of South County Airport, to work together to ensure that our use of the airport is seen in the best light possible.

I am committed to work with the County and the South County Airports Pilots Association (SCAPA) to ensure that safety is a priority. I commit to review our operational procedures with selected members of SCAPA prior to commencement of operations, and will have scheduled operational and safety reviews where we will extend invitations to a representative of SCAPA and airport management.

In closing, I look forward to working with you and your staff to finalize an agreement within the deadline's put forward by the FAA.

Regards,

- Jeff Bodin/Garlic City Skydiving

CC:
Mr. Carl Honaker, Director of Roads and Airports, Santa Clara County
Supervisor Don Gage, District 1, Santa Clara County



EXHIBIT 12
10/24/2010 6:45 PM

**County of Santa Clara**

Roads and Airports Department

101 Skyport Drive
San Jose, California 95110-1302
(408) 573-2400

September 22, 2010

Mr. Mark McClardy
Manager, Airports Division
FAA – Regional Airport Office
P.O. Box 92007
Los Angeles, CA 90009-2007

EXHIBIT
Bodin 13

**Subject: Skydiving at South County Airport (E16)**

Dear Mr. McClardy:

This letter is in response to the attached letter dated August 25, 2010 from your Regional Airports Division Compliance Program Manager, Mr. Tony Garcia, relating to the County of Santa Clara's (County) position with respect to a proposed skydiving operation and landing zone (LZ) at South County Airport (E16).

The County objects to the characterization that the County used delay tactics to deny Garlic City Skydiving's proposal related to skydiving at E16 and that we failed to act in good faith. The issues related to skydiving at E16 are inherently complex, and the conduct and duration of the County's review process was a function of that complexity. Although we recognize that FAA staff may have strong opinions on the issue, and understand that our internal review process took longer than we would have liked, the tone of Mr. Garcia's allegations do not encourage a productive and professional discourse on this important topic between our agencies.

The grant assurances authorize the County to prohibit or limit an aeronautical activity if necessary for the safe operation of the airport. Here, the County has determined that the proposal to drop skydivers through the middle of the congested V-485 airway (the main approach route to SJC) and expect them to land on a tiny three-acre landing zone (LZ) at E16 presents significant risks to the safe operation of E16. The County has concluded that these risks cannot be adequately mitigated. The attached memorandum to the Board of Supervisors discusses these risks in detail and the County's analysis of the proposal.

Mr. Garcia's letter takes the position that the County relied on inappropriate evidence to arrive at its determination, but fails to explain how the County's analysis is lacking. The letter references the December 9, 2009 determination by the San Jose Flight Standards District Office (FSDO) that skydiving with an LZ at the airport may be supported from a safety standpoint if nine conditions are met. However, the FSDO determination is not supported by any written study or analysis justifying the nine conditions in light of the location of the airport, the commercial and general aviation activity in and around the airport, and how skydiving can be safely accommodated at the airport. The County has engaged in a robust, thoughtful, and comprehensive analysis of how skydiving with an LZ at E16 will impact the safe operations of the airport. To the County's knowledge, the FAA has not.

We welcome the FAA's critique of the County's technical analysis and also its own technical analysis. The County, however, cannot accept Mr. Garcia's position that the grant assurances require the County to allow skydiving with a LZ on airport property in light of the very clear risks to the safe aeronautical operations at E16 if skydiving as proposed is permitted. Therefore, the County will not be submitting an appropriate corrective action plan (as requested by Mr. Garcia) that will make E16 available as a LZ for skydiving.

The County's decision to not allow a LZ at E16 in no way limits the availability of E16 to Garlic City Skydiving to operate a skydiving business provided the LZ is established in an off-airport location that would not have a negative impact on airport operations. The Board has directed me to expedite review of any revision by Garlic City Skydiving of its proposal that identifies an off-airport LZ to determine the impact to airport operations, if any. We are optimistic that an appropriate off-airport LZ can be identified that would permit skydiving to be conducted safely without presenting risks to the safe aeronautical operations at E16.

If you have any questions or would like to discuss this matter, I can be reached at 408-573-2438.

Sincerely,

M. J. Murdter

Michael Murdter
Director

Attachments
T. Garcia Letter dated August 25, 2010
Board Transmittal dated August 24, 2010

cc: Mr. Tony Garcia, SFO ADO
Mr. Robert Y. Lee, SFO ADO
Mr. Jeff Bodin, Garlic City Skydiving

U.S. Department
of Transportation
**Federal Aviation
Administration**

Western-Pacific Region
Airports Division

P. O. Box 92007
Los Angeles, CA 90009-2007

April 4, 2011

**EXHIBIT**
**Bodin 14**

Michael Murdter
Director
Santa Clara County
Roads and Airports Department
101 Skyport Drive
San Jose, CA 95110-1302

Dear Mr. Murdter:

This letter serves as the Federal Aviation Administration's (FAA) determination regarding the proposal by Garlic City Skydiving, to conduct skydiving operations at the South County Airport (E16), located in San Martin, California.

In your letter to me, dated September 22, 2010, you described your concerns over skydiving at E16. You articulated your position with regard to the County's right to establish restrictive measures to ensure safe airport operations. You also stated your belief that the Flight Standards District Office's safety evaluation lacked sufficient analysis to support its conclusion.

On December 23, 2010, I informed you that the FAA would reevaluate Santa Clara County's (County) decision to prevent the introduction of skydiving operations at E16. As promised, we enlisted the expertise of the Flight Standards Division and the Air Traffic Organization (ATO) to more thoroughly evaluate the safety and efficiency implications of skydiving activities in the airspace above and on the ground at E16. FAA carefully evaluated airspace activity, sharing of airspace by aircraft and skydivers, peak and non-peak periods, FAA regulations, and ATO operating procedures.

FAA has concluded that the proposed skydiving operation would be operated in the safest manner if relocated to an area several miles away from airspace corridors similar to those existing over E16.

Should the Garlic City Skydiving decide to conduct such operations in the vicinity of E16, the following conditions must be complied with to ensure safe operations:

- Garlic City Skydiving conducts parachute jumping operations within a one nautical mile radius of E16 at or below 15,000 feet MSL.

- The County and Garlic City Skydiving comply with the recommendations made in the Safety Determination provided by the San Jose Flight Standards District Office (FSDO), dated December 9, 2009. These recommendations are appropriate for an uncontrolled airport, and are consistent with examples of other drop zones provided by the proponent.

Exhibit 14

- Garlic City Skydiving strictly complies with both 14 CFR 91.123 and 14 CFR 105, including close coordination with Air Traffic Control.

- As specified in FAA Order 7210.3W, Chapter 18, Section 4, Parachute Jump Operations, the Northern California TRACON (NCT) must negotiate a Letter of Agreement (LOA) with Garlic City Skydiving. Please contact Mr. Bill Rodda, Operations Support Group Manager, NCT, at (916) 366-4008.

Airport Improvement Program (AIP) Grant Assurance #22 *Economic Discrimination* requires the County to make E16 available on reasonable terms and without unjust discrimination to all kinds and classes of aeronautical activities offering services to the public. FAA has determined that Garlic City Skydiving can operate safely within Class E Airspace provided the conditions stated in this letter are met. Furthermore, the FAA does not agree with the County's decision to deny Garlic City from operating at E16 on the basis that a skydiver could miss the proposed landing zone (LZ). To ensure safe operations at E16 we suggest the County review the training and safety practices required for skydiving and ensure Garlic City Skydiving abides by them. Based on the FAA's safety assessment, we ask the County to end its skydiving prohibition at E16.

Please send the FAA your implementation plan and schedule for negotiating reasonable operating terms for skydiving to commence within the next 30 days. If you have any questions regarding the County's implementation plan or the terms of an airport agreement for skydiving, please contact Robert Lee, Airports Compliance Specialist, San Francisco Airports District Office (ADO) at (650) 876-2894 x 629.

Sincerely,

Mark A. McClardy
Manager, Airports Division

Attachments: ATO Determination, dated March 29, 2011
Flight Standards Division Determination, dated March 24, 2011
ATO Airspace Analysis Powerpoint Presentation, dated March 22, 2011
San Jose FSDO Safety Determination, dated December 9, 2009

cc: Jeff Bodin, Garlic City Skydiving, with attachments
Carl Honaker, Director of County Airports, with attachments
Bill Withycombe, Regional Administrator, Western Pacific Region
Ronald Beckerdite, Director, ATO - Western Service Center
Bill Rodda, Operations Group Manager, ATO – Northern California TRACON
Nicholas Reyes, Manager, Flight Standards Division Western Pacific Region
Pete Yiakos, Acting Manager, San Jose Flight Standards District Office
Naomi Tsuda, Regional Counsel, Western Pacific Region
Robin Hunt, Manager, San Francisco Airports District Office

# Federal Aviation Administration

# Memorandum

Date: MAR 24 2011

To: Mark A. McClardy, Manager, Airports Division, AWP-600

From: Nicholas Reyes, Manager, Flight Standards Division, AWP-200

Prepared by: David Butterfield, All Weather Operations Program Manager, NextGen Branch, AWP-220.4

Subject: Federal Aviation Administration Safety Review of a Skydiving Proposal at South County Airport of Santa Clara County (California)

Western-Pacific Region, NextGen Branch (AWP-220) performed a review of all the documents associated with the Skydiving Proposal at South County Airport (E16) of Santa Clara County (California). The modification to our original position is based on updated Performance Data Analysis and Reporting System (PDARS) track data and Air Traffic Control's position that traffic volume will permit safe separation of aeronautical activities. The following comments are submitted for your review:

1. 14 CFR § 105 provide regulatory guidance for parachute operations.

2. The safety review report provided by the San Jose FSDO on December 3, 2009, is correct. The recommendations are appropriate for an uncontrolled airport, and are consistent with examples of other drop zones provided by the proponent.

3. E16 is located approximately 22 NM south of Norman Y. Mineta San Jose Airport (KSJC) and the Bay Area. This places it below the lateral boundary of a low-altitude airway (V-485). It is also approximately 1 NM east of the centerline of two turbojet arrivals to KSJC: ROBIE 3 and EL NIDO 5.

The proposed drop zone's location relative to a significant amount of VFR and IFR traffic will require strict compliance by Garlic City Skydiving with 14 CFR § 91.123 and §105, and close coordination with Air Traffic Control. Additional safety margins may be secured through a Letter of Agreement between NCT and Garlic City Skydiving, as outlined in FAA Order 7210.3W.

Cc: San Jose FSDO
AWP-7

# Federal Aviation Administration

# Memorandum

Date: MAR 29 2011

To: Mark A. McClardy, Manager, Airports Division, AWP-600

From: Ronald G. Beckerdite, Director, Western Service Center, AJV-W

Subject: Garlic City Skydiving Proposal

At the request of your office the Western Service Center (WSC) conducted a review and analysis of the proposal submitted by Garlic City Skydiving to conduct non-emergency parachute jumping over South County Airport (E16) in San Martin, CA. The Operations Support Group spearheaded the task in coordination with the Quality Control Group.

To ensure and enhance the safety of air traffic flying above E16 the preferable option would be for the proponent to offset their landing zone several miles away from the airspace corridor over the airport. This airspace is an active air traffic corridor with a mix of IFR and VFR aircraft transiting to and from both San Jose International Airport and Reid-Hillview Airport. However, the analysis of flight data over E16 does not indicate there are constant or predictable levels of high volume traffic during the times the proponent wishes to conduct jump operations.

Based on the analysis of air traffic operations over E16, the conclusion of the WSC is the operation can be conducted as proposed with appropriate mitigations to ensure safety. Therefore, the WSC makes the following recommendations for the proposal:

- Garlic City Skydiving be permitted to conduct parachuting jumping operations within a one nautical mile radius of E16 at or below 15,000 feet MSL.

- As specified in FAA Order 7210.3W, Chapter 18, Section 4. Parachute Jump Operations, the Northern California TRACON (NCT) should negotiate a letter of agreement with Garlic City Skydiving.

FAAO 7210.3W, 18-4-1 b. states, "When operational/procedural needs require or when warranted by high density air traffic or constrained airspace, negotiate letters of agreement that designate areas of ongoing jump activity as permanent jump sites." The airspace above E16 is constrained by a Federal Airway and the arrival flow into an FAA Focus Airport. It is the opinion of the WSC that a letter of agreement should be negotiated with the proponent with

language that provides NCT with the latitude to effectively manage the skydiving operations at E16 and ensure the safety of the airspace above E16.

If you have any additional questions concerning this request, please contact Robert Henry, Team Manager, Operations Support Group, Western Service Center, at (425) 203-4530.

**County of Santa Clara**
Roads and Airports Department

101 Skyport Drive
San Jose, California 95110-1302
(408) 573-2400

EXHIBIT
Bodin 15

May 2, 2011

Mr. Mark A. McClardy
Manager, Airports Division
Federal Aviation Administration
Western-Pacific Region
P.O. Box 92007
Los Angeles, CA 90009-2007

**Subject: Skydiving at South County Airport (E16)**

Dear Mr. McClardy:

Thank you for your letter dated April 4, 2011 relating to the Federal Aviation Administration's (FAA) determination regarding the proposal by Garlic City Skydiving to conduct skydiving operations at the South County Airport (E16), located in San Martin, California. We appreciate the FAA's further review and consideration of the proposed skydiving operation and landing zone (LZ) at E16. The purpose of this letter is to request clarification regarding several issues addressed in your letter as well as reiterate the County's position on the use of E16 for the conduct of skydiving operations so that we may collectively move forward on resolving these issues.

First, we strongly concur with the FAA's conclusion "that the proposed skydiving operation would be operated in the safest manner if relocated to an area several miles away from airspace corridors similar to those existing over E16", and believe this conclusion is in perfect alignment with the FAA's mission to "provide the safest, most efficient aerospace system in the world." However, your letter also indicates that Garlic City Skydiving may, at its discretion, conduct parachute jumping operations within a one nautical mile radius of E16 at or below 15,000 feet MSL. This leads to the clear conclusion that if parachute jumping operations are in fact conducted within a one nautical mile radius of E16 at or below 15,000 feet MSL, the skydiving operation would be operated in a manner that is less safe than the safest manner. Although we recognize the FAA's jurisdiction over the airspace above E16, we wish to be on the record as being opposed to the FAA's decision to allow a skydiving operation at E16 that would, by definition, not be operated in the safest manner.



7-007

EXHIBIT 15

Second, although your letter includes analyses of the airspace safety issues relating to such operations (prepared by the Flight Standards Division and the Air Traffic Organization Western Service Center), it does not include any analyses regarding the safety aspects of locating the landing zone (LZ) on E16 property, or explicitly state the FAA's position on this issue. **Is it the FAA's position that the County must make available a portion of the airport property to Garlic City Skydiving to serve as a LZ for skydivers?** If it is, we would appreciate knowing how the FAA has determined that an on-airport LZ would be safe. Of particular concern is the small size of the proposed LZ (approximately three acres) and its proximity to the approach end of an active runway and a major interstate freeway.

Third, your letter states "To ensure safe operations at E16 we suggest the County review the training and safety practices required for skydiving and ensure Garlic City Skydiving abides by them." This language implies that the County is responsible for ensuring the safe conduct of skydiving operations at the airport. The County does not have authority over, or responsibility for, the conduct of any aeronautical operation at any airport. The FAA is responsible for ensuring that aeronautical activities are conducted in compliance with the Federal Aviation Regulations (FAR). **Please clarify the FAA's position with respect to the responsibilities it expects the County to assume relating to oversight of skydiving operations at E16, including the statutes and implementing regulations that place these responsibilities on the County.**

Finally, your letter anticipates the County will take affirmative steps to permit skydiving at E16 by directing the County to send the FAA its "implementation plan and schedule for negotiating reasonable operating terms for skydiving...." Skydiving is a hazardous recreational activity under California law. Public entities can be immune from liability arising from skydiving injuries when the injuries are sustained during voluntary, unsupervised, unsponsored activities. However, this immunity is weakened when a public entity takes affirmative steps to permit the hazardous recreational activity in consideration for a specific fee charged for participation. The FAA is directing the County to permit skydiving at E16 and by doing so is putting the County in the precarious position of weakening its immunity should any person be injured as a result of skydiving. Consequently, the County—and more precisely the taxpayers—will be required to pay for injuries sustained as a result of a skydiving accident because of the FAA's directive. **Is it the FAA's position that the County must weaken or even lose its immunity in order to comply with Grant Assurance #22, Economic Discrimination?**

I would like to reiterate the County's position on the conduct of skydiving operations at E16. The County has in no way prohibited skydiving operations from taking place at E16. Garlic City Skydiving, or any other skydiving company, is free to use the airport for the take-off and landing of jump aircraft at any time. The County's decision on August 24, 2010 to not allow a LZ on the airport for safety reasons does not preclude Garlic City Skydiving from utilizing E16 to operate a skydiving business.

We would appreciate clarification of these issues at your earliest convenience. Again, thank you for your letter and the attachments providing the FAA's analyses. If you have any questions or would like to discuss this matter, please feel free to call me at 408-573-2438.

Sincerely,

M. J. Murdter

Michael Murdter
Director

cc: The Honorable Board of Supervisors
Jeff Smith, County Executive
Miguel Márquez, County Counsel
Sylvia Gallegos, Deputy County Executive
Elizabeth G. Pianca, Deputy County Counsel
Bill Withycombe, Regional Administrator, Western Pacific Region
Ronald Beckerdite, Director, ATO – Western Service Center
Bill Rodda, Operations Group Manager, ATO – Northern California TRACON
Nicholas Reyes, Manager, Flight Standards Division Western Pacific Region
Pete Yiakos, Acting Manager, San Jose Flight Standards District Office
Naomi Tsuda, Regional Counsel, Western Pacific Region
Robin Hunt, Manager, San Francisco Airports District Office
Mr. Jeff Bodin, Garlic City Skydiving

EXHIBIT
Bodin 16



# San Martin Airport: Visitor Information

Noise Standards
Visitor Information
Airport Information
Terminal Services

## 1 Vehicle Parking

San Martin has a limited number of parking spaces available.

## 2 Hotels within 4 Miles

Economy Inn
408-779-5390

Comfort Inn
408-778-3400

Microtel Inn-Morgan Hill
408-782-5000

Executive Inn Suites Morgan Hill
408-778-0404

Quality Inn Morgan Hill
408-779-0447

## 3 Ground Transportation

Yellow Checker Cab
1-800-TAXICAB

Union Taxi
408-846-9927

Morgan Hill Limousine
1-800-617-0180

Golden Taxi
408-846-6666

Gilroy Taxi
1-800-617-0180

## 4 Other





EXHIBIT 16

# San Martin Airport: Airport Information

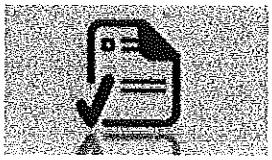
Noise Standards

Visitor Information

Airport Information

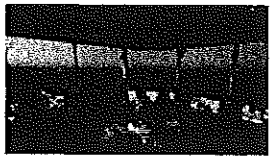
Terminal Services

## 1 Facts and Figures



Identifier: E16 (formerly Q99)
Location: San Martin, California
Telephone: 408-918-7700
Operations: 7 Days a Week
Hours: Thurs-Tues; 8am-6pm
Hours; Wed 7am-9pm
Elevation: 281' MSL
Airspace: Class G

## 2 Air Traffic Control



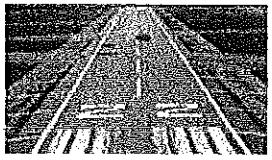
FSS: Oakland 122.5

Telephone: 800-992-7433

CTAF: 122.7

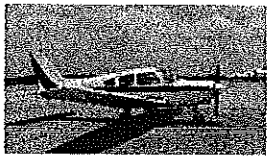
Link to AirNav

## 3 Runways



Runway 32-14:
3, 100' 75'
Asphalt,
Lights - MIRL
PCL 122.7
(5 clicks in 7 seconds),
PAPI Rwy 32 and Rwy 14

## 4 Aircraft Parking



The County of Santa Clara owns and operates 100 hangars and 90 tie-downs.

# San Martin Airport: Terminal Services

Noise Standards

Visitor Information

Airport Information

Terminal Services

**1 Flight School**

Magnum Aviation
408-683-4102

**2 Refueling**

Magnum Aviation
408-683-4102

**3 Maintenance**

Magnum Aviation
408-683-4102

**4 Other**

Restrooms are located inside the terminal

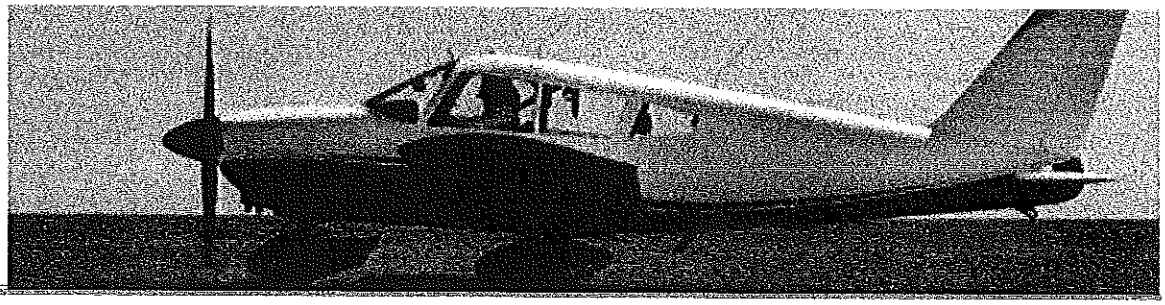
# San Martin Airport

Noise Standards

Visitor Information

Airport Information

Terminal Services



## Noise Standards

San Martin Airport's Management staff is sensitive to noise issues.

If you would like to inform Airport staff about a particular aircraft event please contact the Airport's Noise Program Manager by phone 888-638-2344 or e-mail: noise@countyairports.org.

## Driving Directions

**From San Jose**

**From San Francisco**

**From East Bay**

**From Monterey**

## Airport Information

Airport Identifier: E16

Location: 13030 Murphy Ave.

City: San Martin, California

Phone: 408-918-7700

Open: 7 Days a Week

Hours: 7am to 9pm

## Terminal Services

San Martin Airport has limited facilities. The terminal is located in the trailer located on site. Restrooms are located inside the terminal.

There is a selection of Restaurants, Hotels and Ground Transportation available in the area. For further information please use the link below.





Select individual box for more information

EXHIBIT
Bodin 17

# County of Santa Clara

# Airport Rules and Regulations

Approved and adopted by Santa Clara County Board of Supervisors on March 27th, 2001.

Exhibit 17

# General

## 2.1 Jurisdiction

These Rules and Regulations apply to all users and tenants of Palo Alto Airport, Reid-Hillview Airport and South County Airport, and all improvements thereon. Any entry upon or use of any County airport or any part thereof whether with expressed permission or without is conditioned upon compliance with these Rules and Regulations; entry upon a County airport by any person shall be deemed to constitute an agreement by such person to comply with said Rules and Regulations.

## 2.2 Management of Public

The Airport Director has the authority to take such reasonable action as may be necessary in the control and management of the airport, and in expeditiously dealing with the members of the public in that regard.

## 2.3 Severability

Should any paragraph or provision of these Rules and Regulations be declared by any court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of any other rule or regulation hereunder.

## 2.4 Commercial Use Authorization Required

No person shall utilize any portion of the airport or any building, facility or structure thereon, for revenue producing commercial activities or to solicit business or funds for any business or activity except by conducting said business operations or activities under the terms specifically authorized by a lease, sublease, permit, license or temporary permission of the Airport Director. This section shall not apply to: 1) free lance flight instructors; or 2) mechanics providing services to aircraft storage space licensees at the licensee's assigned storage space; or 3) itinerant commercial aircraft operations.

## 2.5 Variance

Relief from the literal requirements of these rules and regulations may be granted by the Airport Director when strict enforcement would result in practical difficulty or unnecessary hardship. Any such relief may be subject to reasonable conditions necessary to maintain the safety of fight operations, fulfill the intent of the rules and regulations and protect the public interest.

## 2.6 Waiver of Liability

Airport lessees, tenants, and permittees, authorized to use the airport and its facilities, or to fly to, or from the same shall be at all times conditioned upon the assumption of full responsibility thereof. It shall be a further condition thereof that each person, as consideration of the use of the airport and its facilities, shall at all times release, hold harmless and indemnify the County, the Airport Director, Board and employees from and against any and all liability, responsibility, loss or damage, resulting to any such person or caused by or on his/her behalf, and incident to the manner in which airport is operated, constructed or maintained, or served from within or without, or used from without. The use of the airport by any person for any purpose, or the paying of fees thereof or the taking off or landing aircraft therein shall be itself an acknowledgment that such person accepts such privileges on the conditions set forth.

Notwithstanding the foregoing, those airport users shall not be required to indemnify the County for damage occasioned by the sole negligence or willful misconduct of the County or its employees or representatives.

maintenance activities conform to the requirements of Chapter 5 and all applicable laws and regulations. Maintenance activity performed at open-air storage spaces (i.e. tie-down and shelters) must not interfere with adjacent aircraft and the area must be kept neat and orderly at all times.

### 3.12 Ultralight Operations

No person shall operate an ultralight aircraft at a County airport except as approved by the Airports Director, and in compliance with requirements specified in Appendix II of these Airport Rules and Regulations.

### 3.13 Motorless Aircraft Operations

No person shall operate a motorless aircraft at a County airport except as approved by the Airports Director, and in compliance with requirements specified in Appendix II of these Airport Rules and Regulations.

### 3.14 Parachute Operations

No person shall engage in parachute operations at a County airport except as required in an emergency or as approved by the Airports Director, and in compliance with requirements specified in Appendix II of these Airport Rules and Regulations.

### 3.15 Helicopter Operations

The Airport Director has the authority and responsibility to designate specific runways, taxiways, or other suitable paved, unpaved or prepared surfaces for helicopter operational activity.
No person shall perform practice autorotations to the airport's paved surfaces in a helicopter with skids.

### 3.16 Kites, Balloons, Model Aircraft and Rockets

No person shall operate or release any kite, balloon, model aircraft, rocket, or any other device into the air anywhere on or over a County airport except as approved by the Airports Director, and in compliance with requirements specified in Appendix II of these Airport Rules and Regulations.

# Appendix II – Specialized Aeronautical Activities

1. Specialized Aeronautical Activities including the following require coordination and regulation through the office of the Airport Director:

   - Ultralight Aircraft
   - Hot Air Balloons
   - Glider (non-powered)
   - Parachute Drops

2. Because of the substantial fees charged by insurance underwriters for liability coverage of ultralight aircraft at County Airports, routine operation of ultralight aircraft is discouraged by the Airport Authority.

3. Operation of ultralight aircraft into the airport traffic area, landing, parking and take-off of ultralight aircraft require prior coordination and written approval from the Airport Director.

4. The Airport Director has the authority and responsibility to approve/disapprove requests for use of the airport facilities for hot air balloon launches, experimental aircraft tests, home-built aircraft tests and parachute drops when the parachute landing zone is on airport property.

5. The Airport Director will coordinate these activities with the air traffic control tower manager, when appropriate.

6. The owner/operator of such specialized aeronautical equipment may be limited by the Airport Director to launching, testing, high speed taxi or parachute landing to/from specific sites on the airport. Those sites may be runways, portions of runways, taxiways, clear zones or other airport property. Specific site location may also be limited by designated time of day use.

7. Proof of liability insurance in an amount required by ordinance or approved by the County Risk Manager is required.

**From:** Jeff Bodin (jlbodin@yahoo.com)
**To:** Carl.Honaker@rda.sccgov.org;
**Date:** Fri, April 10, 2009 11:37:51 PM
**Cc:** eric@countyairports.org;
**Subject:** Update from today...

EXHIBIT
Bodin 18

Carl,

Thank you again for your time yesterday, and for calling Randy today - I spoke with Randy shortly thereafter and it sounded as though your discussion was very informative. Randy also called me later in the day after having a good conversation with the FDSO - he will have a follow-up call with them again sometime next week.

I am sure that you may have some reservations and questions pertaining to skydivers operating at South County Airport. But so far, we've only provided you a view from a skydiver's perspective. One way to alleviate those potential reservations is for you to speak to someone in your similar position - someone who has experience running a county airport, and that has a skydiving drop zone on premise. Hopefully, I can help here too...

Winston "Butch" Church is the Site Manager/Operator for the Chester County Airport in South Carolina (http://www.airnav.com/airport/KDCM), and his airport has had a drop zone for the last 18 years. Recently, Mr. Church worked very hard with the FAA (who had proposed expanding the nearby Class B airspace over the county airport, for Charlotte/Douglass International Airport) to ensure that by all means possible, skydiving would not be impacted as a result of this proposed Class B airspace expansion.

I spoke with Mr. Church this morning about his experience with the skydivers and the local drop zone owner at his airport, and to quote Mr. Church, the skydivers...;

- "are a mainstay of the airport..."
- "are the airport's largest revenue generator..."
- "are one of the best tenants we've have..."
- "provide a significant number of jobs in the local area around the airport..."
- "provide significant financial support the local hotels and restaurants amount every weekend..."

In addition to being the largest fuel purchaser at the airport, the drop zone also leases multiple hangers and several trailers on the airport property - and work with and for the airport to ensure business and operations for the airport go smoothly. Skydivers on their airport understand this business arrangement and show significant respect for the airport and other airport patrons.

Mr. Church and the DZO (Drop Zone Operator) have formed a strong business relationship that ensures the continued success for both the DZ and the county airport. I believe that you and I have this same opportunity. We can provide a positive impact on South County Airport's revenues, bring jobs (and rents) to the airport and surrounding businesses, and build a strong and successful partnership.

Mr. Church has kindly offered his time should you want to discuss any information regarding his experiences with having skydivers on his airport. His number is 803-385-6664. Mr. Church is extremely open and friendly, and is very willing to talk to you to provide an airport manager's perspective. Please call him at your convenience.

Thank you again, and Randy and/or I will be following up with you sometime next week. Have a great weekend.

EXHIBIT 18

- Jeff

p.s., I hope you have found the opportunity to review the video I left behind, as it also has a wealth of information regarding skydivers and their interaction with the airport (the video was filmed at the Longmont Co, drop zone).

**From:** Jeff Bodin (jlbodin@yahoo.com)
**To:** Carl.Honaker@rda.sccgov.org; Michael.Murdter@rda.sccgov.org;
**Date:** Thu, May 7, 2009 1:11:30 PM
**Cc:** randyo@uspa.org; jlbodin@yahoo.com;
**Subject:** Meeting Summary and Initial Thoughts from Yesterday (Garlic City Skydiving)

EXHIBIT
Bodin 19

Carl,

Thank you for your time yesterday. To summarize our discussion -

- South County Airport agrees to allow Garlic City Skydiving to use the proposed/identified landing area in our proposal for skydivers (although specific details with respect to fees have not been solidified, and no formal written agreement has yet been drafted),
- Santa Clara County's largest concern is that there is no "skydiving" factored into the current "Airport Master Plan", and the County has significant concerns with respect to revising the Plan to specifically call out skydiving in it,
- The County cannot and will not lease a small portion of land on the proposed landing area - or any other area of airport property - as the county believes it will require modification of the Master Plan, require the County submit open-bid RFQs for any potential leases of airport property for business purposes, and interrupt current ongoing Environmental Impact studies,
- The County will not lease one or more hangers for the purpose of Garlic City to run their aeronautical business out of, and
- The County recommends "leasing" of land adjacent to the airport for "through-the-fence" access.

Several of these points, we believe, are outside the County's commitments to the Federal Airport Improvement Grant's Compliance Agreement. We believe under the terms of the Airport Improvement Grants that the County is required to work with proposed aviation-related businesses - specifically concerning the housing of such a business. We will be discussing the County's positions as listed above with the Airport Compliance office for review, and will consider filing an official complaint if we cannot come to an agreement on housing the business on airport property.

That said, we are also very interested in your "out-of-the-box" proposal for Garlic City Skydiving to take-over and lease the building currently occupied by the Lions Club. Garlic City Skydiving may be willing to enter into a long-term lease (with rights-of-renewal) at fair market value for the land and building. As part of a lease agreement, we would also like the County to ensure that we would have the opportunity to add an additional "garage-like" (~3000 sf) building on the property at some point in the future.

As part of a lease, Garlic City Skydiving would be willing to:

- Care, upgrade and upkeep of the building and surrounding grounds - including update of the landscaping, parking areas and painting-of-the-building to give the grounds a more "modern-day" and "professional" look
- Care, upgrade and upkeep of the park - along with guaranteed public access and usage during our hours of operation (although we would reserve the right to charge a small fee and require scheduling of groups of 10 or more)
- Premises Liability Insurance on the property and the grounds
- Hospitality to transient pilots (coffee, phone, etc...)
- Allow the Lions Club to conduct weekly or monthly meetings during the weeknights (Monday-Thursday)
- Allow continued parking of a single trailer owned by the Lions Club (their public-charity medical "bus")

We also see several benefits to both the County and Garlic City with this "out-of-the-box" proposal:

- A localized area for skydivers to rest-and-relax near-enough to the airport to meet the skydiver's needs - yet away from hangers, taxi-ways, runways, aircraft and other airport activities and equipment,
- A place for the airport's pilots to visit, relax, unwind and refresh between flights,
- A nice and well-kept (and updated) park that can be used by the public. and
- Closure of any Federal Airport Compliance issues related to housing of Garlic City's business.

We believe the County should consider eliminating any "bidding" for the property by offering Garlic City Skydiving a long-term lease and accepting a fair-market rate (as determined by an independent appraisal using comparable San Martin leasing rates). With respect to charging fees for the use of the proposed landing area, we believe that use of the landing area should be at no cost. The airport's costs will be covered by Garlic City's significant fuel purchases and

tie-down fees (consistent with other aircraft and airport users) - and we are not requesting exclusivity of the landing area. We would also like to reserve the right to maintain the landing area with respect to any needed tilling/mowing as we see fit. And, we will need a "use-agreement" between the County and Garlic City for the landing area that highlights these points.

Again, thank you for your time yesterday - I will be contacting you Monday afternoon regarding the County's position on re-evaluating building access on the airport and the County's commitment to be compliant within the terms of the Grant Assurances, as well as the County's position on leasing the Lions Club land and building to Garlic City Skydiving. We are quickly approaching skydiving's best time of year, so any expedience you can assist with in driving this proposal through the County will be greatly appreciated on our part.

Sincerely,

- Jeff

**From:** Jeff Bodin (jlbodin@yahoo.com)
**To:** racior.cavole@faa.gov; robin.k.hunt@faa.gov;
**Date:** Mon, May 11, 2009 9:19:09 AM
**Cc:** randyo@uspa.org; jlbodin@yahoo.com;
**Subject:** Airport Compliance Assistance requested for South County Airport - re: Skydiving Business

EXHIBIT
Bodin 20

May 11, 2009

Mr. Racior Cavole
Compliance Specialist
FAA San Francisco ADO

Dear Mr. Cavole:

My name is Jeff Bodin and I am in the process of working with Santa Clara County to open a commercial aeronautical business at the South County Airport (E16). I apologize for the length of this letter, but feel it is important to provide you a level of detail that highlights the challenges raised by the airport sponsor, Santa Clara County.

My contacts with Director of Santa Clara County Airports, Carl Honaker, have focused on obtaining airport access for my skydiving business. I have also received some guidance from Randy Ottinger, Director of Government Relations at the U.S. Parachute Association (USPA) - Randy has been very helpful in working through some of these challenges raised by Mr. Honaker and Santa Clara County.

I initially called Mr. Honaker on 3/27/09. He told me that skydiving was not allowed at the airport, and that there was no room to house a base of operations at the airport, but Mr. Honaker did agree to meet with me. On 4/3/2009, Bob Kreiberg (USPA Safety and Training Adviser) and I met with Mr. Honaker and Eric Peterson (Assistant Director of County Airports) and provided them a presentation, with details of the skydiving operation and an outline of our business proposal. This presentation is attached for your reference.

At the conclusion of the meeting, Mr. Honaker had several concerns - the largest concerns were as follows:

- The Master Plan for South County Airport does not have any accommodations for a skydiving business - in the next three-to-five years the County plans to expand the runway, and lease the ~14 acres of the proposed landing area in order to add an additional FBO.
- Mr. Honaker asked us to work with the FAA and the local FSDO to obtain written "agreements" stating that there are no issues with skydiving within the proposed airspace - the proposed DZ is in class E airspace, 14 miles from the SJC class C airspace.
- That it could take the County a minimum of three-to-six months to provide a response before we could begin operations.

Randy Ottinger has contacted NorCal TRACON ATC and validated that there are no FAA-related reasons we cannot utilize the Class E airspace above South County Airport (although we will continue to work with ATC on enhanced procedures for all airspace users), and received clarity that there were no FAA-related justifications for the FSDO to deny skydiving at South County Airport.



Exhibit 20
10/24/2010 2:59 PM

With this information, I called Mr. Honaker on 4/30/09 - as I had not yet received a single call or e-mail response from the County - to inform Mr. Honaker that while we would not receive anything in writing from the FSDO and NorCal TRACON, they both acknowledged that we could access the Class E airspace above the South County Airport. Mr. Honaker disagreed, and stated that in his discussions with the FSDO and ATC, that the ATC said they would defer to the FSDO, and that the FSDO told him that they would deny our request.

That same day, I sent Mr. Honaker an e-mail with a summary of our discussion and copied Randy, and by the end of the following day the position from the FSDO was clarified to Mr. Honaker that the FSDO had no objections to using South County Airport for skydiving operations.

After several unreturned calls, on 5/6/09 I visited Mr. Honaker's office to see if he was available, and met with him. Mr. Honaker stated that:

- South County Airport has agreed to allow us to use the proposed/identified landing area in our proposal for skydivers (although specific details with respect to fees have not been solidified, and no formal written agreement has yet been drafted)... at least until the airport implements their "Master Plan" and the County leases the proposed landing area to a second FBO, at which time operations would need to cease, and

- The County's largest concern is that there is no "skydiving" factored into the current airport Master Plan, and the County has significant concerns with respect to revising the Plan to specifically describe skydiving, and

- The County cannot and will not lease a small portion of land on the proposed landing area - or any other area of airport property - for a building (temporary, self-contained or otherwise) as the County believes it will require modification of the Master Plan, require the County to publish open-bid RFQs for any potential leases of any airport property for business purposes, and interrupt current ongoing Environmental Impact studies, and

- The County will not lease one or more hangers for the purpose of Garlic City Skydiving to operate its aeronautical business, as this is not allowed and against County policy (he said that allowing that might enable competition to the one FBO on property), and

- The County recommends "leasing" of farm land adjacent to the airport for "through-the-fence" access, but

- That the South County Airport owns a building that is currently leased to the Lions Club and that that lease has now expired - but that in order for the County to lease it to us, County policy requires that they publish and release an open "RFQ" for the building and that there would be no assurances that we would be able to use the building if we were not selected as a "winner" of the RFQ.

I replied to Mr. Honaker the following day (5/7/09) summarizing the important points of our meeting, also highlighting that a long-term lease on the County airport building now occupied by the Lions Club could prove beneficial, as it would provide a localized area for skydivers to congregate and is near enough to the airport to meet the needs of the skydivers - yet away from hangers, taxi-ways, runways, aircraft and other airport activities and equipment; then requested the County to forgo a bidding process, as we are willing to pay fair-market rates for the building and property. Does this sound reasonable?

It appears that there is a very real effort by the County to prevent us from establishing a base of operations on the airport, and that they have made very clear that any use of the airport for skydiving will be "temporary" and we would have to cease operations once the airport begins the expansion as lined-out in its Master Plan.

While I have no wish to file a complaint at this time, it seems as though I am running out of options. Will you suggest how to keep the dialogue focused?

We are moving into summer, where a majority of our business revenues would be made - and I fear the continual lack of clarity, lack of a single response in writing (which has been requested on at least two occasions), unreturned phone calls, and proposing of "RFQs" which could take months to release and award for County airport property use may be continual positioning by the County to make us "go-away".

I am looking for your guidance on how best to move forward with encouraging the County to recognize their obligations to the Airport Improvement Grant Assurances. Will you please help?

Again, thank you for your time.

Sincerely,

Jeff Bodin, a.k.a., Garlic City Skydiving

cc:
Robin K. Hunt, Manager, San Francisco ADO
Randy Ottinger, USPA Director of Government Relations

**From:** Jeff Bodin (jlbodin@yahoo.com)
**To:** racior.cavole@faa.gov;
**Date:** Tue, June 9, 2009 6:57:56 AM
**Cc:** randyo@uspa.org; jlbodin@yahoo.com;
**Subject:** Breif discussion on 6/8/09 w/ Carl Honaker...

EXHIBIT
Bodin 21

Mr. Cavole,

I wanted to provide you an update on my side as we progress through the part 13 informal complaint process to ensure that we keep things discussed between parties documented. Yesterday (6/9/09) I called Mr. Honaker, the South County Airport sponsor, and this was the first time since we presented the business proposal that he received my call. Our conversation did not last long, and I asked again about airport access. Specifically I was told:

- There will be no access until Mr. Honaker receives a letter from the FAA that skydiving can occur within the airspace surrounding South County airport (this comment is contradictory from his previous statements about allowing landing at the airport).

- That it is against County ordinances to lease hanger space (he referred to the hangers as "storage facilities") for the purpose of running any type of aviation-related business, and that I should discuss "sub-letting" with the current FBO.

- That any and all proposed business leases for commercial business at the airport would require bidding for all potential leaseholds.

- Again stated that any additions or leases not in the County's "Master Plan" would require revising of the Plan and that the County has no plans to update or modify the Plan.

- And lastly, now that a part 13 informal complaint process has begun, Mr. Honaker stated "his hands are now tied" from considering options to support my proposed aviation business and will provide a written response to the FAA.

Thank you for your time and efforts in helping this business proposal progress through the process. Again, I feel with the current level of "engagement" that I am receiving from the County that I document all conversations with the County for my records, and now that an informal investigation is in progress provide that information as well to you.

- Jeff Bodin

Donald F. Gage
District One Supervisor - Santa Clara County
70 West Hedding Street
San Jose, CA 95110

EXHIBIT
Bodin 22

July 21st, 2009

Dear Mr. Gage,

Currently, several million dollars a year leave Santa Clara County for Monterey, San Benito, Yolo, Contra Costa and San Joaquin Counties - We can attract many of these dollars back into Santa Clara County while creating local jobs and provide a significant increase in travel-related spending within the San Martin, Gilroy and Morgan Hill areas.

Currently, those counties allow skydiving at their rural airports and on any given weekend, hundreds of people leave Santa Clara County and travel to these other counties, spending their money on gas, food, lodging - as well as supporting and patronizing those county's airports. Additionally, skydiving operations at those airports are by far the single largest purchaser of fuel and aviation-related services.

While many people *believe* skydiving is a very risky sport, this is more perception than reality - that perception of risk itself is all part of the attraction. To put in perspective the actual safety numbers for skydiving, in 2007 there were over 2,200,000 jumps with only 18 fatalities. On a statistical level the sport is far safer than scuba-diving, motocross, or rock climbing.

Standards for Skydiving in the United States are regulated by the FAA, who partners with the United States Parachute Organization (USPA) to set safety and training requirements and guidelines for the sport. The USPA is a membership organization of skydivers that has been working with the FAA for over 50 years to continually improve the safety of the sport. Of the 32,000 active USPA members, approximately 2,000 of them live within the Northern California area.

Skydiving is recognized by the FAA as a legitimate aeronautical activity with all the same rights to airport and airspace access as any other aircraft or recognized aeronautical activity.

People skydive for many reasons. Most want to do it once via a "Tandem" jump, so they can say they've "jumped from a perfectly good airplane" and put that check-mark on their "bucket list." Just two weeks ago I provided video support on a jump where a person had less than six months to live because he had terminal cancer. His response on landing? "This was the best thing I've ever done - I wish I would have done it sooner."

Others choose to actively participate in the sport and obtain their skydiving license enjoying the feeling of body-flight, while others continue into the very technical and competition-based areas of skydiving.

If you ignore TV and Hollywood's version of a skydiver, you will find that skydivers are normal people with most skydivers having professional jobs, friends and families just like those who participate in Softball, Baseball, Climbing and other more common sporting activities.

The purpose of my letter to you is that I have made every attempt to work with the Santa Clara County Airport Director of Airports in a positive manner to open a skydiving facility at South County Airport, and I wish to make you aware of the challenges I am facing to date.

On April 4th, 2009, Mr. Bob Krieberg (A USPA Safety and Training Advisor) and I met with Carl Honaker, Director of County Airports, with a business proposal for opening a skydiving business out of South County Airport in San Martin.

Upon conclusion of the meeting, Mr. Honaker asked us to speak with the San Jose Flight Standards District Office (FSDO (local air safety)) and Northern California Terminal Radar Control (NorCal TRACON (Air Traffic Control)), with Mr. Honaker's initial impression that skydiving would be restricted within the Coyote Valley due to its proximity to San Jose International Airport.

After receiving clarification from the San Jose FSDO and NorCal TRACON that the use of airspace south of the San Jose/Morgan Hill border is Class E airspace and unrestricted for open use of any FAA-recognized Aeronautical activity, Mr. Honaker still denied use of the airport facilities to establish a base of operations.

Mr. Honaker's concern seems to be the "Airport Master Plan" that was initially drafted (I believe) in 2002 that highlights an expansion in the runway to serve small corporate jets, details on adding even more hangers, and a "box" drawn within the plan that states "Future FBO" (Fixed Base Operator) on the area in which we would like to establish the business and perform our landings. Additionally, he commented that the Master Plan has no mention or accommodation of skydiving in it.

This "Master Plan" was drafted during the "boom" years of Silicon Valley when significant corporate growth was seen moving into the south-bay by companies such as Cisco Systems (and their 60,000

person campus expansion in Coyote Valley), Sun Microsystems, IBM and others.

Since the formation of this Master Plan, Cisco and others have cancelled their plans to expand into the south-bay, choosing places like Bangalore, Shanghai or Beijing to expand their companies - because of the significant talent and inexpensive operating costs in those regions.

Additionally, the corporate infrastructure within Silicon Valley is approaching the highest level of vacancies in years with most new Tele/Datacom, Alternative Energy and Biotech moving overseas or out-of-state.

Because of this change in corporate growth patterns, assuming that South County Airport will become a center for executive jets is no longer realistic in any foreseeable future.

Add to that the fact that the proposed extension of the runway will only accommodate the *smallest* of corporate jets further limits the possibility that there will be major growth of corporate-related air traffic even if the valley recovers and begins expansion into the south-bay.

Also, several skydiving dropzones within the US have operated safely for many years at airports with much larger traffic volumes - including small business jet traffic.

Therefore, denying us access because of a Master Plan whose assumptions are no longer valid makes no sense.

Since our initial meeting with Mr. Honaker, I have made several attempts to contact him both via e-mail and by leaving multiple messages with his secretary and office voice mail and have receive no reply whatsoever.

The only opportunity since presenting to Mr. Honaker where we discussed the business proposal was when I stopped by his office unannounced and happened to catch him at his office.

During this brief discussion it was made clear that I should work with a local farmer for "through-the-fence" access to South County Airport - This would require significant efforts at obtaining "use permits" of agricultural (non-airport) land to support such a business. One other option Mr. Honaker "dangled" was leasing the Lions Club building at the airport as their lease has expired, but he has now retracted that as a possibility.

After additional attempts at reaching Mr. Hónaker, with no return of e-mails or telephone messages, I saw no other option but to escalate to the FAA Compliance Office and file an informal Part 13 complaint.

As part of Santa Clara County's acceptance of FAA/Federal Airport Improvement Grants, Santa Clara County agreed to comply with the FAA's Grant Assurances, of which Sections 22 and 23 of these Federal Grant Assurances enable access to airports for all FAA recognized activities - as well as the support of economic development (aeronautical/aviation-related businesses) and non-discrimination (referring to types of aeronautical businesses) at those airports that use Federal Airport Improvement Grants.

The Part 13 informal complaint has been reviewed by the local Federal FAA Compliance Office, whereas a request has been made to the Airport Sponsor (Mr. Honaker) to clarify the County's position to the relevant sections of the Grant Assurances. The initial complaint with the FAA was filed on May 29th and, to-date, the FAA compliance office has not yet received any response from Mr. Honaker.

Should the FAA rule in favor (and likely they will) of allowing an aviation-related skydiving business at South County Airport - and Santa Clara County continue to disregard their agreement to the Federal Airport Grant Assurances, Santa Clara County runs the risk of not only losing all future Federal Airport Improvement Grant funding, but also repayment of Federal Airport Improvement Grants used in the past to improve the airport.

I am asking for your assistance because I believe that by working with Santa Clara County we can come to a win-win agreement without further escalation with the Federal Compliance Office. Coming to a mutual agreement will prevent the expenses Santa Clara County would spend on lawyers and legal efforts in working through the Grant Assurance complaint and compliance process.

There is a real opportunity at South County Airport to create a sustainable business that will bring significant dollars into the South County area, as well as significantly increase County-wide exposure to South County Airport.

South County Airport is ideal in size, and with the excellent weather can attract 100s of visitors each week throughout the year. These visitors will spend money at local restaurants, stay at hotels in Morgan Hill and Gilroy, and buy gas at the local gas stations. The business itself will employ between 10-15 people on a part-time basis creating much needed jobs in the area, and these people will need homes to buy or rent.

Additionally, other drop zones throughout the United States create, in partnership with their local magistrates, many additional peripheral businesses that support skydiving: Rig Manufacturers, Equipment Manufacturers, Aircraft Maintenance, and General Equipment Maintenance businesses are just some examples.

I personally believe that by working together, we can create a micro-economy in south-bay that Santa Clara County has to pay almost nothing into, and in return provides a positive economic impact on the surrounding area… All that's required is a strong partnership between our proposed business, Santa Clara County and Airport Authorities.

We are asking that we be allowed to build a base-of-operations on-airport that is easily accessible by the public (there are several areas on-airport that we've identified) and use of the large open area far-south of the hangers as a landing area. This proposed area fits well within the FAA and USPA guidelines and requirements for a skydiving landing area.

Finally, as this letter is long and detailed, it most likely leaves you with many questions. I would like the opportunity to come to your office in South County and further discuss this business proposal - and if possible have both of us drive over to South County Airport to review the site and how our proposal can work at South County Airport. I would also like your insight as the best way to get this business proposal through the County in a positive fashion.

I will call your office in the next few days to schedule this meeting. Thank you for your time, and I look forward to our meeting.

Sincerely,

Jeffrey L. Bodin, (a.k.a., Garlic City Skydiving)
240 Santa Clara Avenue
Gilroy, CA 95020
408-666-6029

CC:
Randy Ottinger, USPA Director of Government Relations,
file

**From:** Jeff Bodin (jlbodin@yahoo.com)
**To:** racior.cavole@faa.gov; robin.k.hunt@faa.gov;
**Date:** Thu, August 13, 2009 4:58:19 PM
**Cc:** randyo@uspa.org; jlbodin@yahoo.com;
**Subject:** Regarding part 13 complaint

EXHIBIT
Bodin 23

8/13/2009

Mr. Cavole,

I am trying to understand the value of the Part 13 Informal Complaint process as it pertains to the Grant Assurances, and the additional value the FAA ADO Compliance Office provides in processing these complaints.

To recap: I filed an Part 13 Complaint with your office on May 28th, 2009, regarding South County Airport (E16) - more than 75 days ago. On May 29th, you sent an e-mail informing me that I would receive a written acknowledgment letter from the Regional Compliance Office - I have not yet received this letter.

I called you the week of June 22 and we spoke about what the Compliance Office had done to date - as well as to request copies of all correspondence. I still have not received copies any of this correspondence.

Also, during our brief June 22nd discussion, you mentioned that the ADO Compliance Office had not yet received a response from airport sponsor, Santa Clara County - and that you would follow up with Mr. Carl Honaker, to inform Santa Clara County that a response to the Compliance Office is not optional, but *required*.

In my discussions last week with Randy Ottinger (USPA Government Relations), Randy referenced his discussion last week with you, informing me that the ADO Compliance Office's follow-up to Santa Clara County (informing Santa Clara County of their need to respond to the process) *still* had not been made!

My general understanding is that it is within reason that Santa Clara County should have responded to the ADO Compliance Office within two weeks, and that I would be copied on all communications/documentations. I am wondering what, if anything is being done regarding this complaint. Why there has been no follow through to date?

While I understand, and even expect, the County's lack of willingness to participate in the Part 13 process - I am completely at a loss why I perceive there is *still* no follow through from the ADO Compliance Office?

The summer has come and gone, and the lack of follow through has significantly harmed my business model - as most of the revenues of a skydiving business are received in the summer. Would a Part 13 Complaint by any other commercial aeronautical business receive this lack of service?

I need the ADO Compliance Office's assistance to aggressively drive this complaint through the process and review Santa Clara County's "objections" for denying a legitimate aeronautical activity and business at South County Airport. Please document and send me what has been done to date, and how we best work together to move this process forward with a level of urgency.

Thank you,

Jeffrey L. Bodin (Garlic City Skydiving)
240 Santa Clara Ave
Gilroy, CA 95020
408-666-6029

CC: Robin K. Hunt
Randy Ottinger

EXHIBIT 23

**From:** Jeff Bodin (jlbodin@yahoo.com)
**To:** colleen.valles@bos.sccgov.org; don.gage@bos.co.santa-clara.ca.us;
**Date:** Wed, August 19, 2009 12:28:50 PM
**Cc:** randyo@uspa.org; jlbodin@yahoo.com;
**Subject:** Regarding Part 13 FAA complaint...

EXHIBIT
Bodin 24

Supervisor Gage and Ms. Valles,

Please review the attached letter - Yesterday, I received the FAA ADO "Determination" on the Part 13 complaint filed against Santa Clara County and South County Airport. The County (Mr. Honaker) should now have a copy of this determination as well. The attached letter discusses the FAAs determination, as well as provides some considerations/options for forming a lease with South County Airport.

As I mention in my letter, this process started in April and been significantly delayed by the County. Any assistance you can provide in accelerating the lease process will be greatly appreciated.

I will send a hard copy in tomorrow's mail.

Thank you, and I look forward to meeting you on the 2nd.

- Jeff Bodin

EXHIBIT 24

**From:** Jeff Bodin (jlbodin@yahoo.com)
**To:** patty.daniel@faa.gov;
**Date:** Fri, October 16, 2009 1:36:35 PM
**Cc:** vern.lepper@faa.gov; Michael.CTR.Fitzgerald@faa.gov; randyo@uspa.org; jlbodin@yahoo.com;
**Subject:** Letter for Santa Clara County...

EXHIBIT
Bodin 25

10/16/2009

Ms. Patty Daniel
Support Manager, NCT Operations,

Ms. Daniel,

We (Garlic City Skydiving and NCT) both seem to be in agreement that a dropzone can operate out of E16 using the already existing procedures as outlined in Part 91, Part 105, JO 7117.65, and JO 7210.3. Once operations are in place additional if operational improvements are suggested by NCT in our procedures - you have my commitment that we will work together with NCT on these suggested improvements.

With respect to Santa Clara County's request for procedures:

I believe a short letter from NCT to Supervisor Donald Gage of Santa Clara County (with a CC to Randy Ottinger and me) that highlights that "Garlic City Skydiving and NCT have agreed to follow procedures as outlined in Part 91, Part 105, JO 7117.65, and JO 7210.3; and that NCT acknowledges that skydiving is allowed in the airspace over E16" would sufficiently meet the County's needs.

I appreciate your assistance in this matter.

Thank you,

- Jeff Bodin

cc: Randy Ottinger - USPA
Verne Lepper - NCT
Michael Fitzgerald - NCT
File

**From:** Anthony.Garcia@faa.gov (Anthony.Garcia@faa.gov)
**To:** Carl.Honaker@rda.sccgov.org; don.gage@bos.co.santa-clara.ca.us; colleen.valles@bos.sccgov.org;
**Date:** Wed, February 10, 2010 2:17:25 PM
**Cc:** Robin.K.Hunt@faa.gov; Ron.Biaoco@faa.gov; Elisha.Novak@faa.gov; jlbodin@yahoo.com;
**Subject:** FAA Safety Detemination Regarding Skydiving at South County Airport

EXHIBIT
Bodin 26

Carl Honaker

The FAA completed an evaluation of skydiving at South County Airport to determine whether the airport could properly accommodate skydiving without adverse impact to airport operations.

The determination by Flight Standards concluded that skydiving can be safely accommodated by adhering to a series of conditions contained in the Flight Standards determination.

In view of the determination, a prohibition of skydiving would not be a reasonable condition and would unjustly discriminate against an aeronautical activity.

Based on the FAA's determination, Santa Clara County should negotiate arrangements to permit skydiving at South County Airport.

The terms of an agreement should be reasonable and not unjustly discriminatory.

Attached is the FAA determination. Although completed in December 2009, this office received a copy this week.

Tony Garcia
FAA Airports
(See attached file: FSDO Determination.pdf)

EXHIBIT 26

**From:** Jeff Bodin (jlbodin@yahoo.com)
**To:** Anthony.Garcia@faa.gov;
**Date:** Thu, February 11, 2010 5:14:28 PM
**Cc:** Carl.Honaker@rda.sccgov.org; don.gage@bos.co.santa-clara.ca.us; colleen.valles@bos.sccgov.org; randyo@uspa.org; jlbodin@yahoo.com;
**Subject:** Re: FAA Safety Detemination Regarding Skydiving at South County Airport

EXHIBIT
Bodin 27

2/11/2010

Mr. Garcia,

I would like to thank you for your assistance helping all of us work through the part 13 process. I look forward to building a strong partnership with South County Airport, Santa Clara County, Airport Management, the FSDO and the FAA. As this has taken quite some time since the original request was made with the County, I look forward to moving our business to reality as expeditiously as possible.

I will be meeting with the FBO tomorrow and begin working through leasing arrangements for my business operations, rigging facility and packing area. As of now, it appears that space is available with the FBO for all of these requirements - simplifying several of the County's remaining concerns. If by chance the FBO can only provide a portion of the needed space, we will work together with you and the County as needed to find a solution that benefits everyone.

Early next week, I will be contacting Mr. Honaker to begin the process of tying off any final needs and issues the County may have - and request assistance and/or guidance from you if needed as we finalize an agreement.

Again, I want to thank you (and everyone involved) for their participation and efforts, both in the past and moving forward.

Sincerely,

- Jeff Bodin

EXHIBIT 27

**From:** Lawrence Feldman <Lawrence.Feldman@rda.sccgov.org>
**To:** Jeff Bodin <jlbodin@yahoo.com>
**Sent:** Tuesday, March 9, 2010 3:24 PM
**Subject:** FW: lease for South County Airport

EXHIBIT
Bodin 28

Jeff,

We will probably post the bid for the rental of the property stating that we are seeking a minimum of $0.193 per square foot, which is based on the price per square foot of unimproved land our current FBO pays.

The insurance exhibit is merely a description of the amount and kind of coverage you will be required to carry. Our insurance department will put that together. I have asked them to start working on it and will send you a copy as soon as I get it from them.

Just so that you understand our process, I'll give you a brief overview. I've developed a lease and Carl is reviewing it. Our attorney from the County Council's office will review it and make revisions. The Director of Roads and Airports will review it and possibly make revisions. The successful bidder will review it and be able to offer revisions. While all of this is taking place, we will have to post the property at the Clerk of the Board's office and advertise in two newspapers for 15 days, giving everyone who wants to run a skydiving operation the chance to bid on the lease. Once the 15 days are up and the lease has been finalized, we will schedule it for the next possible Board of Supervisors agenda. Generally we have to do that about three weeks in advance. If everything goes perfect, and there is a Board meeting that coincides with our schedule, the process should take about two months. Don't hold me to that, however, sometimes it takes much longer.

Hope this helps a little.

Larry

EXHIBIT 28

3/10/2010

Mr. Tony Garcia
FAA Airports Division

Mr. Garcia,

I very much need your help, guidance and direct personal involvement in the latest developments between myself (Garlic City Skydiving) and Santa Clara County. After three weeks, I finally received an e-mail from the County with what their proposed terms and process will be for providing "me" a "lease" for use of the airport for my FAA-recognized aeronautical activity (skydiving operation).

I will initially summarize the issues, and then expand on them in further detail afterwards.

1) The County is insisting on a "exclusive" lease of the proposed skydiving landing area, and
2) The rates of the proposed lease is a "minimum of $0.193 per square foot, which is based on the price per square foot of unimproved land our current FBO pays" – of which the lease of ~3 acres (~122,500 sf) of unimproved land for a landing area turns out to be $23,642.50. The County was unclear if this was per-month or per-year and I have yet to ask this question. Assuming it is per-year, even $1,970 per-month seems unreasonable for allowing a skydiving business to land their customers at the airport, and
3) The County is also insisting on putting out for public bid, published in local newspapers for two weeks "giving everyone who wants to run a skydiving operation", the opportunity to bid on this exclusive lease.

**On point #1: An exclusive-lease of a landing area**

After you sent out your e-mail to the County, I contacted Mr. Honaker on February 19th. I told Mr. Honaker that we were only looking at using around three acres of the south-west side of the airport (out of the available 14 acre portion) to land our skydiving customers into.

I did highlight our (your e-mail to me) conversation to Mr. Honaker that the FAA (e.g., you) guided me to avoid such a lease, as this would be the same as providing a sole-use agreement for a runway – which is impractical and inconsistence with the FAA grant assurances.

Mr. Honaker then explained that in no way was the County going to allow access without an exclusive lease. He mentioned that on (rare) occasion the County allows the CDF access to this parcel of land for controlled burn training – and an exclusive lease guarantees that neither we nor the County would have to worry about CDF, or other airport or non-airport activities, impacting the use of the proposed skydiving landing area. He also mentioned that I would find the price of the lease "very reasonable".

To be clear – I am NOT asking for any exclusive lease. I am just asking for an identified area I can land my clients safely, and use this portion of the airport at a fair price. It is the County that is requiring exclusive terms and lease.

**On point #2: Lease rates for the proposed landing area**

I am very concerned that the rates for use of the airport that the County is proposing are very detrimental to my business model. For the moment, I'm going to assume that the "rate" to allow skydivers to land at South County Airport is a *minimum* $23K/year, or $1,970 per month.

When I compare the *assumption* of $1,970 per month to what other "commercial" users of the airport pay (based on the County's published airport use rates):

- Banner towing & skywriting operations – Maximum $152/month (based on their largest weight tier of 10,201-17,000), and
- Charter & Air Taxi Flight Operations – Maximum of $393/month (based on their largest weight tier of 10,201-17,000).

I find the differences between the County's proposals to charge airport use for a skydiving business vs. what the County already charges other business types for use of the airport *unreasonable and discriminatory* towards skydiving and very harmful to my business.

**On Point #3: Putting the lease out to bid for the highest bidder**

I am also very concerned that after all of my efforts to get through the part 13 process and airspace review with the FSDO, and with the *significant* time and investment I have in this venture, that the County is insisting that I participate in a published bidding process in which they basically take my proposal for a skydiving operation and publish it in a local news paper – in which only one person/business will win and have access to a single-business leased skydiving landing area at South County Airport. Does this seem reasonable to you?

For historical references on what efforts and challenges I have already gone through to date:

I initially presented my "Garlic City Skydiving" proposal to the County (Mr. Honaker) almost a year ago (April 4th, 2009). I have attached a copy of that business proposal for your review and records. Until I presented our business proposal to the County, no other skydiving business proposal had *ever* been made to the County. In a verbal discussion with Mr. Honaker in May of 2009, no one had ever before approached the County for a skydiving operation.

The County threw immense roadblocks in my way. The County claimed that space was not available for me to lease, even though the County is leasing large parcels of land and buildings to three non-aviation businesses: the Lions Club, the local Animal Shelter, and the local Spay Clinic. I was also told that if any of those venues were to become available, the County's policy would require an open bid for those parcels/buildings – even though there was a willing aviation-related business ready to lease those venues at fair market prices.

The County also told me that I would require written approval from the FAA and ATC in order for skydiving to occur at South County Airport – while at the same time calling the FSDO and ATC telling them why they thought skydiving at South County Airport was not a good idea. Mr. Randy Ottinger from the United States Parachute Association (USPA) called and spoke with the San Jose FSDO in late April/early May of 2009 and provided a copy of my business proposal to the FSDO. The FSDO agreed that skydiving could occur at South County Airport.

The FSDO called the County and told them (in May of 2009) that skydiving was allowed in the class E airspace above the airport. Even after the County was contacted by the FSDO via phone, I was told by the County that without anything in writing from the FAA I would not be allowed operate my business and land skydivers at South County Airport, and that my best option was to lease a portion of adjacent nearby-by farmland for a landing area and pay through-the-fence fees for airport use.

After several unreturned phone calls and e-mails to the County, I felt there was no other choice to file a part 13 complaint (filed with the SF ADO on May 28th, 2009). On August 17th, 2009 the SF ADO made a determination in

my favor because the County *completely ignored the FAA's request for information and failed to provide any response to the FAA ADO*.

In the 8/17/2009 Part 13 determination, the SF ADO told the County to provide me (Garlic City Skydiving) access to the airport and begin working with me on terms immediately to allow my business to operate and land my customers at the airport.

After the County received the Part 13 determination from the SF ADO, the County decided to finally respond to the SF ADO requesting an "airspace" study. This airspace study was performed on December 3rd, 2009, and consisted of a meeting between me and Garlic City Skydiving's Safety and Training Advisor (S&TA) Mr. Robert Kreiberg, two representatives from the County (including Mr. Honaker), and two representatives from the San Jose FSDO.

During this airport safety review, the SJ FSDO reviewed *Garlic City Skydiving's* business proposal and discussed with my proposed operational and safety procedures. We went into significant detail of Garlic City Skydiving's operational procedures and how I would run *my* business.

On December 9th, the FSDO released their findings (although there was a delay in providing this to you, which you received and forwarded to me and Mr. Honaker on February 10th, 2010). The FSDO was specific in their report that as long as Garlic City Skydiving/Jeff Bodin (me), you (Mr. Garcia) and the County (Mr. Honaker) agree to the several points in the FSDOs findings – there was no reason Garlic City Skydiving could not operate out of, and land skydivers at, South County Airport.

To cooperate with the County and remove their concern about space (building) issues, I proceeded to contact the FBO and I am in the process of arranging a lease directly from them – instead of forcing the issue that we should be allowed to lease the building currently occupied by the Lions club (a non-aviation tenant).

As stressed in Point #1 of this letter, I then contacted Mr. Honaker on February 19th, where he insisted that any identified landing area must be lease of a specific area of land to avoid conflict with other activities the County may chose to do at the airport – without a single word mentioning that they would create this lease such that it would go out to bid, and award use and access to the highest bidder. This piece of information I received yesterday (e-mail is attached, from Larry Feldman, who works for Mr. Honaker).

**I need your help and involvement**

I stressed to the County on February 19th that the best option would be to identify an area of the airport that is not in use (the south-west corner is optimal, although there is significant room throughout the airport on the north-west side and other areas closer to the runway and hangers) and allow us to pay a fair use fee comparable to what other businesses pay for airport use.

Not only is the County's current path forward very expensive for my business model, but with all of the efforts I have gone through to work with the FAA to get approvals to date and work through the process, I find it unconscionable that the County would put me in the position to advertise my business proposal to the entire world as a "bid" that I may not even win – using the position that the "grant assurances require us (the County) to get the highest price possible for use of the airport" – and again having my business proposal be denied access to use the airport for an FAA recognized aeronautical business.

To be clear and reiterate myself: Until I approached the County and was denied access almost a year ago, and then fought the Part 13 complaint and ongoing delays by the County, and until I received approval from the FAA and the

FSDO, there was never (and still isn't, to my knowledge) any other solicitations to the County for a skydiving operation. Now that I have won the determination, worked with the FSDO and FAA to put procedures in place, the County wants to go out for unsolicited bid?

I recognize that someday other skydiving business may want to make and justify with the FAA and the County the case to operate a competing business at South County airport. Although I would prefer otherwise, I recognize the right of other potential future aviation businesses – including skydiving businesses - to use the airport as well. However, the County's plan to use my proposal to drive up prices and me potentially losing access after all I have done to date is incredulous.

I have already made my case and justified my efforts and business operations to both the FAA and the County. Should the County charge what they are proposing, or award a lease to someone else and NOT me, my business venture would cease to exist.

Would you please contact the County and stress to them - in the strongest possible way - that they are being completely unreasonable and specifically violating the Grant Assurances (#22, Economic Non-discrimination, and #23, Exclusive Rights), and that my business should be allowed access to land and use the airport at rates comparable to the other commercial users of the airport?

Would you also stress to the County, since continued delays are mounting up (and have been since the determination in August and subsequent FSDO report in December), a specific reasonable timeline for having an agreement in-place for my use of the airport?

Lastly, if there is any information you need from me, please feel free to contact me directly at 408.666.6029.

Thank you for your on-going assistance.

Sincerely,

Jeff Bodin

CC: Randy Ottinger, Director of Government Relations, USPA

Attachments:
- Original Proposal to Santa Clara County, Given April 4th, 2009
- E-Mail response from Santa Clara County on how they plan to go about leasing for a skydiving business.

EXHIBIT

Bodin 29

California Government Code Section 831.7

(a) Neither a public entity nor a public employee is liable to any person who participates in a hazardous recreational activity, including any person who assists the participant, or to any spectator who knew or reasonably should have known that the hazardous recreational activity created a substantial risk of injury to himself or herself and was voluntarily in the place of risk, or having the ability to do so failed to leave, for any damage or injury to property or persons arising out of that hazardous recreational activity.

(b) As used in this section, "hazardous recreational activity" means a recreational activity conducted on property of a public entity which creates a substantial (as distinguished from a minor, trivial, or insignificant) risk of injury to a participant or a spectator.

"Hazardous recreational activity" also means:

(1) Water contact activities, except diving, in places where or at a time when lifeguards are not provided and reasonable warning thereof has been given or the injured party should reasonably have known that there was no lifeguard provided at the time.

(2) Any form of diving into water from other than a diving board or diving platform, or at any place or from any structure where diving is prohibited and reasonable warning thereof has been given.

(3) Animal riding, including equestrian competition, archery, bicycle racing or jumping, mountain bicycling, boating, cross-country and downhill skiing, hang gliding, kayaking, motorized vehicle racing, off-road motorcycling or four-wheel driving of any kind, orienteering, pistol and rifle shooting, rock climbing, rocketeering, rodeo, spelunking, sky diving, sport parachuting, paragliding, body contact sports (i.e., sports in which it is reasonably foreseeable that there will be rough bodily contact with one or more participants), surfing, trampolining, tree climbing, tree rope swinging, waterskiing, white water rafting, and windsurfing. For the purposes of this subdivision, "mountain bicycling" does not include riding a bicycle on paved pathways, roadways, or sidewalks.

(c) Notwithstanding the provisions of subdivision (a), this section does not limit liability which would otherwise exist for any of the following:

(1) Failure of the public entity or employee to guard or warn of a known dangerous condition or of another hazardous recreational activity known to the

public entity or employee that is not reasonably assumed by the participant as inherently a part of the hazardous recreational activity out of which the damage or injury arose.

(2) Damage or injury suffered in any case where permission to participate in the hazardous recreational activity was granted for a specific fee. For the purpose of this paragraph, a "specific fee" does not include a fee or consideration charged for a general purpose such as a general park admission charge, a vehicle entry or parking fee, or an administrative or group use application or permit fee, as distinguished from a specific fee charged for participation in the specific hazardous recreational activity out of which the damage or injury arose.

(3) Injury suffered to the extent proximately caused by the negligent failure of the public entity or public employee to properly construct or maintain in good repair any structure, recreational equipment or machinery, or substantial work of improvement utilized in the hazardous recreational activity out of which the damage or injury arose.

(4) Damage or injury suffered in any case where the public entity or employee recklessly or with gross negligence promoted the participation in or observance of a hazardous recreational activity. For purposes of this paragraph, promotional literature or a public announcement or advertisement which merely describes the available facilities and services on the property does not in itself constitute a reckless or grossly negligent promotion.

(5) An act of gross negligence by a public entity or a public employee which is the proximate cause of the injury.

Nothing in this subdivision creates a duty of care or basis of liability for personal injury or for damage to personal property.

(d) Nothing in this section shall limit the liability of an independent concessionaire, or any person or organization other than the public entity, whether or not the person or organization has a contractual relationship with the public entity to use the public property, for injuries or damages suffered in any case as a result of the operation of a hazardous recreational activity on public property by the concessionaire, person, or organization.

**From:** Jeff Bodin (jlbodin@yahoo.com)
**To:** don.gage@bos.co.santa-clara.ca.us;
**Date:** Mon, June 14, 2010 12:11:48 AM
**Cc:** colleen.valles@bos.sccgov.org;
**Subject:** Urgent help needed for Garlic City Skydiving

EXHIBIT
Bodin 30

Supervisor Gage,

Thank you, and again my apologies calling you at home on a Friday night. I very much appreciate you taking the time to discuss my frustration with the County Airport's office.

As I explained, we've been trying for well over a year to bring a new business to South County Airport of Santa Clara County that would create between 10-15 part-time jobs, bring in significant business to the Airport's FBO, and create revenues for the County.

During this time, we have been met with continual roadblocks from the County. Even after receiving FAA approval - delay after delay seems to be the status quo.

As a refresher: Skydiving operations for Garlic City Skydiving were approved by the FAA in December (the County received the letter February 10th, or over 5 months ago) for operations at the South County Airport. Through February and March, several proposals were presented to me that were extremely expensive, and required us to go through a single-award "County Bidding Process".

After several mails and calls to you and Colleen Valles, a few discussions with the FAA San Jose Flight Standards Districts Office, and several more with Carl Honaker (and Carl and the FAA District's office) - Carl agreed to go to a fee-based permit structure.

On April 10th:
Carl explained that he would be working on a use fee and and a use permit . It was also explained to me that he could not authorize this fee and permit by himself, as these would need to be approved by the Board of Supervisors. He also explained that the fee/permit couldn't go on the late April County Board of Supervisors agenda as the agenda was already full, but the proposal would make the early May meeting.

On April 20th:
I was told by Carl that we were still on track for the early May Board of Supervisors meeting for the Permit/Fee structure.

On April 21/22:
Colleen e-mailed me assuring that "He (Supervisor Gage) has spoken to staff and expects a resolution to be forthcoming." I replied that "I have been working with Carl over the last few weeks and it is looking positive."

On April 30th:
Carl told me that he actually "owned" the "Permit", and that the "Fee Structure" was actually what the Board of Supervisors was going to review - and that the fee structure wouldn't make the early May Board of Supervisor's agenda, but it would make the late May Board agenda. Carl also communicated that he would get me a draft copy of the Permit within the next few days.

On May 4th:
I was told by Carl that the agenda for late May was already booked and he was unable to get on the agenda, but that the fee structure would be on the June 8th Board of Supervisors review for sure. I asked if I could get a copy of the permit to review, and he said it was still being reviewed by County lawyers and they were reviewing the Insurance requirements.

I mentioned that according to the Federal Grant Assurances, skydiving operations are required have the same insurance as any other aeronautical activity. I also mentioned that we were planning on getting a $1M/$2M (occurrence/total) Comprehensive General Liability (CGL) policy.

Carl said the $1M/$2M CGL would meet the County's requirements. I asked if we should plan on opening our business

EXHIBIT 30

on the 8th of June, to which he told me it should take a few days to get things through and that I should give it a few days, and that we should plan on opening June 10th.

I mentioned to Carl that we were planning on leasing a plane soon, and that once it arrives it would cost me over ten thousand dollars per month - whether it was flying or not.

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Since January, I have done many things that I was asked...

I was asked to lease property/space from/on the FBO, instead of continuing to pursue with the County that there were several non-aviation businesses on airport property in which an aviation activity, per the grant assurances, should be given priority over non-aviation activities for airport property.

So, I met with the FBO and now have long-term leases for a hanger and office space on the FBO leasehold costing me almost $2000 per month, with additional insurance coverage on those leased spaces which is also costing me several hundred dollars per month. And, I also have the FBO's overwhelming support as he sees the incremental revenues that both the FBO and the County will receive from our business operations.

I obtained a Comprehensive General Liability insurance policy that names Santa Clara County and South County Airport as additional insured, and I now have in-place a CGL Policy for $1M per occurrence, $2M total. This is also costing me significant money on a monthly basis.

I was asked to meet with the Board of the South County Airport Pilot's Association (SCAPA) - which I did, and I gained their overwhelming support. SCAPA recognizes the benefits that a skydiving business will bring to South County Airport. These benefits include additional jobs at the airport and a significant increase in fuel sales that will help the FBO, as well as bring more aviation visibility to South County Airport.

And, because I was assured by Carl that we would have all of the permits/fees in place by June 8th, I committed to a plane that should arrive here on 6/25 for a 6/26 opening of the business that will cost my business well over $10,000 per month - whether it flies or not. I have also "hired" two people already - one for managing sales, another for managing jump operations (they are scheduled to start training next week), and I am actively looking for a third person to hire (to assist in sales).

Lastly, I have filed the required paperwork with FAA Air Traffic Control to begin skydiving operations over South County Airport, beginning on June 26th.

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Then, this past Thursday (6/10), I again asked Carl, "Where is the permit?" To which I was told he had just finished reviewing with the County lawyers and final changes would be done on Friday (6/11) - when I would finally be able to review it.

On Friday (6/11), around 5:30, Carl told me that the County lawyers are now telling him that the "permit" will likely not be approved by him, and will most likely require approval by the Board of Supervisors. Carl went on to say, that the next Board of Supervisors agenda (for 6/22) is now full and that the board will take a six-week hiatus after that meeting, and that I am looking at receiving the permit after the mid-August meeting. If it makes that agenda.

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So, out of frustration, I called you Friday night, and hence this e-mail.

South County Airport is significantly down in daily operations (airport traffic). There is a very high rate of vacancy in the hangers. The financial opportunities (fuel, maintenance, etc.) that was once possible for the FBO are no longer there, and the FBO's revenues are down significantly. I have been at South County Airport on weekends getting my business ready to open. I have seen first-hand the lack of activity at the airport - compared to the Hollister airport, South County Airport is a ghost town.

And there seems to be little motivation by the County to increase activity at the airport.

I have mentioned this before - our business will bring over $100,000 of revenue in fuel, leases, permits and maintenance between the County and the Fixed Base Operator of the Airport. The FBO is very supportive of this effort because they know it will be good for business and good for the airport. The Board of South County Airport Pilots Association (SCAPA) is supportive, as they know it will be good for the FBO and bring much needed revenues, as well as provide significant visibility that is much needed for the airport.

Something as positive as Garlic City Skydiving, which is supported by the FBO and the local pilots association, should be viewed as very beneficial to the County.

Garlic City Skydiving will have a measurable effect on the South County area itself, as people who skydive at the South County Airport will come from all over the greater Bay Area. While these visitors are here they will eat at local restaurants. They will go to the outlets. They will buy gas. They will visit Gilroy Gardens and downtown Gilroy. And they will spend money.

Increasing the economic activity around the airport, in Gilroy and Morgan Hill, should be very motivating for the County.

Another $50-$100K or more in taxed salaries for several part-time employees will be generated, and these people will live in the South County and spend money on housing, gas, living items and groceries.

Additional jobs should also be motivating to the County.

Why is the County continually delaying with little sense of urgency something that would significantly benefit the South County economy and the surrounding cities and businesses - especially a business that is so greatly supported by those that work at, do business at or near, and use the airport?

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I am very concerned by the current chain of events, and the way the "story" of what is really required continues to change and move as we progress.

It seems as though the County "picks and chooses" what it wants for aviation activities at South County Airport. For example: Ballooning. I have spoken with a few of the businesses that operate balloons out of South County Airport - And, they too are very supportive of the increase in activity we will bring.

But more importantly, all the balloon companies needed to do to fly at the airport was get a written letter of permission from Carl, and not some "permit" that took months to approve. One of the balloon companies I spoke with had their letter within a week - and they didn't have to pay a fee to use the airport! Why the discrimination against my business proposal?

I am also confused as to why a skydiving (parachuting) operation would be treated any differently - particularly when I read the Santa Clara County Airport Rules and Regulations (see http://countyairports.org/docs/ArptRR20010327.pdf, on the County Airport's website) that CLEARLY state (direct cut and paste from appendix II) where parachuting is in the exact same sentence as ballooning:

"The Airport Director has the authority and responsibility to approve/disapprove.requests for use of the airport facilities for hot air balloon launches, experimental aircraft tests, home-built aircraft tests and parachute drops when the parachute landing zone is on airport property."

If the County Airport Director has the authority to give us permission, as has been done for ballooning with a simple letter of approval, then why am I being told that we need a permit?

Why does issuing a permit take so long? Why can't I review a draft of this permit? And why does the permit now possibly need reviewed/approved by the Board of Supervisors, if the airport Rules and Regulations clearly state the Airport Director has the authority?

Why, over the last few months, haven't I been able to see a draft of this "permit" - so I can see if there are any unreasonable rules or regulations that may be outside the FAA rules for skydiving (FAR Part 105), not in line with the FAA Grant Assurances, or outside the USPA (United States Parachute Association) Basic Safety Requirements?

It would be extremely disappointing to finally have the permit approved by the Board, AND THEN find out that that the terms are damaging to our business model.

And lastly, as revenues from skydiving centers are highly dependent on the summer revenues, why would the County communicate that things are in progress for finalization on a specific date (June 8th), so that I extend myself with significant financial commitments to open the business - and then create another delay that is expected to last to the end of the summer?

Any further delays are significantly damaging to both me personally and my business financially.

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I very much need your help, and I need it quickly. We are ready and need to open for business in June, or we will have a significant portion of our cash reserves depleted and be forced to open very late in the season - which doesn't benefit anyone involved, and puts the jobs, business and positive local effects at-risk as the fall/winter will be a much more challenging season for our business.

Thank you in advance for your assistance. Please let me know at your earliest possible convenience how we can resolve this issue and still make our June 26th opening date. I will follow up with you late Monday afternoon.

Sincerely,

Jeffrey L. Bodin
Garlic City Skydiving

**From:** Anthony.Garcia@faa.gov (Anthony.Garcia@faa.gov)
**To:** jlbodin@yahoo.com;
**Date:** Wed, June 30, 2010 3:12:15 PM
**Cc:**
**Subject:** FYI: Inquiry Regarding Santa Clara County Progress with Skydiving Proprosal at South County Airport

EXHIBIT
Bodin 31

Jeff Bodin

FYI: Copy of message to Mr. Honaker.
----- Forwarded by Anthony Garcia/AWP/FAA on 06/30/2010 03:11 PM -----
xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx

From: Anthony Garcia/AWP/FAA
AWP-620, Safety & Standards

To: Carl.Honaker@rda.sccgov.org

Date: 06/30/2010 03:10 PM

Subject: Inquiry Regarding Santa Clara County Progress with Skydiving Proprosal at South County Airport

Carl Honaker

I understand there has not been much progress arriving at some kind of arrangement for skydiving at South County Airport.
A permit or approval for skydiving has not been granted.
Negotiations have not progressed.

What impediments have stalled progress?

I also understand that a hot air balloon and powered parachute presently use the airport.
Some other aeronautical activities such as banner towers and ultralights may be using County airports.

If these activities can obtain approval to use the airports, why is approval for skydiving more difficult and taking so long?

I have received more information related to the lack of progress, but I shall not add more detail to this message.

Again, what issues have prevented reaching some kind of agreement?
When might agreement be reached so skydiving can begin?

Thank you for the feedback.

Tony Garcia
FAA Airports

# BOARD OF SUPERVISORS



EXHIBIT
Bodin 32

## SUMMARY OF PROCEEDINGS OF AUGUST 24, 2010

BOARD OF SUPERVISORS' CHAMBERS
70 West Hedding Street, San Jose, California
Tel. (408) 299-5001 Fax (408) 298-8460 TDD (408) 993-8272

SANTA CLARA COUNTY BOARD OF SUPERVISORS
SPECIAL DISTRICTS
THE FIRE DISTRICTS
FINANCING AUTHORITY
PUBLIC AUTHORITY OF SANTA CLARA COUNTY
VECTOR CONTROL DISTRICT
SANITATION DISTRICT NO. 2-3

## Opening

1. Roll Call - All members present.

2. Recited Pledge of Allegiance.

3. Received invocation by Pastor David Cannistraci of Gateway City Church, San Jose.

## Public Issues

4. The following public comments were received:

Usha Scott, Barbara Boyington, Elaine Baylis, members, Committee for Recognition of Nursing Achievement (CRONA), requested the Board's assistance in encouraging



EXHIBIT 32

20. Held from August 10, 2010 (Item No. 17): Considered recommendations included in the Final Grand Jury Report: Are County Community Based Organizations (CBO) Contracts Administered Properly?, and took the following actions:

    a. Adopted response from Administration to Final Grand Jury Report relating to procedures for administering CBO contracts.

    b. Authorized the President and Clerk of the Board of Supervisors to forward department/agency responses to Grand Jury Report to the Presiding Judge of the Superior Court with approval that responses constitute the response of the Board of Supervisors, consistent with provisions of California Penal Section 933 (c).

* 21. Considered recommendations related to proposed skydiving operations at South County Airport (Airport), (Roads and Airport Department), and took the following actions:

    a. Did not approve the proposal by Garlic City Skydiving to conduct skydiving operations with a Landing Zone on Airport property.

    b. Directed staff to coordinate with Garlic City Skydiving and the Federal Aviation Administration to expeditiously review any revision to the skydiving proposal identifying an off-airport Landing Zone to determine the impact to Airport operations, if any.

22. Considered recommendations relating to Agreement with Bay Cities Produce Company, Inc., and took the following actions:

    a. Approved Agreement with Bay Cities Produce Company, Inc., relating to providing fresh produce and related products and services in an amount not to exceed $5,000,000 for period September 1, 2010 through August 31, 2013, with an option to renew for two additional years.

    b. Approved delegation of authority to the Director, Procurement Department, or designee, to negotiate, execute, amend, terminate, and take any and all necessary or advisable actions relating to the Agreement with Bay Cities Produce Company, Inc., to provide fresh produce and related products and services, following approval by County Counsel as to form and legality, and approval by

# County of Santa Clara
# Roads & Airports Department
## Airports Division

EXHIBIT
Bodin 33

RA01 042611

Prepared by: Eric Peterson
Assistant Director, County Airports

DATE: April 26, 2011

TO: Board of Supervisors

FROM: M. J Murdter

Michael Murdter
Director, Roads & Airports Department

SUBJECT: Federal Aviation Administration (FAA) Airport Improvement Program (AIP) Grant Applications for County Airports

## RECOMMENDED ACTION

Consider recommendations relating to FAA Airport Improvement Program (AIP) grants for Palo Alto Airport, Reid-Hillview Airport and South County Airport.

Possible Actions:

a. Authorize Director, Roads and Airports Department to submit Grant Application to the FAA, through the City of Palo Alto, relating to AIP grant funding for Palo Alto Airport Pavement Maintenance in an amount not to exceed $350,000 for Fiscal Year 2012.
b. Authorize Director, Roads and Airports Department to submit Grant Application to FAA relating to AIP grant funding for Reid-Hillview Airport Pavement Maintenance in an amount not to exceed $450,000 for Fiscal Year 2012.
c. Authorize Director, Roads and Airports Department to submit Grant Application to FAA relating to AIP grant funding for South County Airport Pavement Maintenance in an amount not to exceed $400,000 for Fiscal Year 2012.



EXHIBIT 33

d. Authorize Director, Roads and Airports Department to submit Grant Applications to the California Department of Transportation (Caltrans) for state matching funds upon receiving FAA AIP grant offers for any of the above applications, following approval by County Counsel as to form and legality, and approval by the Office of the County Executive. Delegation of authority shall expire on June 30, 2012.
e. Authorize President to accept grant offers from the FAA and Caltrans.

## FISCAL IMPLICATIONS

There is no fiscal impact to the County General Fund. The total estimated project costs for all AIP grant applications for the current grant funding cycle is $1,263,000, of which 95% ($1,200,000) would be funded by FAA AIP grants. The Airport Enterprise Fund (AEF) is responsible for providing matching funds for the remaining 5%, up to half of which could potentially be funded through matching funds from the Caltrans Division of Aeronautics. The Department will bring forward an Appropriation Modification (F-85) for Board approval for any grants received.

## CONTRACT HISTORY

None.

## REASONS FOR RECOMMENDATION

The Aviation Investment and Reform Act for the 21st Century (AIR-21) included funding for the Airport Improvement Program (AIP). Airport staff has identified the following projects at the three County airports eligible for federal and state funding:

1. Pavement Maintenance at Palo Alto Airport ($350,000) - The parking ramp, taxiways and airport runway are in need of crack sealing and pavement repair. This grant will fund the design and construction of the first phase of a multi-year pavement repair program, address signage issues, and make improvements requested by the FAA.
2. Pavement Maintenance at Reid-Hillview Airport ($450,000) - The parking ramp, taxiways and runways are in need of crack sealing and pavement repair. This grant will fund the design and construction of the first phase of a multi-year pavement repair program, address signage issues, and make improvements requested by the FAA.
3. Pavement Maintenance at South County Airports ($400,000) - The parking ramp, taxiways and runways are in need of crack sealing and pavement repair. This grant will fund the design and construction of the first phase of a multi-year pavement repair program, address signage issues, and make improvements requested by the FAA.

Acceptance of the grant offers will obligate the County to accomplish the described projects and adhere to the terms, conditions and assurances contained in the grant agreement for a period not to exceed 20 years. Should the County fail to comply, a pro-rata return of grant monies may be required. Attachment 1, Paragraph C lists 37 grant assurances covering

a wide variety of subject matter including Operation & Maintenance (No. 19), Compatible Land Use (No. 21), Economic Nondiscrimination (No. 22), Exclusive Rights (No. 23), Fee and Rental Structure (No. 24), Airport Revenues (No. 25), Airport Layout Plan (No. 29) and Disposal of Land (No. 31).

Consistent with the procedure established several years ago, the grant application for Palo Alto Airport will be submitted to the FAA through the City of Palo Alto since the grant assurances will extend beyond the expiration of the County's lease with the City. Department staff discussed the proposed grant application in a meeting with City staff on March 29, 2011 and City staff indicated that it supported the project.

## CONSEQUENCES OF NEGATIVE ACTION

The County will not apply for FAA AIP grant funds or state matching funds and the proposed projects will not proceed.

## STEPS FOLLOWING APPROVAL

1. Upon receiving FAA and State grant offers, Execute (as described) the original and three copies for each FAA Grant Offer and each State Grant Offer.

The grant offers consist of two parts:

Part One: "IN THE WITNESS WHEREOF"

Part Two: "ACCEPTANCE"

The FAA and State requires the ACCEPTANCE to be first signed by the President and attested by the Clerk of the Board. The "Certificate of Sponsor's Attorney" shall then be executed with the same (or later) date of the execution.

2. Upon completion of step one above, return to Lupe Rosales, 101 Skyport Drive, San Jose, CA 95110

The original and two (2) copies showing full execution, attestation and seal impression for both the FAA and State Grant Offers, which will be forwarded to the FAA and the State.

## ATTACHMENTS

- Attachment 1 - Grant Assurances