



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

Office of Airport Compliance and  
Management Analysis

800 Independence Ave., SW.  
Washington, DC 20591

## **FEDERAL EXPRESS**

February 19, 2021

Mike Wasserman, President  
Board of Supervisors  
County of Santa Clara  
70 West Hedding Street  
East Wing, 10th Floor  
San Jose, CA 95110

### **RE: Unsafe Conditions at Reid-Hillview Airport Requiring County Action**

Dear Supervisor Wasserman:

It has come to our attention that the County of Santa Clara Board of Supervisors (BOS), sponsor of the Reid-Hillview Airport (RHV), has made decisions and taken actions that undermine the BOS's ability to operate RHV consistent with its federal grant obligations under the Airport Improvement Program (AIP).

Specifically, it is our understanding that on March 10, 2020, the Federal Aviation Administration (FAA) conducted a Local Runway Safety Action Team (LRSAT) meeting at RHV to seek ways to address an uptick in runway incursions at the Airport. During the LRSAT, we understand that the County of Santa Clara Roads and Airports Department (County) declined to commit to providing sufficient resources recommended by aviation experts participating in the LRSAT that were intended to mitigate unsafe airfield conditions. The County's reasoning for not addressing critical safety concerns is the December 4, 2018, decision by the BOS to not accept Airport Improvement Program (AIP) funding for RHV. In addition, we recently learned that the County has engaged in substantial non-aeronautical use of aeronautical property, at both RHV and San Martin Airport (E16), without FAA approval. The BOS's support of the aforementioned actions appears to be connected, in part, to its desire to potentially close RHV in 2031 at the expiration of its existing grant agreements. More recently, on November 17, 2020, the BOS voted 4-1 for the County to proceed with the "Reid Hillview Vision Plan," which on the surface suggests the BOS has made its decision for the future of RHV.

Since 2009, the FAA Western-Pacific Region Airport's Office (FAA-Region) and the BOS have frequently exchanged correspondence about the sponsor's non-compliance with its federal obligations. More recently, on October 18, 2019, and again on Feb. 28, 2020, the FAA-Region sent letters to the BOS in which we explained the importance of RHV to the national airspace system and outlined the FAA's concerns about existing unsafe airfield conditions at RHV that require action by the BOS. Finally, we reminded the BOS of its existing federal obligations, which require you to safely maintain your County-owned airports. Foremost among the discussions is the BOS's continuing obligation under Grant Assurance 19, *Operations and Maintenance*, to operate the Airport in a safe and serviceable condition.

Substantial evidence collected through FAA inspections, California Department of Transportation (CalTrans) site visits, and multiple and ongoing user complaints over the past decade indicate the presence of unsafe conditions at RHV. For example, between October 1, 2018, and February 8, 2021, the FAA documented fourteen (14) Runway Incursions (RI) and six (6) Surface Incidents (SI). The FAA believes the airfield risks associated with these events could be eliminated if the County takes action on the March 10, 2020, LRSAT recommendations. Most recently, in January 2021, an FAA Hotline Complaint was filed against the County for allegedly failing to repair inoperative light posts adjacent to taxiways and hangars whose height and unlighted condition present a safety hazard to aircraft movement areas at RHV. FAA-Region has reminded the BOS on numerous occasions of its obligation to resolve these safety discrepancies, and an FAA investigation into the Hotline Complaint is currently underway.

The County also has allowed multiple non-aeronautical uses of aeronautical property without obtaining required FAA approval. These include the development of airport property for solar panel installation, use of airport property for a baseball field and vehicle/trailer storage, and leasing space to commercial vendors. Such actions violate Grant Assurance 29, *Airport Layout Plan*, and depending on how the revenues were generated and used, could result in a finding of airport revenue diversion in violation of 49 U.S.C. §§ 47107(b) and 47133, and Grant Assurance 25, *Airport Revenues*. After verifying that the County has engaged in substantial non-aeronautical use of aeronautical property at both RHV and E16, the FAA on Jan. 14, 2021 sent a letter to the County asking how it plans to address this matter.

Based on applicable AIP grant agreements, a federally obligated sponsor may not allow an airport to fall into disrepair while considering closure. While the BOS is well within its right to decline further AIP funding, the BOS remains obligated to operate the airport and all facilities necessary to serve the aeronautical users of the airport at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state and local agencies for maintenance and operation. The FAA Office of Airport Compliance and Management Analysis (ACO) strongly encourages the BOS to make the appropriate improvements to ensure a safe operating environment for RHV aircraft and tenants, including expedient resolution of the outstanding safety and land use compliance violations that the FAA-Region and CalTrans identified.

We also want to remind you that commitments the BOS assumed in its AIP grant agreements are critical in maintaining a high degree of safety and efficiency in RHV design, construction, operation and maintenance, as well as ensuring the public reasonable access to the airport. These commitments do not expire until at least 2031, whether or not the BOS decides to pursue future AIP grant funding for RHV.

Pursuant to 49 U.S.C. § 47122, the FAA has a statutory mandate to ensure that airport owners comply with their federal grant assurances. Under 49 U.S.C. § 47111(f), a federally obligated airport sponsor that fails to take corrective action required by the FAA is subject to judicial enforcement of any grant assurance violation. ACO seeks to avoid such measures and implores the BOS to immediately take the requisite steps to bring RHV into compliance with its federal obligations.

In closing, the FAA will conduct a follow up LRSAT meeting at RHV on March 10, 2021 that will again focus on airfield improvements and/or additional airport planning needed to address ongoing safety concerns. It is our expectation that the BOS will work in good faith to meet its federal grant obligations regardless of its earlier decision to no longer accept AIP funding for RHV. Our office will closely coordinate with FAA-Region on final resolution of the aforementioned concerns, and in the absence of such, will take appropriate steps as necessary.

Sincerely,

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Kevin C. Willis, Director  
FAA Office of Airport Compliance  
and Management Analysis

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Date

cc: Cindy Chavez, County of Santa Clara, Supervisor, District 2  
Otto Lee, County of Santa Clara, Supervisor, District 3  
Susan Ellenberg, County of Santa Clara, Supervisor, District 4  
Joe Simitian, County of Santa Clara, Supervisor, District 5  
Harry Freitas, Director, County of Santa Clara Roads and Airports Department  
John Carr, County of Santa Clara, Airports Commission  
Amy Choi, Division Chief, Caltrans Division of Aeronautics  
Mark McClardy, Director, Airports Division, FAA, Western Pacific Region  
Raquel Girvin, FAA Regional Administrator  
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Dave Foyle, FAA, Air Traffic Organization (ATO)  
Laurie Suttmeier, Manager, FAA, San Francisco Airports District Office