

RESOLUTION NO. 2015-28

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA
APPROVING A CONDITIONAL AIRPORT SPECIAL ACTIVITY
PERMIT FOR THE SUMMER MADNESS FESTIVAL AT THE MARINA
MUNICIPAL AIRPORT ON JULY 31-AUGUST 2, 2015, AND
AUTHORIZING THE CITY MANAGER TO EXECUTE SAID PERMIT
AND TAKE ALL OTHER ACTIONS IN FURTHERANCE OF THE
PERMIT, SUBJECT TO FINAL REVIEW, REVISION AND APPROVAL
BY THE CITY MANAGER AND CITY ATTORNEY

WHEREAS, in June 2014, Mr. Earl Rowland, representative of the proposed Summer Madness Festival, requested the use of a portion of Marina Municipal Airport, including the north, middle and south tarmacs, for the proposed summertime event, and;

WHEREAS, on November 25, 2014, a fee agreement was executed by and between Mr. Earl Rowland and the City of Marina for processing of the application, and;

WHEREAS, in December 2014 and January 2015, City of Marina staff, including representatives from the Police Department, Fire Department, Airport Services Division and Planning Services Division, reviewed and commented on the proposed Conditional Airport Special Activity Permit, and;

WHEREAS, on February 3, 2015, the applicant met with the above noted Marina staff to discuss staff questions regarding the proposed event (e.g., event insurance, security, medical personnel, ingress/egress routes, parking layout, pedestrian circulation, FAA review and approval).

WHEREAS, on February 5, 2015, in response to staff's inquiry about past experience organizing large events, Mr. Rowland provided a list of events he has been involved in previously ("**EXHIBIT A**"), and;

WHEREAS, on February 25, 2015, the applicant met with the City Manager, City Attorney, Airport Services Manager and Planning staff for a follow-up meeting to discuss the event charge and security deposit timing and amount to ensure city costs and expenses incurred for the event would be covered, and;

WHEREAS, the proposed temporary, non-aviation activities involve musical entertainment and other festivities at the summertime event, and;

WHEREAS, the applicant is in the process of securing musicians for the proposed 2015 event, and;

WHEREAS, the Conditional Airport Special Activity Permit for the proposed event is based on the one approved for the 2008 Concorso Italiano event ("**EXHIBIT B**"), and;

WHEREAS, comments from the Police Department, Fire Department, Airport Services Division, and Planning Services Division regarding event logistics, such as security, staffing, vehicle parking and pedestrian circulation, have been incorporated into the Permit, and;

WHEREAS, a detailed site plan must be provided for City approval not later than sixty (60) days prior to the event, and;

WHEREAS, a detailed parking plan and attendance estimates based upon pre event sales must be provided not later than sixty (60) days prior to the event, and;

WHEREAS, the applicant shall pay the City an event charge of \$20,000 for the 2015 event, which will be deposited to the Airport Enterprise Fund, and;

WHEREAS, the City will also receive five percent (5%) of food and beverage sales, which will also be deposited to the Airport Enterprise Fund (the amount of this revenue cannot be estimated in advance), and;

WHEREAS, costs for City staff services, including police, fire, airport and public works services will be reimbursed in full by the applicant, and will impose no additional costs on the City, and;

WHEREAS, the applicant shall provide their own staff for traffic control and security, supplemented, where appropriate, by City police and fire personnel, and any hired security personnel would be approved by the Police Department, and;

WHEREAS, the applicant shall be responsible for obtaining and paying for any other necessary permits, licenses and other consents for the operation of the event, and;

WHEREAS, the City reserves the right to relocate or to cancel or suspend the event at any time if, in the opinion of the Airport Manager, such relocation or suspension/termination is required for the public safety or the safe operation of the Airport, and;

WHEREAS, the City also reserves the right to limit attendance of the event if, in the opinion of the Airport Manager, such limitation is required for the public safety or the safe operation of the Airport, and;

WHEREAS, the applicant shall be responsible for possessing adequate insurance and assume full liability for its activities, as required in the permit to the satisfaction of the City and using an ISO form approved by the Monterey Bay Area Self Insurance Authority (MBASIA), and;

WHEREAS, on February 9, 2015, a MBASIA representative reviewed and approved of the insurance and indemnity provisions in the proposed Permit, with two modifications, and;

WHEREAS, approval of the request to utilize the north, middle and south tarmacs would preclude any aviation or non-aviation use of this area during the event days, and;

WHEREAS, approval of this proposed event by the FAA is a condition precedent to the effectiveness of this Permit, and;

WHEREAS, the City Council finds that, under strict conditions of approval:

1. Permittee's non aviation-related event and activities and use of the tarmac areas and Airport facilities will not be detrimental to the environment or to the health, safety, peace or general welfare of the City, the Airport, the surrounding properties or the community-at-large.

2. Permittee's non aviation-related activities will not be detrimental or injurious to the efficiency and utility of the Airport or to Airport property and improvements.
3. Permittee's non aviation-related activities, if conducted in accordance with the Conditions of this Permit will be consistent with the Environmental Guidelines, the General Plan, the Airport Master Plan, the Airport Layout Plan, the Airport Operating Ordinance and the Zoning Ordinance of the City. The long-term use of the property is designated for aviation-related development in the Airport Master Plan and Airport Layout Plan.
4. Permittee's non aviation-related activities and the use of the tarmac areas and Airport facilities will not present or create a safety hazard to the normal operations of aircraft arriving or departing from the Airport.
5. Reasonable time period can be and are herein designated for Permittee's non aviation-related activities.
6. A charge of \$20,000.00 shall be made for this proposed use.
7. The form and amount of liability insurance required herein, naming the City and the Airport as additional insured parties to be obtained from the Permittee are reasonably related to the Airport's liability exposure and are not unjustly discriminatory. It is further found that, because those insurance requirements are appropriate under the unique characteristics of the proposed use, this finding shall not be construed to indicate a precedent for insurance requirements for any other use.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Marina does hereby:

1. Approve a Conditional Airport Special Activity permit for the Summer Madness Festival at the Marina Municipal Airport on July 31-August 2, 2015, and;
2. Authorize the City Manager to execute said Permit and take all other actions in furtherance of the Permit, subject to final review, revision and approval by the City Manager and City Attorney.

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 3rd day of March 2015, by the following vote:

AYES: COUNCIL MEMBERS: Amadeo, Brown, Morton, O'Connell, Delgado

NOES: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

Frank O'Connell, Mayor Pro-Tem

ATTEST:

Anita Sharp, Deputy City Clerk

“EXHIBIT A” TO THE STAFF REPORT

Event Name:

- a) Battle of the Band
- b) City Birthday Party
- c) City Concerts in the Park
- d) Hoop World 3-on-3 Basketball Festivals
- e) City of Seaside Bed Races
- f) Number of other Recreation annual events like Summer Madness and Summer Fun, After School Programs and special event etc,

Date(s):

- a) June 1988
- b) Annual October 1987 to 1999
- c) July and August 1992 to 1999
- d) June 1995 (three day event)
- e) July 1987 to 1992 (two day event)
- f) Annual After School & Summer Program

Location:

- a) David Cutino Park, Seaside
- b) City Hall, Seaside
- c) Laguna Grande Park, Seaside
- d) Canyon Del Rey Blvd., Seaside
- e) Canyon Del Rey Blvd., Seaside
- f) Five elementary schools in Seaside

Description: Special Event/Actives

Number of attendees/visitors/participants:

- a) 2-3000 total attendees
- b) 3-5000 annually
- c) 2-4000 annually
- d) 2-2500 daily
- e) 5-8,000 daily
- f) Year Round Programs

Role in organizing event: Planned, Developed, Organized and Supervised of staff for all programs listed above.

Approval body (e.g., city, county, state, school, park district): City of Seaside

Approval process/permit: City sponsored program except events held on Canyon Del Rey State permit to close streets down.

Contact person/reference:

- name: Mr. Dave Pacheco
- title: City Council Member
- address: 410 Harcourt Ave., Seaside, CA 93955
- telephone no.: 831-521-0577
- e-mail: dpacheco@ci.seaside.ca.us

Event Name: One Shining Star

Date(s): June 2011

Location: Wesleyan College/Dunn Center, 3400 N. Wesleyan Blvd., Rocky Mount, NC 27804

Description: Round I - National Vocal Competition

Number of attendees/visitors/participants: 400

Role in organizing event: Director/organizer

Approval body (e.g., city, county, state, school, park district): University/School

Approval process/permit: School Facility Rental/Permit/liability Insurance

Contact person/reference:

- name: Ms. Sheila Martin
- title: Dunn Center, Manager
- address: 3400 N, Wesleyan Blvd., Wesleyan College, Rocky Mount, NC. 27804
- telephone no.: 252-985-5248
- e-mail: helpdesk@ncwc.edu

Event Name: San Jose Hoop It Up 3-on-3 basketball festival

Date(s): First week in June annually 1989-1999

Location:

Down Town 1st street to 6th street
Closed off street

Description: 3-on-3 basketball Festival & special events for all ages men, women, boys & girls.

Number of attendees/visitors/participants: 1900 teams 50,000 fans

Role in organizing event: Supervising Set up, Registration booth, matching team, officiating games, supervising 3 point & slam dunk contest, presenting awards, break down & clean up.

Approval body (e.g., city, county, state, school, park district): City, county, state

Approval process/permit:

City, County & State permits Close of streets
Liability insurance

Contact person/reference:

- name: Mr. Kim Dennis
- title: National Hoop It Up Director
- address: 5029 Skellig Rock Way, Eldorado Hills, CA 95762
- telephone no.: 916-813-4557
- e-mail: hoopwrld2@aol.com

Event Name: One Shining Star

Date(s): August 2011

Location: San Francisco State University, Mckinney Theater

Description: Round I - National Vocal Competition

Number of attendees/visitors/participants: 500

Role in organizing event: Director/organizer

Approval body (e.g., city, county, state, school, park district): University

Approval process/permit: University Facility Rental/Permits/liability Insurance

Contact person/reference:

- name: Mr. Kirk Schaible
- title: Theater Director
- address: 100 Holloway Street, San Francisco, CA 94132
- telephone no.: 415-338-2020
- e-mail: Kirks@sfsu.edu

Personal References:

- 1) Mrs. Mala Anderson, Monterey County Judge 831-262-3837
- 2) Mr. James Davis, Retired, Monterey County District Attorney 831-334-0374
- 3) Mr. Anthony Canty, Marina Police Officer 650-630-5931
- 4) Mr. Mark Meyers, Attorney at law 831-238-0793
- 5) Mr. Kenny Adams, Former U.S. Olympic Boxing Coach 702-373-1405

**MARINA MUNICIPAL AIRPORT
CONDITIONAL AIRPORT SPECIAL ACTIVITY PERMIT CERTIFICATE
FOR THE USE OF DESIGNATED AREAS OF THE AIRPORT
FOR THE "SUMMER MADNESS FESTIVAL" EVENT**

THIS IS TO CERTIFY THAT, the City Council ("Council") of the City of Marina ("City"), at a regular meeting held on March 3, 2015, considered the following request after public notice and at a public hearing. The City Council at that meeting then approved this Conditional Airport Special Activity Permit (or "Permit") for use of areas of the tarmac at the Marina Municipal Airport for a scheduled non aviation-related event and activities in conjunction therewith under authority provided by Chapter 13.22 of the Marina Municipal Code, the Airport Operating Ordinance, and subject to the following conditions and restrictions.

REQUEST:

Request by the Earl Rowland, an individual, (hereinafter referred to as "Permittee"), for permission to use the Airport north, middle and south tarmacs (as indicated on Exhibit A attached hereto and made a part hereof).

BACKGROUND:

On June 19, 2014, a preliminary request was received from the Permittee to utilize areas of the Airport for an annual three-day summertime festival event. An executed fee agreement was made and entered into on November 25, 2014, by and between Permittee and the City for reviewing and processing the request.

The members of the City Council serve as members of the Airport Commission. The Airport Commission is authorized to enact policies and regulations governing operations and the conduct of business on the Airport subject to the approval of the City Council. In order to

keep the administrative record of the Airport Commission separate from the action of the City Council, the Commission's role is to recommend to the Council approval or disapproval of a request.

COUNCIL ACTION:

The City Council adopted the following findings in justification of granting this Permit and granted the Permit as described herein subject to each of its Conditions of Approval and authorized the City Manager to execute same as described herein.

FINDINGS:

In issuing this Permit, the City Council hereby finds that, under strict conditions of approval:

1. Permittee's non aviation-related event and activities and use of the tarmac areas and Airport facilities will not be detrimental to the environment or to the health, safety, peace or general welfare of the City, the Airport, the surrounding properties or the community-at-large.
2. Permittee's non aviation-related activities will not be detrimental or injurious to the efficiency and utility of the Airport or to Airport property and improvements.
3. Permittee's non aviation-related activities, if conducted in accordance with the Conditions of this Permit will be consistent with the Environmental Guidelines, the General Plan, the Airport Master Plan, the Airport Layout Plan, the Airport Operating Ordinance and the Zoning Ordinance of the City. The long-term use of the property is designated for aviation-related development in the Airport Master Plan and Airport Layout Plan.

4. Permittee's non aviation-related activities and the use of the tarmac areas and Airport facilities will not present or create a safety hazard to the normal operations of aircraft arriving or departing from the Airport.
5. Reasonable time period can be and are herein designated for Permittee's non aviation-related activities.
6. A charge of \$20,000.00 shall be made for this proposed use.
7. The form and amount of liability insurance required herein, naming the City and the Airport as additional insured parties to be obtained from the Permittee are reasonably related to the Airport's liability exposure and are not unjustly discriminatory. It is further found that, because those insurance requirements are appropriate under the unique characteristics of the proposed use, this finding shall not be construed to indicate a precedent for insurance requirements for any other use.

CONDITION PRECEDENT & EFFECTIVE DATE:

Approval of this proposed use of the Airport by the Federal Aviation Administration (FAA) shall be a condition precedent to the effectiveness of this Permit. City shall have sole discretion to determine the satisfaction of this condition, which discretion shall be exercised upon a reasonable basis after conferring in good faith with Permittee. Following its approval by the City, the effective date of this Permit ("Effective Date") shall be that date determined by the City when FAA approval has been received. City will notify Permittee in writing of the Effective Date. The City is responsible for obtaining FAA approval and Permittee shall fully cooperate with the City's efforts related thereto.

Permittee acknowledges the City makes no representation concerning FAA approval and any commitment entered into by Permittee prior to FAA approval would be at Permittee's sole risk.

EVENT DESCRIPTION:

The Event, known as “Summer Madness Festival,” is a summertime event proposed to take place over a period of three days. The Event is open to the public and will include live music on a main stage located on the south tarmac. The Event will also include a classic car show and cruise, a food competition, an aviation museum, arts and crafts vendor booths, inflatable games (e.g., rubbers slides, bouncing balls), and the sale of food and beverages, including beer and wine. All activities will be set back at least 60 feet from Taxiway A.

Approximately 500 to 4,000 visitors per day are expected to attend the Event. Event participants will access the site via Alpha Street and continue past the south tarmac to designated parking areas, as shown on Exhibit B. The middle and north tarmac areas (“lots C and D”) and the adjoining pavement areas to the east linking these two areas will serve as parking lots. Permittee will provide personnel to control access to and from the tarmac areas and avoid deviating onto Taxiway A. Pedestrian access will be provided between parking and event areas and will not utilize the taxiway.

Event hours of operations are from 7 AM to 8:30 PM. Table 1 provides a summary of Event activities by time and date.

TABLE 1. Preliminary 2015 Event Schedule

Date	Start	End	Activity/Description
07/30/15	8:30 AM	6:30 PM	Setup (1)
07/31/15	9:30 AM		Main gate opens
	10:00 AM	7:30 PM	Inflatable games
	10:00 AM	5:45 PM	Musical performances (7 in total)
	5:45 PM	7:45 PM	VIP Tent Sponsors Gala
		8:00 PM	Event closes

08/01/15	7:00 AM	12:00 PM	Classic car cruise and competition
	9:30 AM		Main gate opens
	9:30 AM	7:30 PM	Inflatable games
	10:00 AM	5:45 PM	Musical performances (7 in total)
	5:45 PM	7:45 PM	VIP Tent Sponsors Gala
		8:00 PM	Event closes
08/02/15	9:30 AM		Main gate opens
	9:30 AM	7:30 PM	Inflatable games
	10:00 AM	5:45 PM	Musical performances (7 in total)
	5:45 PM	7:45 PM	VIP Tent Sponsors Gala
		8:00 PM	Event closes
08/03/15	7:00 AM	6:00 PM	Load-Out and Clean-Up (2)

Notes:

1 = Setup activities will include delivery and set-up of main stage, sound equipment, vendor booths, seating areas, aviation museum, food competition area, inflatable games area, and portable toilets. If fencing is not already present, delivery and set-up of fencing separating the tarmac areas from Taxiway A.

2 = Clean-up activities will involve the tear down and load out of all program elements (i.e., stage, sound equipment, seating, portable toilets, etc.), inspection of all facilities, and removal of all trash.

Based on the Permittee's request, up to 75 square feet of designated hangar or another City-owned facility building space may be used for storage and as a staging area, subject to confirmation of availability and approval by the Airport Services Manager.

In its advertising and promotional materials for the event, Permittee shall promote and aid the commerce of the Marina Municipal Airport and the City of Marina and use of City facilities by positive publicity for the City through its association with the event and to aid commerce and tourism within the City.

EVENT DAYS:

The Event is open to the public, upon payment of an entry charge, and held on certain dates in the summertime of 2015. Dates, once established, are subject to change with the Airport

Manager's approval. The dates of July 31 through August 2, 2015, represent Friday through Sunday.

TERM OF PERMIT:

Unless terminated earlier as approved herein, the term of this Permit will commence upon the Effective Date and will expire on December 31, 2015.

Event dates may be changed by mutual agreement of Permittee and the Airport Manager.

Permittee may cancel the Event for its convenience. Permittee's payment of 25 percent of the Event Charge, provided below, to be paid on or before ninety (90) days prior to the scheduled event start date is non-refundable unless the Event is canceled by Permittee for its convenience sixty (60) calendar days or as provided below.

If cancellation for convenience of the Event is effected by Permittee at any time, Permittee shall pay to the City an equitable charge for services or other work performed, as set forth below in that section entitled "Reimbursement of City's Costs and Expenses (Event Review and Processing)." The equitable adjustment for any termination shall provide for payment to the City for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by City relating to written commitments that were executed prior to the termination.

FEE:

There is no fee established for this use. The charge (Event Charge) for the 2015 Event shall be \$20,000.00 shall be made in advance as described below.

Permittee will pay to the City Finance Department a sum equal to 25 percent of the Event

Charge on or before ninety (90) days prior to the scheduled event start date. This amount shall be refundable to Permittee only in the event that:

(a) Airport operations, development, construction, maintenance, or modification subsequent to receipt of the deposit preclude holding the Event; or

(b) The Event is canceled by Permittee sixty (60) calendar days or more before any scheduled event or the cancellation due to the reasons given to excuse a default, as set forth in Section III of this Permit.

The balance of the Event Charge shall be paid to the City no later than thirty (30) days in advance of the Event.

All charges shall be recorded to the Airport Enterprise Fund (Airport Operating Fund Airport Permits Revenue Account No. 55.300.52380).

PERCENTAGE DUE CITY FOR FOOD AND BEVERAGE SALES:

All retail food and beverage and merchandise vending during any Event will be done by Permittee or by vendors or concessionaires under provisions of written contracts with Permittee. Permittee shall prepare and make available to the City upon request daily food and beverage concession reports. Permittee shall pay to the City, on or before two (2) weeks following the Event, five percent (5%) of all gross food and beverage revenues as determined by cash register receipts during an Event ("x" and "y" readings from cash registers shall be made available to the City upon request either during or after an Event) derived from the sale of food and/or beverage sold by permitted or by its vendors and concessionaires to attendees on each day of any Event. In the case where a vendor or concessionaire rents a booth or canopy from Permittee for the sale of food and/or beverage, the gross rate shall be calculated before taxes on the booth or canopy rental and the concession revenues received by

Permittee. Copies of concession or vendor agreements for food and beverage sold during the Event and full disclosure of all principals must be provided to the Airport Manager two (2) weeks prior to any Event. A notarized statement certified by a Certified Public Accountant of the above referenced revenue, along with payment of the aforementioned percentage must be provided to the City no later than two (2) weeks following the event. The Security Deposit provided herein for the Event will not be released until said statement and payment have been submitted to and accepted by the City.

REIMBURSEMENT OF CITY'S COSTS AND EXPENSES (EVENT REVIEW AND PROCESSING):

Permittee agrees to reimburse the City for the City's costs and expenses incurred for the Event including, but not necessarily limited to, a usual cost-of-service processing fee for review and inspections in connection with the Event and subsequent Permit amendments and Event-related services provided prior to, during and following the Event by the City's Community Development Department (including Airport, Planning, Building, Engineering and Public Works), Police Department and Fire Department. For the 2015 Event, City shall provide an itemized invoice to Permittee, verified by the Airport Services Manager, on or before four (4) weeks following that Event. Permittee will then reimburse the City for its costs and expenses on or before six (6) weeks following the Event or the amount may be deducted from the security deposit. If Permittee disputes any amount, it shall first pay the amount under protest. Thereafter, the matter shall be resolved by the Dispute Resolution provision contained herein.

SECURITY DEPOSIT: A refundable cash security deposit in an amount of not less than \$20,000.00 will be required no later than thirty (30) days in advance of the Event. The security deposit may be applied to damage to the Airport or to the City's costs and expenses related to the event not otherwise reimbursed. The security deposit will be refunded to Permittee on or before six (6) weeks following the Event, provided no claims remain

outstanding and all other conditions of the Permit are met and the Permittee has fully reimbursed City for City's cost and expenses as provided above.

The final amount of the security deposit to be made thirty (30) days in advance of the Event will be determined following the City's review and assessment of City resources requires for the Event based upon (1) the final site plan, (2) final parking plan, and (3) receipt of attendance estimates, all of which must be provided by Permittee not later than sixty (60) days prior to the Event.

BUSINESS LICENSE: No later than thirty (30) days prior to conducting any activity under the authority granted by this Permit, Permittee and any of its contractors or subcontractors for the event must apply, pay for and receive a City of Marina Business License from the City's Finance Department. This includes, but is not necessarily limited to, all vendors or concessionaries selling products and/or food or beverage and/or offering services at the Event. No later than ten (10) days prior to the Event, Permittee shall verify with the City's Finance Department that each of its contractors or subcontractors, including any vendors or concessionaires, have been issued a City of Marina business licenses.

AIRPORT STAFF ROLES AND RESPONSIBILITIES: The City Manager serves as the Airport Manager. The Airport Manager, or his or her designee, shall represent the City at all times in regard to Airport matters and has the duties and may exercise the powers listed below. As designated by the Airport Manager, the Airport Services Manager is empowered to oversee the day-to-day operations of the Airport and to apply and enforce the rules and regulations for the Airport, including Chapter 13.22 of the Marina Municipal Code. The City's rules and regulations for the Airport are supplemental to the Federal Aviation Regulations.

1. The Airport Manager shall at all times have authority to take such actions as may be deemed necessary to safeguard the public in attendance at the Airport.

2. The Airport Manager may suspend or restrict any or all operations at the Airport whenever such action is deemed necessary in the interest of safety.
3. The Airport Manager may suspend, as a means of safeguarding the Airport and the public, the privileges of the Airport and its facilities to any person refusing to comply with these rules and regulations.
4. The Airport Manager shall have authority to restrict Airport operations to such portion(s) of the Airport as he/she may deem necessary or desirable.
5. The Airport Manager may issue permits or written permission for use of the Airport as authorized in Chapter 13.22 of the Marina Municipal Code.
6. The Airport Manager, in any contingency or emergency not specifically covered by these rules and regulations, is authorized to make such decisions as to him/her may seem proper.

CONDITIONS OF APPROVAL:

This Permit is issued by the City and is accepted by Permittee upon the following terms, covenants and conditions and the breach of any said terms, covenants or conditions will be deemed sufficient cause for the suspension or termination of the Permit. In the event of a breach of any of the terms, covenants or conditions of this Permit, City shall determine if such breach is subject to cure. If a breach is subject to cure, Permittee, after receipt of written notice from the City, shall have a reasonable opportunity, as set forth in the notice of breach, to commence to and complete the cure of the breach. If Permittee disagrees with the City's determination that any breach is not subject to cure, or if the parties disagree on what is a reasonable time to complete the cure, Permittee may invoke the Dispute Resolution provisions of this Permit (Section VI). During the period from receipt of notice of the breach from the

City to the conclusion of the dispute resolution process, the Permit shall, at the City's option, remain suspended.

I Operational

1. Permittee's non aviation-related activities shall be confined to the areas of the tarmac and Airport facilities designated by the City and shown on the site plan area (Exhibit A) attached hereto and made a part hereof. Use of any other areas of the Airport for activities pursuant to this Permit must be approved in advance and in writing by the Airport Services Manager. The City shall have final approval of all site plans as provided herein and Permittee shall implement all safety measures required by the City to ensure public safety and to safeguard users of the Airport and aircraft. The City reserves the right to relocate or to cancel or suspend the Event at any time if, in the opinion of the Airport Manager, such relocation or suspension/termination is required for the public safety or the safe operation of the Airport. The City also reserves the right to limit attendance of the Event if, in the opinion of the Airport Manager, such limitation is required for the public safety or the safe operation of the Airport.

2. Pre- and post-event site inspections will be conducted by representatives of Permittee and the City, at a date and time agreed in writing prior to the Event, to determine existing conditions and evaluate in writing potential damages, if any. The security deposit will be refunded, as provided above, on or before six (6) weeks following the Event, if all conditions and restrictions are followed and public property is left in good condition and without damage and the City has been fully reimbursed for all costs and expenses as provided above. The cost to the City to repair or replace any post-event damage, or to effect removal and cleanup of any material or oil or gas spill remaining on the Event site after the end of the usage period (as defined herein) may be deducted from the security deposit. Permittee's use of the Airport must not affect access to or the use of premises leased to the City's tenants at the Airport.

Any unpaid balance owed, exceeding the security deposit, will be cause for termination of this Permit should Permittee not cure the balance owed in a reasonable time (i.e., 10 calendar days). Should any amount exceeding the security deposit remain unpaid, interest shall thereafter accrue at the rate of 1.5% per month until paid. After the Event, Permittee and the Airport Services Manager shall inspect the site of the Event and Permittee shall be entitled to an opportunity to cure any deficiencies identified during the inspection as provided in this Permit.

3. Permittee shall not use, nor shall its use affect access to or the use of, premises leased to the City's tenants at the Airport. In accepting this Permit, Permittee understands and acknowledges the City has entered into valid leases for areas and buildings on the Airport with tenants. Permittee recognizes the City's tenants, as a term of the Permit from the City, have exclusive rights to possession (including areas designated for parking motor vehicles or aircraft) and to the quiet enjoyment of their respective leaseholds. If Permittee requires use of any areas leased to a tenant of the City in conjunction with the Event held within the event site, City will attempt to work with the tenants in obtaining the tenant's consent to such use.

4. Should Permittee request exclusive use of a hangar or another City-owned facility that may then be available on the Airport, the City will attempt to arrange for the temporary relocation of Aircraft from the hangar to an area of the Airport to be designated on the site plan for the Event. The City's cost to effect such relocation, including its costs to compensate its tenant's in said hangar for the temporary loss of their leaseholds through a rental rebate shall be reimbursed by Permittee. If use of any facility by Permittee results in a loss of any payment from tenants to which the City would otherwise be entitled, in order to accommodate Permittee, Permittee shall reimburse the City for the actual amount of payments the City loses.

Permittee will be responsible for leaving any facility used for the Event, such as a hangar floor, in the same condition as when access was granted by the City (i.e., undamaged, dry and broom clean).

5. At least thirty (30) days prior to conducting any activities or an Event on the Airport, Permittee will provide a final written schedule of its proposed activities to the Airport Services Manager and will keep the Airport Services Manager fully informed on a timely basis by providing prior written notice concerning any and all changes concerning events listed in that schedule. Permittee will reasonably accommodate the City's written request for changes to the schedule of proposed activities. At least thirty (30) days prior to the event, Permittee will provide to the Airport Services Manager a current list of names, phone numbers, and e-mail addresses for principal contact persons who are responsible for the conduct of that Event both on- and off-site and who should be contacted in the event of an emergency. Prior to the scheduled Event, Permittee will attend a pre-event briefing with City staff to ensure coordination of the Event and emergency procedures.

6. Permittee's activities and operations shall be conducted only from 7:00 AM to 8:30 PM. Unreasonable and disruptive noise is prohibited and Permittee shall comply with the provisions of the City's Noise Ordinance.

7. For the Event the Permittee shall provide for the Airport Services Manager's approval a site plan ("Site Plan") which shows detailed diagrams depicting a reasonably accurate description and scale of the Event areas. The Site Plan must be provided not later than sixty (60) days prior to the Event and shall include, but is not limited to: safety setbacks, the main stage and any other entertainment areas; loud speakers (including location and orientation); seating areas; vendor and concession booths or canopies; ticket booths or canopies; onsite bank next to ticket area; portable toilets; dumpsters; public, emergency and accessible routes; locations for electricity and water; generators (including grounding and approximate locations of power cables); lighting towers; A/C units; medical tent; fire suppression equipment; fenced or walled areas for exclusive use of Permittee; disabled access elements, such as accessible parking, accessible paths of travel, accessible portable toilets and other relevant elements; and any areas leased to tenants at the Airport to be used by Permittee, with the tenant's consent as provided in Paragraph 3 herein. Any and all lighting towers and A/C units must be fenced

or barricaded to prevent crowds from coming into contact with them. The City's fire station (no. 2) and designated helicopter pad at the Airport will act as the first aid facility and emergency air evacuation, as needed, for any significant first aid and/or emergency assistance. In addition, a narrative describing all temporary installations must be attached. Once a Site Plan is approved, it cannot be altered without the prior written consent of the Airport Services Manager.

8. An accurate plan of the location of parking for Event participants, exhibitors and vendors ("Parking Plan") must be prepared by Permittee and approved in advance by the Airport Services Manager not less than sixty (60) days prior to the Event. This plan shall include, but is not limited to: safety setbacks, streets and lanes, pedestrian or crowd lines, parking areas for participants, parking areas for exhibitors and vendors (including areas for trucks used to transport equipment and/or supplies), and the number of automobiles reasonably expected to be present at the Event. A traffic management plan showing the Airport gated entry and route to be used for ingress and egress to the Event site, the location of directional signs, security fencing, and barricades, if needed, shall be submitted as part of the Parking Plan to the Airport Services Manager at least sixty (60) days before the Event.

9. Traffic entering or leaving the Event site shall avoid crossing Taxiway A by accessing the site through the gate at Alpha Street and following the traffic route shown on Exhibit B. Permittee shall provide personnel to control access to and from the Event site, particularly the tarmac areas, as shown on Exhibit B.

The City may allow Permittee's traffic control personnel to manage traffic coming into the area on streets leading to the Airport. The City will coordinate with Permittee in order to ease traffic through intersections in the area, as necessary. The City's Police Department will be involved in oversight of the process for safety and law enforcement and Permittee will be charged for the involved officers' hours at their respective fully benefited rates of pay and pay the same before July 1 of any year during which an Event is held.

10. For the Event the Permittee shall provide for the Airport Services Manager's information a report on advanced ticket sales and Permittee's total attendance estimates for each day of the Event ("Attendance Estimate"). The Attendance Estimate must be provided not later than sixty (60) days prior to the Event.

11. The City will work with Permittee to provide adequate directional signs, traffic cones and sign placement directing participants and exhibitors to the Event site. These signs will need to be clearly visible and the City agrees to be fully cooperative and aid Permittee in working with the local authorities, county, state and other municipalities and officials to aid in directing people to the site as well.

12. All furnishings, including but not limited to fencing, tenting, staging, tables, linen and chairs, and the like, that will be used by Permittee on Event days, will be organized and order by Permittee or Permittee's preferred vendor.

13. Sand bags shall be used whenever possible to "stake down" tents in asphalted areas around concrete tarmacs. If staking is need, Permittee will repair asphalt areas affected by Permittee's staking, using the customary cold patch process to the satisfaction of the Airport Services Manager.

14. Set-up and break-down of equipment associated with the Event will occur on the day preceding and following the Event. All equipment and materials must be removed from the tarmac areas used for the Event before 5:00 PM on the day following the last day of successive event activity days and the site returned to its pre-event condition, unless other arrangements are approved in advance by the Airport Services Manager. Permittee is responsible to pay any maintenance or cleanup costs associated with the Event.

Permittee is responsible for installing and securing any security fencing (6 feet high), traffic cones, signs, striping or tape used to delineate areas, trash cans, portable toilets, tents, structures or other materials, equipment or supplies brought onto the site for the Event. In the event security fencing is already in place, Permittee shall pay their fair share contribution to reimburse the parties that have erected existing fencing. The fair share contribution shall be based on a per diem cost for the time Permittee uses the tarmac areas.

15. If water is required to clean the event site, it shall be accomplished using non-potable water whenever possible unless potable water is required for reasons of health or safety.

16. In the event of any damages from the Permittee's activities, Permittee shall pay for and repair all damages to Airport facilities to the City's satisfaction on a schedule to be determined by the City. If Permittee's activities on the site damages, for example, the tarmac due to a fuel spill and the tarmac softens or otherwise becomes unusable, Permittee's shall be responsible for the cost of repairs to the damaged tarmac.

17. If, in the sole determination of the Airport Services Manager, the event site requires sweeping for rocks and small debris following an event as a result of Permittee's activities, the Airport Services Manager will so notify Permittee who will have an option to sweep debris from the site to the satisfaction of the Airport Services Manager or to request the City to sweep debris. In the event that City personnel are required to remove debris from the Event site, a charge of \$150.00 per hour with a two-hour minimum will be assessed to Permittee's and, if not paid, may be deducted from Permittee's Security Deposit. All sweeping must be completed no later than 5:00 PM on the day following break-down activities.

18. Ample garbage and refuse containers with snug fitting lids must be provided for food facilities and for public use to the satisfaction of the Airport Services Manager. Garbage and refuse containers must be emptied as necessary during the Event so as not to overflow during or after an event. All trash must be removed from the site and the Airport no later than the

day following the Event. In the event that City personnel are required to remove garbage or refuse from the event site, a charge of \$80.00 per hour per employee with a two-hour minimum shall be assessed to Permittee and, if not paid, may be deducted from Permittee's Security Deposit.

19. Adequate portable restrooms, including ADA accessible facilities, will be shown on the Site Plan and provided for the Event in such numbers and locations as may be required by the Monterey County Health Department and the Airport Services Manager, and these portable restrooms must be serviced and pumped by a sanitation truck as required. There must be no dumping of any materials into existing sewers serving the Airport.

20. Permittee is responsible for conducting the Event and its operations in accordance with the American with Disabilities Act.

21. Fire lanes as designated by the City must remain open at all times. Permittee agrees that it will not cause or permit any vehicle, or other equipment to be parked within the boundaries of such fire lanes or use the fire lanes in a manner that interferes with equipment and personnel traversing fire lanes in the course of fire suppression activities. Permittee shall prepare an Emergency Action/Fire Protection Plan including provision for egress and ingress to the Event site in the event of an emergency. A current plan shall be kept on file with the City's Fire and Police Departments. All fire hydrants shall remain accessible and unobstructed for Fire Department use.

No later than 48-hours prior to the Event, Permittee must contact the City's Fire Department to arrange for a fire safety inspection prior to the commencement of the Event. Any deficiencies identified by the fire safety inspection must be corrected prior to commencement of the Event. Fire extinguishers fully charged and with tags affixed, will be provided as required by the City's Fire Department. There will be no open air use of hazardous or flammable materials or pyrotechnic devices. All fuel shall be stored and dispensed properly

from adequately vented containers. Use of barbecue, fireworks or any open fire during the Event will require prior approval of the Fire Chief.

22. Permittee will provide certified and qualified Emergency Medical Technician (EMT) personnel as required by the City's Fire Department, and first aid kits and supplies as approved in advance by the City's Fire Department at the medical tent shown on the Site Plan. EMT personnel, first aid kits and supplies shall be available for the duration of the Event.

23. Any accident requiring medical attention must be reported in writing to the Airport Services Manager immediately.

24. Any damage to property must be reported in writing to the Airport Services Manager immediately.

25. Permittee by accepting this Permit acknowledges that it has received and will abide by the rules and regulations set forth in the Airport Operating Ordinance (Marina Municipal Code Chapter 13.22), and with all other applicable federal and state statutory and decisional laws, County of Monterey and City of Marina ordinances, rules and regulations, and the requirements of any other duly authorized government agency.

26. Permittee's must, within 24-hours from the time of an accident or an incident or reportable event which violates Airport Rules and Regulations or this Conditional Airport Special Activity Permit, provide a written report of the incident to the Airport Services Manager using a form approved by the City, as set forth in Exhibit C.

27. Permittee will provide security certified and qualified personnel for the Event, as approved by City's Police Department. The security company shall be certified under the State of California and all security personnel shall possess a California Guard Card. All hired

security personnel shall be unarmed, except as approved by the Police Department for providing armed guards at the onsite bank for securing cash sales received from ticket booth area.

28. Permittee will obtain and pay for any necessary permits, licenses and other consents for the operation of the Event. It shall be the responsibility of Permittee under this Permit to contact, consult and comply with any rules or regulations applicable to Permittee's activities at the Airport which are now or may be promulgated by a local municipality (including the City), the County of Monterey, the State of California or a public or private utility provider or regulator having jurisdiction over activities or utility services at the Airport, including, but not limited to, the City of Marina, the County of Monterey, Monterey County Health Department, the State of California Alcoholic Beverage Control, Pacific Gas and Electric Company, Monterey Regional Water Pollution Control Agency, Marina Coast Water District, and the Monterey Bay Unified Air Pollution Control District.

29. Permits must be obtained from the Monterey County Health Department for any temporary food or beverage service or preparation facilities at least ten (10) days prior to the Event. Permittee, through its designated vendors or concessionaires, may sell food and beverages, including alcohol, to its visitors, exhibitors, sponsors and clients during the Event as is common in events such as these as long as those selling food, beverage and alcohol have the appropriate permits from the governing bodies. Valid special event or caterer's alcoholic beverage license(s) must be obtained from the California Alcoholic Beverage Control for permission to sell alcoholic beverages at the Event. Permittee must provide proof of said license(s) to the Airport Services Manager at least thirty (30) days prior to the Event. Without said license(s), no person shall possess or consume any alcoholic beverage in or around any area when Permittee's activities are taking place.

30. The City shall make available to Permittee maps in its possession showing the location of sewer, water, electrical, gas, high-speed internet and activated or activatable telephone

hubs, and any other utility lines located adjacent or nearby to the Event site. Permittee shall be responsible for arranging for the delivery and paying for all utilities required on the Event site. Permittee shall be responsible to provide and pay for all new connection equipment and any fees required. The City cannot and does not guarantee that there will be no interruptions of service and Permittee hereby waives any rights or claims it may have resulting from temporary interruptions of service. To the extent it has knowledge, the City will provide notice of any work scheduled which may interrupt the utility service to the Event site. If City is unable to provide access to utility service facilities due to the imposition of any limit on consumption or on the construction of additional utility facilities, or the allocation or curtailment of utility facilities or service by law or regulation, it shall have no obligation hereunder. Permittee shall pay directly to the provider for all utility service. In the event Permittee fails to pay any utility bill when due, the City may, at its option, pay the same and collect from Permittee's security deposit the amounts so disbursed, plus interest at the rate of 1.5% per month or fraction thereof.

31. Parking for motor vehicles including utility trucks shall be as designated on the Site Plan in areas outside the air operations areas of the Airport. There must be no overnight or vehicle camping or long-term (more than 72-hours) vehicle storage on Airport property, unless same is approved in advance by the Airport Services Manager. Vehicles approved for overnight camping shall, if using an external power source, draw power from Permittee's utilities, or if using City-provided utilities, pay the City the charge of \$80.00 for such use. Any circumstances which arise during the Event which is expected to impact Permittee's ability to leave the site clean and vacant, such as the presence of an inoperable vehicle, shall be immediately communicated to the Airport Services Manager.

32. Permittee will be responsible for, and must take all measures required to ensure that participants or spectators do not trespass onto leased premises at the Airport or outside of designated areas, as shown in Exhibit A. Permittee will be responsible for ensuring that participants or spectators do not deviate upon, on to, or across Taxiway A.

33. To the extent applicable Permittee shall comply with all FAA assurances as shown on Exhibit D attached hereto and made a part hereof.

34. Permittee shall cooperate with the Airport Services Manager in notifying pilots, users and tenants of the Airport about the Permittee's event activities and explaining how these activities will affect the Airport and airport operations and make reasonable changes in response to information received from pilots, users and tenants.

35. Sponsorship banners and signs are allowed within the designated event area in locations approved by the Airport Services Manager and indicated on the Site Plan. Banners and signs shall be promptly removed after the Event.

36. Permittee shall provide the Airport Services Manager with entry handtags and credentials for City staff and City-invited guests to enter the Event and to park in areas designated for VIP parking. The number of entry handtags and credentials shall be limited and will be determined by mutual agreement of Permittee and the Airport Services Manager prior to the Event not to exceed 20.

37. No person shall possess or consume any illegal drug in or around any areas of the tarmac when Permittee's activities are taking place. No person employed by or providing service to Permittee shall consume and/or have in their system any alcoholic beverage or illegal drug in or around any areas where Permittee's activities are taking place.

38. Permittee shall possess adequate insurance and assume full liability for its activities.

II INSURANCE AND INDEMNIFICATION REQUIRED

1. **Insurance.** Permittee agrees to provide insurance in accordance with the requirements set forth herein. If Permittee use existing coverage to comply with these requirements and that coverage does not meet the requirements set forth herein, Permittee agrees to amend, supplement or endorse the existing coverage to do so. The following coverage will be provided by Permittee and shown as having been issued the policies of insurance required herein and which must be maintained on behalf of the City in accordance with the requirements set forth herein.

In the event of cancellation, reduction of or change in coverage, or a substantial premium increase (in excess of \$500.00) of the City's airport liability insurance as a result, in whole or in part, of the operations allowed by this Permit, this Permit shall be suspended effective as of the date of any such change. Upon receipt of notice of any such change in coverage City shall promptly notify Permittee.

Permittee's and City further agree concerning the insurance coverage's required by this Permit as set forth in **Exhibit E**, attached hereto and by this reference incorporated herein. If the Permittee maintains additional coverage or higher limits that those required within the Insurance Requirements section, then entity shall be entitled to additional coverage or higher limits maintained by Permittee.

Commercial General Liability/Umbrella Insurance. Primary insurance shall be provided on ISO-CGL form approved by the Monterey Bay Area Self Insurance Authority (MBASIA). Total limits shall be no less than one million dollars (\$1,000,000.00) per occurrence for all coverage's and five million dollars (\$5,000,000.00) general aggregate. The City, its Airport, Council, boards and commissions, officers, employees, agents and volunteers must be added as additional insured's using ISO-additional insured endorsement form approved by the City's Attorney. Coverage shall apply on a primary non-contributing

basis in relation to any other insurance or self-insurance, primary or excess, available to the City or any agent of City and shall include contractual liability coverage with respect to Permittee's indemnity obligations (it being understood, however, that the availability of such insurance shall not serve to limit or define the scope of Permittee's indemnity obligations in any manner whatsoever). Coverage shall not be limited to the vicarious liability or supervisory role of any additional insured. Umbrella Liability Insurance (over primary) in the amount of nine million dollars (\$9,000,000.00) shall apply to bodily injury/property damage, personal injury/advertising injury, at a minimum, and shall include a "drop down" provision providing primary coverage above a maximum \$25,000.00 self-insured retention for liability not covered by primary policies but covered by the umbrella policy. Coverage shall be following form to any underlying coverage. Coverage shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits. There shall be no cross liability exclusion. Policies shall have concurrent starting and ending dates.

Business Auto. Primary coverage must be written on ISO Business Auto Coverage form CA 00 01 06 92 including symbol 1 (Any Auto). Limits shall be no less than one million dollars (\$1,000,000.00) per accident. Starting and ending dates shall be concurrent. Coverage shall be endorsed to provide that the City, its Council, boards and commissions, officers, employees, agents and volunteers shall be added as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Permittee or for which the Permittee is responsible. If Permittee owns no autos, a non-owned auto endorsement to the commercial general liability policy described above is acceptable.

Liquor Liability. Proof of liquor liability coverage shall be provided for approval of the City at least thirty (30) days before the Event. Coverage shall be written on an occurrence basis and in a form approved in advance of the Event in an amount of not less than one million dollars (\$1,000,000.00) per occurrence. The City shall be added as an additional insured by an endorsement approved in advance by the City.

Workers' Compensation/Employer's Liability. Workers Compensation and Employers' Liability shall be written on a policy form providing workers' compensation statutory benefits as required by law. Employers' liability limits shall be no less than one million dollars (\$1,000,000.00) per accident or disease. Employers' liability coverage shall be scheduled under any umbrella policy described above. Unless otherwise agreed, this policy shall be endorsed to waive any right of subrogation as respects the City, its Airport, Council, boards and commissions, officers, employees, agents and volunteers.

Approval of Insurance Coverage. Upon Permittee's acceptance of this Permit, a copy of the insurance policy or policies required herein or, in lieu thereof, the face page of such policy or policies and any endorsements which limit or otherwise affect the coverage provided therein shall be delivered by Permittee to the Airport Manager for approval as to form and sufficiency. When such insurance policy or policies have been so approved, Permittee may substitute for same a certificate of insurance issued by the respective insurance company or companies certifying that such insurance policies are in full force and effect and that all liabilities arising out of this Permit or Permittee's activities and use of the Airport are covered by such insurance policy or policies. Notwithstanding any provisions to the contrary contained herein, Permittee shall not have the right to undertake any activities on the Airport property until such insurance policy or policies are filed with and approved by the City. Further, and notwithstanding any provision to the contrary herein, if Permittee is unable to obtain the insurance coverage required by this Permit and such coverage is not reasonably affordable as determined by Permittee, Permittee may cancel the Permit.

Review of Insurance Coverage. City is entitled at any time during the term of this Permit to review the type, form and coverage limits of the insurance requirements. If in the opinion of the City, the insurance provisions of this Permit are not sufficient to provide reasonably adequate protection for the City and the members of the public using the Airport, the City may require Permittee to maintain insurance reasonably sufficient to provide such

adequate protection. Such requirements shall be consistent with industry standards. City shall notify Permittee in writing of any changes in the insurance provisions necessary to provide adequate protection. If Permittee does not deposit acceptable certificates evidencing valid insurance policies acceptable in form and content to the City, incorporation such changes, within ten (10) days of receipt of such notice, this Permit will be in default. The procuring of such policy of insurance will not be construed to be a limitation upon Permittee's liability nor as a full performance of its part of the indemnification provisions of this Permit; Permittee's obligation being, notwithstanding said policy or policies of insurance, the full and total amount of any damage, injury or loss caused by the negligence or neglect connected with the operations under this Permit.

2. **Indemnity.** Permittee and City agree that City, its Airport, Council, boards and commissions, officers, employees, agents, and volunteers, should to the extent permitted by law, be fully protected from any loss, injury, damage, claim, lawsuits, cost, expense, attorney's fees, litigation costs, defense costs, court costs or any other cost arising out of or in any way related to the activities permitted by this Permit (whether directly, indirectly or arising out of or connected in any way with the activities provided for herein). Accordingly, the provisions of this indemnity provision are intended by the parties to be interpreted and construed to provide the fullest protection possible under the law to the City. Permittee acknowledges that City would not grant this Permit in the absence of the commitment from Permittee's to indemnify and protect City as set forth here.

To the full extent permitted by law, Permittee shall defend, indemnify and hold harmless City, its Airport, Council, boards and commissions, officers, employees, agents, and volunteers, from any liability, claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, actual attorney fees incurred by City, court costs, interest, defense costs including expert witness fees and any other costs or expenses of any kind whatsoever without restriction or limitation incurred in relation to, as a consequence of or arising out of or in any way

attributable actually, allegedly or impliedly, in whole or in part to the activities associated with this Permit. All obligations under this provision are to be paid by Permittee as they are incurred by the City.

In no event shall the City be liable, whether in contract, warranty, tort (including negligence and strict liability) or otherwise, for any special, indirect, incidental or consequential losses or damages of any kind or nature whatsoever.

Without affecting the rights of the City under any provision of law, this Permit or this section, Permittee's shall not be required to indemnify and hold harmless City as set forth above for liability attributable to the sole fault of City, provided such sole fault is determined by agreement of the parties or the findings of a court of competent jurisdiction. This exception will apply only in instances where the City is shown to have been solely at fault and not in instances where Permittee is solely or partially at fault or in instances where City's fault account for only a percentage of the liability involved. In those instances, the obligation of Permittee will be all inclusive and City will be indemnified for all liability incurred, even though a percentage of the liability is attributable to conduct of the City.

Permittee acknowledges that its obligation pursuant to this section extends to liability attributable to the City, if that liability is less than the Sole fault of City. Permittee has no obligation under this Permit for liability proven in a court of competent jurisdiction or by written agreement between the parties to be the sole fault of the City.

The obligations of Permittee's under this or any other provision of this Permit will not be limited by the provisions of any workers' compensation act or similar act. Permittee's expressly waives its statutory immunity under such statutes or laws as to City, its Airport Council, boards and commissions, officers, employees, agents, and volunteers.

If any action or proceeding is brought against any indemnified party by reason of any of the

matters against which Permittee has agreed to defend the indemnified party, as provided above, Permittee, upon notice from the City, shall defend any indemnified party at Permittee's expense by independent counsel reasonable acceptable to the City. An indemnified party need not have first paid for any of the matters to which it is entitled to indemnification in order to be so indemnified.

Permittee's agrees to obtain executed indemnity agreements with provisions identical to those set forth in this section from any contractor, vendor or any other person or entity involved by, for, with or on behalf of Permittee in the performance of the subject matter of this Permit. In the event Permittee fails to obtain such indemnity obligations from others as required here, Permittee agrees to be fully responsible according to the terms of this section.

Failure of the City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend City as set forth herein is binding on the successors, assigns, or heirs of Permittee's and shall survive the termination of this Permit or this section.

III SUSPENSION OR TERMINATION

This Permit may be immediately suspended at any time for a violation of any of the conditions of approval as set forth herein. Immediate verbal notice, following within not more than 24-hours by written notice of suspension shall be given to Permittee, or that person then in-charge of conducting Permittee's activities on the Airport, by the Airport Manager or Airport Services Manager. The notice shall set forth the specific violation for which the immediate suspension is imposed. Permittee agrees that, upon receipt of verbal or written notice of suspension from the Airport Manager, whichever is first given, it will immediately cease and suspend all their activities on the Airport.

Airport Manager agrees to cooperate with Permittee in its efforts to remedy or to address the violation cited in the notice of suspension. If and when such violation has been addressed to the satisfaction of the Airport Manager, a written notice of Permit reinstatement shall be given to Permittee.

Permittee acknowledges by its acceptance of this Permit that FAA regulations may require the City to terminate any or all non aviation uses at the Airport. In that event, the City may take action to terminate this Permit. Such termination at the direction of the FAA is agreed to be the "termination for good cause."

This Permit may be terminated by action of the City Council, after notice, provided, however, this Permit shall not be terminated without a showing of good cause. Good cause shall include a material breach of the requirements of the Permit that is not or cannot be cured by Permittee within a reasonable period of time for the type of breach in question.

Permittee or the City shall not be in default under this Permit in the event that their activities are temporarily interrupted for any of the following reasons: riots, war or national emergency declared by the President or Congress and affecting the City of Marina; sabotage; civil disturbance; insurrection; explosion, natural disasters such as floods, earthquakes, landslides and fires; strikes, lockouts and other labor disturbances; or other catastrophic events which are beyond the reasonable control of Permittee or the City. "Other catastrophic events" does not include the financial ability of Permittee to perform or failure of Permittee to obtain any necessary permits or licenses from other governmental agencies or the right to use facilities of any public entity where such failure occurs because of Permittee has failed to exercise reasonable diligence.

If cancellation for convenience of the event is effected by Permittee, Permittee shall pay to the City an equitable charge for services or other work performed and the charges as provided herein. The equitable charge for termination for Permittee's convenience shall provide for

payment to the City for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by the City relating to written commitments that were executed prior to termination.

In the event it should become necessary for either party to enforce or interpret any of the terms and conditions of this Permit by means of court action or administrative enforcement, the laws of the State of California shall govern the interpretation of the terms and conditions of this Permit and such action shall be brought in a court of proper jurisdiction in Monterey County, the prevailing party, in addition to other remedy at law or in equity available to such party, shall be awarded all reasonable costs and reasonable attorney's fees in connection therewith, including the fees and costs of experts reasonably consulted by the attorney for the prevailing party.

IV NON-DISCRIMINATION

Permittee, for itself and any of its visitors, vendors, concessionaires or others engaged in activities in furtherance of the purposes for which this Permit is granted, as part of the consideration hereof, does hereby covenant and agree that no person on the grounds of race, color, national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of any City property. That in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, religion, sex or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subject to discrimination.

V NON-TRANSFERABILITY, NO EXCLUSIVE RIGHT, NO RIGHT TO LEASE, NO LONG-TERM USE CONTEMPLATED BY THE PARTIES, AMENDMENT

This Permit is non-transferable.

This Permit shall not be construed or interpreted as an “exclusive right” within the provisions of section 308a of the FAA Act of 1958, as amended.

This Permit is not and may not be construed as a lease of any City property, nor does it convey any right to such a lease.

In the event of a request or action by the FAA to cease or terminate the activities as set forth in this Special Activity Permit, such permit shall become immediately null and void without requirement of any further action by the City Council.

This Permit may be amended only by a writing signed by the authorized representatives of both the City and Permittee.

VI DISPUTE RESOLUTION

If any dispute arises between the parties as to proper interpretation or application of this Permit, the parties shall first meet and confer in a good faith to attempt to resolve the matter between themselves. If the dispute is not resolved by meeting and conferring, and both parties agree, the matter may be submitted for formal mediation to a mediator selected mutually by the parties. The expenses of such mediation shall be shared equally between the parties. If the dispute is not or cannot be resolved by mediation, the parties may mutually agree (but only as to those issues of the matter not resolved by mediation) to submit their dispute to arbitration. Before commencement of the arbitration, the parties may elect to have the arbitration proceed on an informal basis; however, if the parties are unable so to agree, then the arbitration shall be conducted in accordance with the rules of the American Arbitration Association. The decision of the arbitrator shall be binding, unless within thirty (30) days after issuance of the arbitrator’s written decision, any party files an action in court. Venue and jurisdiction of any such action between the parties shall lie in the Superior Court for the County of Monterey.

or to such other address as either party may from time to time specify as its address for the receipt of notices hereunder, in a notice to the other party. Notices given by an attorney shall be deemed to constitute notice from that party.

VII AUTHORITY

The individuals executing this Conditional Airport Special Activity Permit on behalf of the City of Marina and Earl Rowland represent and warrant that they are duly authorized to execute and deliver this permit and that this Permit is binding in accordance with its terms.

THIS CERTIFICATE IS TO NOTIFY requester Earl Rowland that the above described Conditional Airport Special Activity Permit was approved by the City Council and Airport Commission.

Dated: March ____, 2015

Marina, California

**APPROVED
FOR THE CITY OF MARINA**

Layne Long
City Manager/Airport Manager

ACKNOWLEDGED

Jeff Crechriou
Airport Services Manager

Approved as to form:

City Attorney
City of Marina

ACCEPTED

Early Rowland by executing this Conditional Airport Special Activity Permit represents and warrants that he is executing and delivering this Conditional Airport Special Activity Permit on behalf of himself and that Conditional Airport Special Activity Permit is accepted by him in accordance with its terms.

I HAVE READ, UNDERSTAND AND ACKNOWLEDGE AND AGREE TO THE CONDITIONS SET FORTH IN THIS PERMIT:

Dated: _____, 2015.

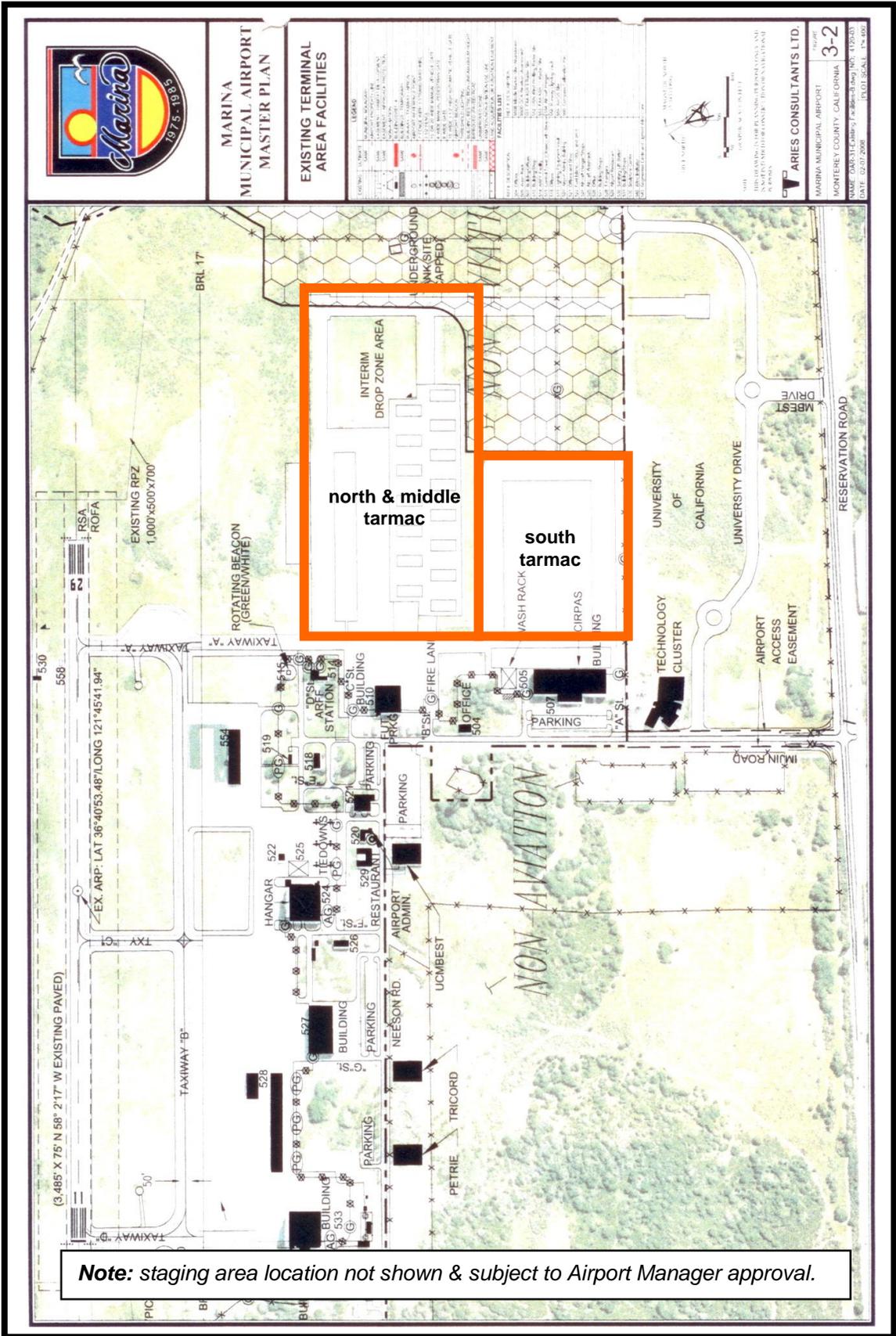
Earl Rowland

ATTACHMENTS

- EXHIBIT A SITE PLAN OF NORTH, MIDDLE & SOUTH TARMACS
- EXHIBIT B ACCESS ROUTE TO TARMAC
- EXHIBIT C INCIDENT REPORT FORM
- EXHIBIT D FAA ASSURANCES
- EXHIBIT E INSURANCE PROVISIONS

EXHIBIT A

SITE PLAN OF NORTH, MIDDLE AND SOUTH TARMACS



Note: staging area location not shown & subject to Airport Manager approval.



Map prepared by Justin Meek (2/4/2015) | S:\GIS\Clean GIS Files\WXDX\Airport\Summer Madness Special Event at Airport.mxd

EXHIBIT B Access Route to Tarmacs at Marina Municipal Airport

EXHIBIT C
INCIDENT REPORT FORM

Date of Incident _____ Pilot in Command _____

Total Passengers _____ Name of Ground Observer _____

Name of Person(s) Involved: _____

Explanation: _____

Report Prepared by _____ Date _____

Received by _____ Date / Time _____

MARINA MUNICIPAL AIRPORT

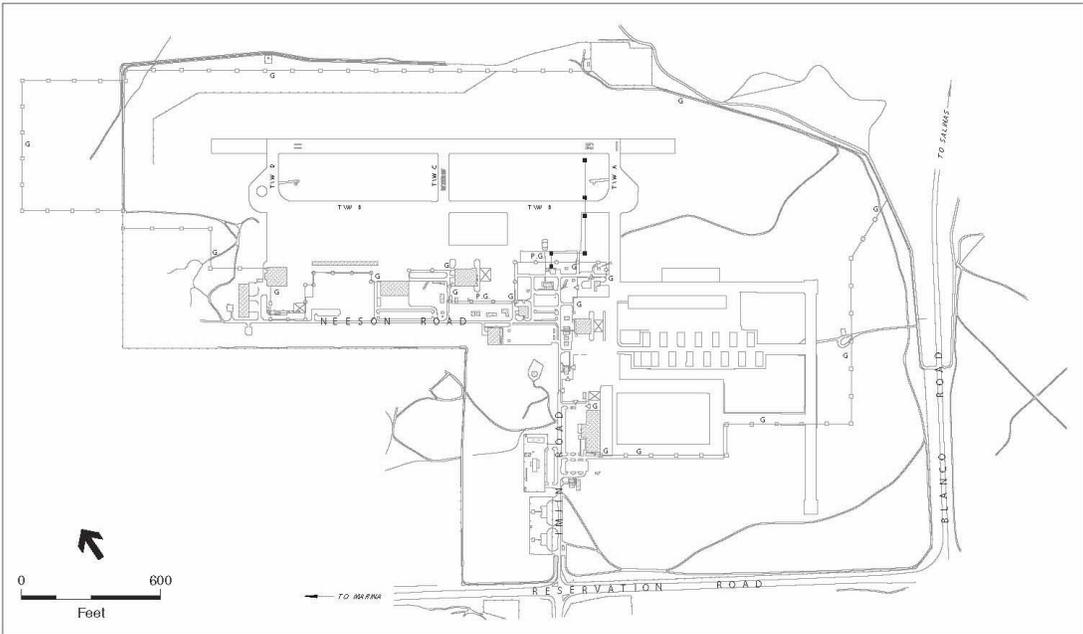


EXHIBIT D
FEDERAL AVIATION ADMINISTRATION ASSURANCES

A. COMPLIANCE WITH SPONSOR'S FEDERAL GRANT ASSURANCES: To the extent applicable, Permittee shall comply with all Federal Aviation Administration (FAA) assurances below:

1. The Permittee for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this Agreement for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, the Permittee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, DOT, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

2. The Permittee for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that (in the case of leases add "as a covenant running with the land") that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subject to discrimination, (3) that the Permittee shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-Assisted Programs of the Department of

Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

3. That in the event of breach of any of the above nondiscrimination covenants, the City of Marina shall have the right to terminate the permit and to reenter and repossess said land and the facilities thereon, and hold the same as if said permit had never been made or issued. This provision does not become effective until the procedures of 49 CFR Part 21 are followed and completed including expiration of appeal rights.

4. Permittee shall furnish its accommodations and/or services on a fair, equal and not unjustly discriminatory basis to all users thereof and it shall charge fair, reasonable and not unjustly discriminatory prices for each unit or service; provided that the Permittee may be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar type of price reductions to volume purchasers.

5. Non-compliance with Provision 4 above shall constitute a material breach thereof and in the event of such non-compliance the City of Marina shall have the right to terminate this permit and the estate hereby created without liability therefore or at the election of the City of Marina or the United States either or both said Governments shall have the right to judicially enforce Provisions.

6. Permittee agrees that it shall insert the above five provisions in any permit by which said Permittee grants a right or privilege to any person, firm or corporation to render accommodations and/or services to the public on the premises herein permitted.

7. The Permittee assures that it will undertake an affirmative action program as required by 14 CFR Par 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The Permittee assures that no person shall be excluded on

these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The Permittee assures that it will require that its covered suborganizations provide assurances to the Permittee that they similarly will undertake affirmative action programs and that they will require assurances from their suborganizations, as required by 14 CFR 152, Subpart E, to the same effort.

8. The City of Marina reserves the right to further develop or improve the landing area of the airport as it sees fit, regardless of the desires or view of the Permittee and without interference or hindrance.

9. The City of Marina reserves the right, but shall not be obligated to the Permittee to maintain and keep in repair the landing area of the airport and all publicly-owned facilities of the airport together with the right to direct and control all activities of the Permittee in this regard.

10. This permit shall be subordinate to the provisions and requirements of any existing or future agreement between the City of Marina and the United States, relative to the development, operation or maintenance of the airport.

11. There is hereby reserved to the City of Marina, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the premises herein permitted. This public right of flight shall include the right to cause in said airspace any noise inherent in the operation of any aircraft used for navigation or flight through the said airspace or landing at, taking off from or operation on the Marina Municipal Airport.

12. Permittee agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations in the event future construction of a building is planned for the permitted premises, or in the event of any planned modification or alteration of any

present of future building or structure situated on the permitted premises.

13. The Permittee by accepting this expressly agrees for itself, its successors and assigns that it will not erect nor permit the erection of any structure or object above the mean sea level elevation of 210 feet. In the event the aforesaid covenants are breached, the City reserves the right to enter upon the land permitted hereunder and to remove the offending structure or object, all of which shall be at the expense of the Permittee.

14. The Permittee by accepting this permit agrees for itself, its successors and assigns that it will not make use of the permitted premises in any manner which might interfere with the landing and taking off of aircraft from the Marina Municipal Airport or otherwise constitute a hazard. In the event the aforesaid covenant is breached, the City reserves the right to enter upon the premises hereby permitted and cause the abatement of such interference at the expense of the Permittee.

15. It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308a of the Federal Aviation Act of 1958 (49 U.S.C. 1349a).

16. This permit and all the provisions hereof shall be subject to whatever right the United States Government now has or in the future may have or acquire, affecting the control, operation, regulation and taking over of said airport or the exclusive or non-exclusive use of the airport by the United States during the time of war or national emergency.

EXHIBIT E
INSURANCE PROVISIONS

Permittee and City further agree as follows:

- a) Insurance provisions supersede all other sections and provisions of this Permit to the extent that any other section or provision conflicts with or impairs the provisions of those sections.

- b) Nothing contained in the insurance provisions is to be construed as affecting or altering the legal status of the parties to this Permit. The insurance requirements set forth in this Permit are intended to be separate and distinct from any other provision in this Permit and shall be interpreted as such.

- c) All insurance coverage and limits provided pursuant to this Permit shall apply to the full extent of the policies involved, available or applicable. Nothing contained in this Permit or any other Permit relating to the City or its operations limits the application of such insurance coverage.

- d) Requirements of specific coverage features or limits contained in the insurance provisions are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only and is not intended by any party to be all inclusive, or to the exclusion of other coverage, or a waiver of any type.

- e) For purposes of insurance coverage only, this Permit will be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or towards performance of this Permit.

f) All general or auto liability insurance coverage provided pursuant to this Permit shall not prohibit Permittee's, Permittee's employees, vendors, concessionaires, or agents from waiving the right of subrogation prior to a loss. Permittee's hereby waives all rights of subrogation against the City.

g) Unless otherwise approved by City, Permittee's insurance shall be written by insurers authorized to do business in the State of California with a minimum "Best's" Insurance Guide Rating of "A:VII."

h) In the event any policy of insurance required under this Permit does not comply with these requirements or is canceled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by City will be promptly reimbursed by Permittee or may be deducted from the security deposit.

i) Permittee agree to provide evidence of the insurance required herein, satisfactory to City, consisting of certificate(s) of insurance evidencing all of the coverage's required and an additional endorsement to Permittee's general liability, business auto, liquor liability, and umbrella liability policies using an ISO form approved by the Monterey Bay Area Self Insurance Authority (MBASIA). Certificate(s) are to reflect that the insurer will provide 30 days notice of any cancellation of coverage. Permittee's agrees to require its insurer to modify such certificates to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, and to delete the word "endeavor" with regard to any notice provisions. Permittee agrees to provide complete copies of policies to City upon request.

j) Permittee shall provide proof that policies of insurance required herein expiring during the term of this Permit have been renewed or replaced with other policies providing at least the same coverage. Such proof will be furnished at least two weeks prior to the expiration of the coverage's.

k) Any actual or alleged failure on the part of the City or any other additional insured under these requirements to obtain proof of insurance required under this Permit in no way waives any right or remedy of City or any additional insured, in this or any other regard.

l) Permittee agrees to require all subcontractors, vendors, concessionaires or other parties hired for this project to provide general liability, business auto and liquor liability insurance naming as additional insured's all parties to this Permit. Permittee's agrees to obtain certificates evidencing such coverage and make reasonable efforts to ensure that such coverage is provided as required here. Permittee's agrees to require that no contract used by any subcontractor, vendor, concessionaire or contracts Permittee's enters into on behalf of City, will reserve the right to charge back to City the cost of insurance required by this Permit.

Permittee agrees that upon request, all permits with subcontractors, vendors, concessionaires or others with whom Permittee contract with on behalf of City, will be submitted to City for review. Failure of City to request copies of such permits will not impose any liability on City, its Airport, Council, boards and commissions, officers, employees, agents and volunteers.

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of March 3, 2015

**CITY COUNCIL CONSIDER ADOPTING RESOLUTION NO. 2015- ,
APPROVING A CONDITIONAL AIRPORT SPECIAL ACTIVITY PERMIT
FOR THE SUMMER MADNESS FESTIVAL AT THE MARINA
MUNICIPAL AIRPORT ON JULY 31-AUGUST 2, 2015; AND AUTHORIZE
CITY MANAGER TO EXECUTE SAID PERMIT AND TAKE ALL OTHER
ACTIONS IN FURTHERANCE OF THE PERMIT ON BEHALF OF CITY,
SUBJECT TO FINAL REVIEW, REVISION AND APPROVAL BY THE
CITY MANAGER AND CITY ATTORNEY**

REQUEST:

It is requested that the City Council:

1. City Council consider adopting Resolution No. 2015- , approving a Conditional Airport Special Activity Permit for the Summer Madness Festival at the Marina Municipal Airport on July 31-August 2, 2015, and;
2. Authorize City Manager to execute said Permit and take all other actions in furtherance of the Permit on behalf of City, subject to final review, revision and approval by the City Manager and City Attorney.

BACKGROUND:

In June 2014, Mr. Earl Rowland, representative of the proposed Summer Madness Festival, requested the use of a portion of Marina Municipal Airport, including the north, middle and south tarmacs, for the proposed summertime event.

On November 25, 2014, a fee agreement was executed by and between Mr. Earl Rowland and the City of Marina for processing of the application.

In December 2014 and January 2015, City of Marina staff, including representatives from the Police Department, Fire Department, Airport Services Division and Planning Services Division, reviewed and commented on the proposed Conditional Airport Special Activity Permit.

On February 3, 2015, the applicant met with the above noted Marina staff to discuss questions regarding the proposed event (e.g., event insurance, security, medical personnel, ingress/egress routes, parking layout, pedestrian circulation, FAA review and approval).

On February 5, 2015, in response to staff's inquiry about past experience organizing large events, Mr. Rowland provided a list of events he has been involved in previously ("**EXHIBIT A**").

On February 25, 2015, the applicant met with the City Manager, City Attorney, Airport Services Manager and Senior Planner for a follow-up meeting to discuss outstanding issues, including financial details.

The Marina Municipal Airport property was transferred to the City of Marina by quitclaim deed to be used for public airport purposes (County of Monterey County, Office of Recorder, Salinas, California, Reel 3272, page 696, filed September 6, 1995, document no. 47266). According to section C of the deed, no property shall be used for other than airport purposes without the written consent of the Federal Aviation Administration (FAA) which consent shall be granted only if the FAA determines that the property can be used for other than airport purposes without materially and adversely affecting the development, improvement, operation, or maintenance of the airport. In addition, pursuant to section G, the City will operate and maintain in a safe and serviceable condition, as deemed reasonably necessary by the FAA, the Airport and all facilities thereon and connected therewith which are necessary to service the aeronautical users of the Airport, and will not permit any activity thereon which would interfere with its use for airport purposes.

The FAA is vested with jurisdiction over monitoring and enforcing grant agreements, including grant agreements from the Airport Improvement Program (AIP). As a condition of receiving AIP funds, the City is obligated to comply with 39 grant assurances, which provide a means for the federal government to ensure that public use airports are developed, operated, and maintained in a safe, secure, efficient, compatible, and compliant manner.

The FAA Compliance Manual (Order 5190.6B) provides guidance for FAA personnel in interpreting and administering the various continuing commitments airport owners make to the United States as a condition for the grant of federal funds or the conveyance of federal property for airport purposes.

The Airport facilities are dedicated for aviation use in the approved Airport Layout Plan (ALP) Map and zoned Aviation-Related (A-1) Airport Zoning District.

ANALYSIS:

The proposed temporary, non-aviation activities involve musical entertainment and other festivities at the summertime event. The applicant is in the process of securing musicians for the proposed 2015 event. Proposed musicians include John “Broadway” Tucker, Minor Williams, Chicano All-Stars, Red Beans & Rice, Warren Slim Williams, Barbara Morrison, Sweet Hayah, Sledge Grits, Tara Alesia, Le Vice, Back Together Again, Sacred Fire Band, and Inner Soul Band.

The event is open to the public upon purchase of a ticket and will include live music on a main stage located on the south tarmac. The event will also include a classic car show and cruise, a food competition, an aviation museum, arts and crafts vendor booths, inflatable games (e.g., rubbers slides, bouncing balls), and the sale of food and beverages, including alcoholic beverages. The middle and north tarmac areas will serve as parking lots. Permittee will charge attendees for parking. As all activities will be set back at least 60 feet from Taxiway A, the applicant will be responsible for providing personnel to control access to and from the tarmac areas and avoid deviating onto Taxiway A.

The Conditional Airport Special Activity Permit for the proposed event is based on the one approved for the 2008 Concorso Italiano event (“**EXHIBIT B**”). Comments from the Police Department, Fire Department, Airport Services Division, and Planning Services Division regarding event logistics, such as security, staffing, vehicle parking and pedestrian circulation, have been incorporated into the Permit. As currently proposed, the event would be held on July 31 through August 2, 2015, between the hours of 7:00 AM and 8:30 PM.

In summary, the primary terms of the Permit are as follows:

- A detailed site plan must be provided for City approval not later than sixty (60) days prior to the event, which shall include, but is not limited to: safety setbacks, the main stage and any other entertainment areas; loud speakers (including location and orientation); seating areas; vendor and concession booths or canopies; ticket booths or canopies; onsite bank next to ticket area; portable toilets; dumpsters; public, emergency and accessible routes; locations for electricity and water; generators (including grounding and approximate locations of power cables); lighting towers; A/C units; medical tent; fire suppression equipment; fenced or walled areas for exclusive use of Permittee; disabled access elements, such as accessible parking, accessible paths of travel, accessible portable toilets and other relevant elements; and any areas leased to tenants at the Airport to be used by Permittee, with the tenant's consent as provided in Condition of Approval no. 3.
- A detailed parking plan and attendance estimates based upon pre event sales must also be provided not later than sixty (60) days prior to the event.
- Site preparation and set-up would require use of the property approximately one day prior to the event.
- All promotional activities and materials related to this event will highlight the location of the event in the City of Marina.
- Up to 75 square feet of hangar or another City-owned facility building space may be used for storage and as a staging area, subject to confirmation of availability and approval by the Airport Services Manager.
- The applicant shall pay the City an event charge of \$20,000, plus five percent (5%) of gross sales from food and beverage vendors. Applicant shall pay twenty-five percent (25%) of the event charge (\$5,000) on or before ninety (90) days prior to the scheduled event start date (April 30, 2015 for the July 31 – August 2, 2015 event), with the balance due no later than thirty (30) days in advance of the event (July 1, 2015 for the July 31 – August 2, 2015 event).
- A refundable security deposit in the amount of not less than \$20,000 shall be required no later than thirty (30) days in advance of the event, sufficient to cover the estimated full reimbursement of all City costs associated with the event.
- Applicant shall reimburse City for costs for City staff related to the event, such as police, fire and public works, on or before six (6) weeks following the event or the amount may be deducted from the security deposit.
- Applicant shall provide their own staff for traffic control and security, supplemented, where appropriate, by City police and fire personnel. Any hired security personnel would be approved by the Police Department.
- Applicant shall be responsible for obtaining and paying for any other necessary permits, licenses and other consents for the operation of the event.
- Applicant shall be responsible for all set-up and teardown of all event facilities, equipment, signs and related materials.
- The City reserves the right to relocate or to cancel or suspend the event at any time if, in the opinion of the Airport Manager, such relocation or suspension/termination is required for the public safety or the safe operation of the Airport.

- The City also reserves the right to limit attendance of the event if, in the opinion of the Airport Manager, such limitation is required for the public safety or the safe operation of the Airport.
- Applicant shall be responsible for possessing adequate insurance and assume full liability for its activities, as required in the permit to the satisfaction of the City and using an ISO form approved by the Monterey Bay Area Self Insurance Authority (MBASIA).

On February 9, 2015, a MBASIA representative reviewed and approved the insurance and indemnity provisions in the proposed Permit, with two modifications. Under Section II.1 Insurance, the MBASIA representative recommended the following text edit (shown here as underlined text), which has been incorporated into the Permit:

Permittee's and City further agree concerning the insurance coverage's required by this Permit as set forth in Exhibit E, attached hereto and by this reference incorporated herein. If the Permittee maintains additional coverage or higher limits that those required within the Insurance Requirements section, then entity shall be entitled to additional coverage or higher limits maintained by Permittee.

In addition, under Section II.1 Commercial General Liability/Umbrella Insurance, the umbrella liability insurance coverage was increased from four to nine million dollars, as follows:

Umbrella Liability Insurance (over primary) in the amount of ~~four~~ nine million dollars (\$~~4~~9,000,000.00) shall apply to bodily injury/property damage, personal injury/advertising injury, at a minimum, and shall include a "drop down" provision providing primary coverage above a maximum \$25,000.00 self-insured retention for liability not covered by primary policies but covered by the umbrella policy.

Approval of the request to utilize the north, middle and south tarmacs would preclude any aviation or non-aviation use of this area during the event days. This would affect Skydive Monterey Bay's use of the Interim Parachute Drop Zone and Marina Motorsports use of the south tarmac. Use of these areas by said aviation and non-aviation users are subject to temporary cessation pursuant to terms and conditions in their respective Conditional Airport Use Permits, as follows:

Section I.D. The City will require Permittee to temporarily cease its use of the Interim Parachute Drop Zone to accommodate special activities permitted by the City at the Airport. City will use its best efforts to notify Permittee within a reasonable time period prior to issuing such a requirement. (Skydive Monterey Bay Inc., Conditional Airport Use Permit, p. 4)

Section I.C. Permittee's automotive and related activities and operations shall be conducted only between the hours of 5:30 a.m. to 7:00 p.m., subject to wind and weather conditions as determined by the Airport Manager. Hours for other types of automotive-related events must be coordinated in advance with the Airport Manager. The City may require Permittee to temporarily cease its use of the south tarmac to accommodate other special activities permitted by the City at the Airport. City will use its best efforts to notify Permittee within a reasonable time period prior to issuing such a requirement. (Marina Motorsports, Conditional Airport Use Permit, p. 4)

Were the City Council to adopt a resolution approving the Permit for the Summer Madness Festival, the FAA will be notified of the proposed use of Airport facilities. Approval of this proposed event by the FAA is a condition precedent to the effectiveness of this Permit.

FISCAL IMPACT:

Should the Council approve this request, the applicant will pay the City \$20,000 for the 2015 event, which will be deposited to the Airport Enterprise Fund, Airport Operating Fund Airport Permits Revenue Account No. 55.300.52380. The City will also receive five (5) percent of food and beverage sales, which will also be deposited to the Airport Enterprise Fund (the amount of this revenue cannot be estimated in advance). Costs for City staff services, including police, fire, airport and public works services will be reimbursed in full by the applicant, and will impose no additional costs on the City.

CONCLUSION:

This request is submitted for City Council consideration and possible action.

Respectfully submitted,

Justin Meek, AICP
Senior Planner
City of Marina

Theresa Szymanis, AICP CTP
Acting Director, Community Development Department
City of Marina

REVIEWED/CONCUR:

Layne P. Long
City Manager
City of Marina